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Illusion of Suffrage: Female Voting Rights and the Women's Poll Tax Repeal Movement after the Nineteenth Amendment

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THE ILLUSION OF SUFFRAGE: FEMALE VOTING RIGHTS AND THE WOMEN'S POLL TAX REPEAL MOVEMENT AFTER THE NINETEENTH AMENDMENT†

A century of struggle preceded the 1920 passage of the Nineteenth Amendment, granting women the right to vote. Conventional wisdom holds that passage of the amendment heralded women's right to vote and that, at the same time, it signaled the end of the women's rights movement until the 1960s. This essay challenges both assumptions.

The Southern poll tax, a charge of one or two dollars required for registering to vote,[1] resulted in the disproportionate disfranchisement of millions of women.[2] Evidence shows that women were actively fighting the effects of the poll tax by 1922.[3] Organized repeal efforts were well underway by the 1930s[4] and remained so until the poll tax was finally put to rest by constitutional amendment in 1964 and by the U.S. Supreme Court in 1966.[5] The women's movement to repeal the tax was in fact a manifestation of the women's rights move-

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1 *See* FREDERIC D. OGDEN, THE POLL TAX IN THE SOUTH 32 (1958).

2 *See* letter from Margot Gayle to Francis Speek (Sept. 28, 1940) (on file with the American Association of University Women Archives (AAUWA)). In an address to Congress, Congresswoman Caroline O'Day quoted Department of Labor statistics which stated that over four million women were disfranchised by poll taxes. In her letter, Ms. Gayle included a copy of O'Day's remarks from the Congressional Record. 76th CONG. REC. H17015 (3d Session Aug. 28, 1940).

3 *See* Graves v. Eubank, 87 So. 587 (Ala. 1921).

4 *See* VIRGINIA FOSTER DURR, OUTSIDE THE MAGIC CIRCLE 101–02, (Hollinger F. Barnard ed., 1986); Letters from the archives of the AAUW (1940–1942) (indicating that some women were already very active in national and local repeal efforts).

5 *See* U.S. CONST. amend. XXIV; Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966).

ment during an era generally hostile to feminists. Additionally, this movement evidenced women working together across racial lines, contradicting another widespread assumption about the women's movement.

The women's rights movement didn't end after suffrage. Instead, it survived, shaped by the relative friendliness and hostility of the political, social, and economic environment of the mid-twentieth century. Poll tax repeal through the political process was difficult since the tax disfranchised the very women who would vote for repeal. The Court remained unavailable to them for decades after a 1937 decision finding the tax constitutional.[6] The movement directed its energies into whatever channels remained. Not readily recognized in the traditional form we have come to expect, the women's rights movement was necessarily submerged within the identities of seemingly unrelated groups and individuals whose resources and power the women accessed.[7]

In presenting this study of women's involvement in poll tax repeal, I hope to describe not only a little-studied historical movement, but also how it changed over time in the context of the Depression, unionizing of the 1930s and 1940s, World War II (WWII), post-war red-baiting, and, finally, the mid-twentieth century civil rights movement. An examination of the tax's unique effects on women will be important in understanding the responses that shaped the repeal movement. This will shed light on why particular groups became in-

6 *See* Breedlove v. Suttles, 302 U.S. 277 (1937).

7 *See* LEILA J. RUPP & VERTA TAYLOR, SURVIVAL IN THE DOLDRUMS 6–9, 50–51 (1987). Authors Leila Rupp and Verta Taylor challenged the assumption that the women's movement died in 1920 after passage of woman suffrage and that it was not resurrected until the mid 1960s. These authors focused on the National Woman's Party (NWP), a prong of the original woman's suffrage movement that dedicated itself to passage of the Equal Rights Amendment (ERA) after ratification of the Nineteenth Amendment. They describe the women's movement after 1945 as an "elite-sustained" movement, "quite homogeneous, being overwhelmingly composed of white women . . .[who] were by birth, marriage, or occupation middle, upper middle, or upper class." *Id.* at 50. Although of small size and limited scope, they describe the movement during the post-WWII period as "a link in the chain stretching from the early women's rights movement of the 1840s to the women's movement of the 1980s." *Id.* at 7. By examining the NWP, already pre-identified as feminists by virtue of their place in the pre-1920 suffrage movement, these authors analyzed the outward manifestations the group necessarily adopted. Steven Buechler marks the end of the women's rights or suffrage movement at 1920. STEVEN M. BUECHLER, WOMEN'S MOVEMENTS IN THE UNITED STATES: WOMAN SUFFRAGE, EQUAL RIGHTS, AND BEYOND 2 (1990). I have taken the next step by identifying a movement of women having many of the attributes Rupp and Taylor described, and establishing their legitimacy as a women's rights/suffrage movement.

volved and the reasons they responded as and when they did. This, in turn, lays the groundwork for an examination of the dynamics of the interaction between groups of women and how the emphasis of the movement shifted over time. Part I includes a brief history and description of the Southern poll tax. Part II establishes through extensive analysis how the tax disfranchised women in particular. Part III provides a portrait of the movement by way of women's reasons for involvement within the context of political, social, and economic forces and how, as obstacles to women's repeal efforts, these forces molded the complexion of the movement. Finally, Part IV examines, from a perspective of resource mobilization theory, the shift within the women's poll tax movement as it evolved from a base primarily concerned with white women's enfranchisement to a part of the larger civil rights movement.

The literature most frequently approaches poll taxes as a racially discriminatory obstacle to voting. Several excellent sources are available detailing this element of disfranchisement.[8] The focus on gender in this essay by no means implies that men were not disfranchised by poll taxes or that men were not involved in repeal. Members of both sexes were harmed and both led the repeal movement. However, in researching the effects of poll taxes, it became apparent that little has been written pertaining specifically to women. Further, after passage of the Nineteenth Amendment, women as a group were disproportionately disfranchised compared to men and the intersection of race and gender, at particular times, compounded the effect. Therefore, I have chosen an emphasis on women to contribute to this area of women's history.

I. Brief History and Description of the Poll Tax

Between 1889 and 1966, poll taxes of one or two dollars per year were collected in various Southern states as a prerequisite to voting. More commonly known as a capitation or "head" tax in the North, the poll tax is still employed in the North as a legitimate means of raising revenue. Its collection, like all taxes, is mandatory. Unlike its Southern cousin of the earlier half of this century, it is not a prerequisite to

8 *See, e.g.*, Durr, *supra* note 4; John Temple Graves, The Fighting South (1943); Valdimer O. Key, Jr., Southern Politics in State and Nation 578–618 (1949); Steven F. Lawson, Black Ballots: Voting Rights in the South, 1944–1969, 55–85 (1976); Katharine DuPre Lumpkin, The South in Progress 214–15 (1940); Ogden, *supra* note 1; Jennings Perry, Democracy Begins at Home (1944); Arnold Rose, The Negro in America 157–58 (1948); Southern Conference for Human Welfare, The Poll Tax (1940); George C. Stoney, *Suffrage in the South: Part I—The Poll Tax*, 29 Survey Graphic 1, 5 (1940).

voting. The Southern poll tax, on the other hand, was a mandatory prerequisite to registering to vote. There was no enforceable collection except when a citizen wanted to register to vote. Depending on the particular state, exemptions might be granted to military veterans, the aged, those with particular physical disabilities, and women. Payment could be required up to nine months before an election. Generally, payment of one or two dollars was required, but cumulative features in many states required that all previous years' poll taxes had to be paid up for an individual to register in the instant year. Penalties could accrue on any past unpaid taxes. Although its proponents argued that it was a legitimate source of state revenue, particularly for schools, its financial contribution was, in fact, only a very small part of school revenues, even when it was directed to that use.[9] For example, when the repeal of the Tennessee poll tax was challenged in 1942, those challenging the repealing legislation argued, in pertinent part, that the tax was constitutionally mandated as a levy for school purposes. The Tennessee Supreme Court held the repeal legislation unconstitutional. Justice Neil, dissenting with the Chief Justice, wrote:

> The point is made by counsel for appellee that the revenue derived from poll taxes must be set aside as part of a sacred fund and shall not be diverted to any other purpose; hence, the repeal of the tax is a violation of this constitutional provision. With all deference to counsel, I think this is a pure fiction. It is a well known fact that there has been no such fund in existence for more than fifty years.[10]

Poll taxes are not unique to this century. During this nation's early history, the right to vote was dependent on owning property. By the early nineteenth century, the poll tax was introduced in an attempt to expand the electorate beyond per se property owners. According to Frederic Ogden, the poll tax was used "to substitute for property qualifications for the suffrage. In this period, the adoption of a tax requirement represented an advance towards a wider manhood suffrage. Gradually tax-paying qualifications were eliminated until by the time of the Civil War few states still possessed them."[11] The tax was reintroduced in the South between 1889 and 1908. This was a period witnessing the rise of populism. Although Reconstruction was waning, the Southern states were still extremely resentful of Reconstruction and wished to further insure that it would not return. Thus, the Southern poll tax was introduced by white politicians as a

9 See OGDEN, *supra* note 1, for a full history of the poll tax.

10 Biggs v. Beeler, 173 S.W.2d 144, 150 (Tenn. 1943) (Neil, J. dissenting).

11 OGDEN, *supra* note 1, at 2.

tool to disfranchise voting blocs they perceived as threats to their power. Adopted primarily to disfranchise African American men, it had the further effect of disfranchising large numbers of poor whites.[12]

There is evidence to suggest that the disfranchisement of poor whites was intentional, although by no means a unanimous action by all state legislators.[13] I will not ascertain here whether the poll tax was later tailored to discriminate against women once they joined the electorate. The effect upon women existed regardless of intent. The poll tax was intended as an economic obstacle to voting. Women, traditionally at the bottom end of the income scale, were immediately vulnerable.

When women first entered the electorate upon passage of the Nineteenth Amendment in 1920, their duties under the poll tax laws were not always clear. These laws had always applied to men only. Some states never altered their laws, and thereby exempted women altogether since the existing law expressly referenced "men" Some states incorporated women under the same duties owed by men. Still others exempted women from specific portions of the burden. On election eve in the general elections of 1920 in Georgia, for instance, women were still uncertain whether they could vote. At issue was how they would register under a law that required payment of the poll tax at least six months prior to an election. Since the Nineteenth Amendment was ratified less than three months before the election, it was impossible to comply. *The New York Times* reported that "[it] was said that managers of some precincts might . . . permit women to vote, while others might reject such ballots."[14]

The ambiguity of the laws led to several early court challenges as women found this ambiguity used in attempts to keep them from exercising their new vote. Shortly after passage of the new amendment, Mary Lou Graves tried to secure the poll tax receipt necessary to register for voting in Alabama. She offered payment of her tax to A. H. Eubank, the Montgomery County tax collector. He refused to accept payment and refused to give her the sought after receipt.[15]

Ms. Graves challenged him in court and won. The Alabama Supreme Court held, in pertinent part, that the Nineteenth Amendment "protects the man and woman alike, and a burden cannot be

12 See generally OGDEN, *supra* note 1, for a full history of the poll tax. *See also* LAWSON, *supra* note 8.

13 *See* LAWSON, *supra* note 8.

14 *Georgia Women Puzzled: Don't Know Whether They Will Be Allowed to Vote Today or Not*, N.Y. TIMES, Nov. 2, 1920 at 3.

15 *See* Graves v. Eubank, 87 So. 587, 587 (Ala. 1921).

placed upon one sex that is not put upon the other . . . . In other words, if the man became liable to a poll tax . . . the women . . . are likewise liable for said poll tax as a condition precedent to the right to vote in succeeding elections."[16]

In Albany, Georgia, local officials attempted to alter election results by eliminating ballots cast by women. The Georgia legislature had passed an act changing Albany's form of government. Unless a majority of the people voted against it on December 4, 1922, the Mayor/city council form of government would change to a City Manager Commission form. Apparently, the Mayor and city council did not favor this change. After the vote was tallied, the Mayor initially announced that the act was ratified. However, he then ordered his clerk of council to review the voter registration lists. The clerk purged 314 names, claiming that they were not legally registered. This tipped the results and the Mayor rescinded his earlier announcement, declaring his own victory with the act's defeat. Of the 314 names purged, 257 were women. They were removed from the registration books under the pretext that the women had not paid their poll taxes. Once again, the ambiguity over the poll tax requirement led to an attempt to eliminate women's votes. The Georgia Supreme Court, however, held that the women were not required to pay the tax at the time of the election and ordered their votes validated, defeating the Mayor/city council form of government.[17]

II. How the Poll Tax Disfranchised Women

The best explanation for women's involvement in repeal efforts can be found in an examination of the disfranchisement it worked against them. The lingering effects of coverture, combined with the ever present influence of race and gender, left women socially and economically vulnerable. The right to vote, embodied in the newly passed Nineteenth Amendment, did not fully protect women in Southern poll tax states from de facto disfranchisement.

It would be naive to assume that upon winning the right to vote, after more than a century of struggle, women would march unimpeded to the polls. Opposition to women's political power was deeply entrenched in the society and was unlikely to suddenly and completely vanish between August 25, before passage of the Nineteenth Amendment, and August 26, when it was passed. JoEllen Lind, in the *UCLA Women's Law Journal*, examined the reality of women's political status when she wrote about a "gap between electoral realities and

16 *Id.* at 588.

17 *See* Davis v. Warde, 118 S.E. 378 (Ga. 1923).

democratic appearances."[18] She indicated that "when women gained the vote, they were confronted with a well-established and formidable obstacle in the form of entrenched social institutions which retarded their ability to increase their status through direct voting."[19]

The poll tax severely diminished women's participation in the political process. The most obvious effect was disfranchisement per se. As a consequence, it was more difficult for women to use the political process to bring about repeal and is a textbook case of legislation that shielded the elected by directly disabling women's electoral power to demand accountability.[20] In 1937, in the case of *Breedlove v. Suttles*,[21] the first attempt to repeal a gender-biased poll tax through the U.S. Supreme Court failed. By finding the tax constitutional, a unanimous Court left women little choice but the compromised political process itself. The decision's inclusion of separate sphere arguments was no less damaging.

The tax represented a direct financial obstacle. It could range from one to two dollars per year and, in some states, a cumulative feature added interest and penalties to taxes not paid for previous years. Although this might seem insignificant for most people today in terms of the dollar's present value, the amount was extremely burdensome to vast numbers of citizens when the taxes were instituted at the turn of the century and on through the Depression. Nolen Breedlove, challenging the Georgia poll tax in 1936, owed $13.50, accrued over seven years.[22] At that time, $13.50 could have fed a family for a long time and might have filled a pantry with all of the following: fifty pounds of grits, twenty-five loaves of bread, ten dozen eggs, twenty pounds of pork and beans, ten pounds of lamb shoulder, five pounds of chuck roast, and fifty pounds each of potatoes, yams, and cabbage.[23] Even during later periods, the tax might amount to a day's wages for some. If the tax went unpaid for a few years, some individuals would need to give the tax collector a sum representing several weeks wages.

Ogden calculated that:

> An annual rate of $1.50 in Alabama might accumulate after twenty-four years to $36, while in Virginia a similar rate would accrue to a

18 JoEllen Lind, *Dominance and Democracy: The Legacy of Woman Suffrage for the Voting Right*, 5 UCLA WOMEN'S L.J. 103, 108 (1994).

19 *Id.* at 107 n.15.

20 *See* United States v. Carolene Prods. Co., 304 U.S. 144, 152 n.4 (1937).

21 302 U.S. 277 (1937).

22 *See id.* at 279.

23 *See generally* ATLANTA CONSTITUTION, 1937. These figures were calculated from average prices found in grocery store advertisements that year.

> maximum of $4.50 after a three-year period. Even if the father of a family could scrape up enough money to satisfy the requirement, he probably could not afford to also pay for his wife.[24]

This reference to a man's inability to pay for his wife's tax brings up several points. First, the lingering effects of coverture affected women's economic independence. Whether working or not, married women and their daughters did not necessarily have control over their own or their family's finances. Second, it was culturally acceptable to pay, not for the wife's, but only for the husband's poll tax when there was only enough money for one. Third, even when women were independent, earnings were more likely than not dismal. The tax hurt the poor the most and women were unquestionably at the bottom rung of the ladder. Each of these subjects is developed below. Additional areas covered within Part II include how, perceived as reformers by a political machine that facilitated the male vote, women were marginalized, and the poll tax's impact on women of color.

A. The Lingering Effects of Coverture

In 1924, the National League of Women Voters published *A Survey of the Legal Status of Women in the Forty-eight States.* Aimed at women newly armed with the vote, it sought to do more than merely list the details of the laws. "The intent [was] to show discrimination against women," answering questions such as:

> May a married woman make contracts without her husband's consent? What are the restrictions, if any?
>
> . . . .
>
> Do spouses have an equal interest in each other's real estate?
>
> . . . .
>
> Does the wife receive by law any portion of the family income, free from the dictation of her husband, unless she has earned it outside of the home?
>
> . . . .
>
> Does a wife own her own wages earned outside her home?
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> . . . .
>
> Can a wife collect for her services performed in the home?
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> . . . .
>
> Does the mother share equally with the father in the children's earnings?[25]

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24 LAWSON, *supra* note 1, at 56.

25 NATIONAL LEAGUE OF WOMEN VOTERS, A SURVEY OF THE LEGAL STATUS OF WOMEN IN THE FORTY-EIGHT STATES 9–13 (1930).

In Georgia, a woman's salary belonged to her husband.[26] Any wages from their children belonged to him as well.[27] Without legal access to money, her vote was not her own, but was at the discretion of her husband. In Texas, a wife's earnings became community property under the control of her husband.[28] South Carolina never required the tax from women.[29] This provision of the law was justified as relieving a *husband* of the added burden of paying his wife's poll tax. The same reasoning was used to exempt minors from the tax since fathers were responsible for them as well. The law removed the economic burden of the tax from women, yet reinforced the position of the man as controller of family wealth. One might imagine the possibility of an interesting reversal whereby the *woman* of a poor family could cast the family vote when her husband could not afford to.

Property ownership, almost exclusively held by males, could place an individual in an advantageous position in registering to vote. Administering and owning property, in some states, incidentally encouraged payment of the tax. In Alabama, for instance, poll taxes had to be paid at least nine months prior to an election (October 1 through February 1 only).[30] This did not provide incentive to pay since issues and candidates were usually unknown so far ahead.[31] While it was not mandatory to pay the tax except when registering to vote, "when a man [was] paying his property taxes, it might be suggested that he pay his poll tax also . . . ."[32] Thus, within the discretion of the tax collector, certain property owners could be reminded to meet the deadline for poll tax payment. In effect, this provided notice predominantly to white men, since they were more likely than women and non-white men to own and control property. Alabama was not a community property state. Further, although wives could control their own property, except for selling it, women were generally disadvantaged as a class and less able to acquire property of their own.[33]

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26 *See* GA. CODE ANN. § 53-501 (Harrison 1961) (repealed 1979).

27 *See* GA. CODE ANN. § 74-108 (Harrison 1973) (amended 1979).

28 TEX. REV. CIV. STAT. ANN. art. 4616 (West 1960) (repealed 1967); *id.* arts. 4617–19 (repealed1969).

29 *See* S.C. CODE ANN. § 65-151 (Law. Co-op 1952) (repealed 1974).

30 *See* ALA. CODE § 361 (1923).

31 *See* OGDEN, *supra* note 1, at 50–51. Ogden reported that setting the time for poll tax payment months in advance of elections was explained by some legislators as a means of limiting the franchise only to those who took it seriously. However, during the Alabama Constitutional Convention of 1901, it was recognized that the "time of payment" clause disfranchised "the negro and the vicious element" because it was assumed these individuals wouldn't pay months ahead. *Id.*

32 *Id.* at 59–60.

33 *See* NATIONAL LEAGUE OF WOMEN VOTERS, *supra* note 25.

Tennessee set the payment of poll taxes at or before the payment of property taxes. Texas, until 1947, assessed it *with* property taxes.[34] Texas was a community property state, but all property acquired after marriage was under the husband's absolute control.[35]

For some time, Virginia required payment as a prerequisite to getting nearly all licenses. This included everything from hunting and fishing to business, driving, and professional licenses but did not include marriage licenses.[36] Since the majority of licenses were for male interests, exempting the one type that would have included women in the net incidentally disadvantaged the pool of women voters.

B. Perpetuating Women's Second-class Status Through the Poll Tax

Cultural acceptance of the second-class status of women's claim to political participation was validated by the U.S. Supreme Court in its 1937 *Breedlove* decision.[37] The Georgia poll tax was challenged by a white male who claimed in pertinent part that it discriminated against him because of his sex (Nineteenth Amendment) and because of his poverty (Fifteenth Amendment). At issue in the Georgia case were age, disability, and sex exemptions from paying the poll tax. Those over sixty years old, blind persons, and all females who did not register did not have to pay. Rogers Smith writes: "The law obviously rewarded women for not voting and gave husbands an incentive to discourage their wives' political interests."[38] In fact, the construction of the law in effect encouraged women to opt out of civic duties, thereby minimizing women's influence in shaping and forming government. Lind notes that, in Justice Butler's opinion, he "did not discuss the possibility that giving the husband an economic incentive to discourage his wife from voting might foreclose her access to the ballot."[39]

For the next twenty-seven years, this ruling set into stone the constitutionality of poll taxes in federal elections and upheld the tax in

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34 *See* OGDEN, *supra* note 1, at 69.

35 TEX. REV. CIV. STAT. ANN., Art. 4619, *amended by* General Laws, 1927, Ch. 148, p. 219.

36 TAX CODE OF VIRGINIA, App. at 2436 (1936). This was an effort by the State Comptroller, LeRoy Hodges, to collect these as a serious source of revenue. *See The Court and the Poll Tax*, RICHMOND TIMES-DISPATCH, April 18, 1939, at 8. After three years, it was found in violation of the state's constitution insofar as poll tax collection was not enforceable until three years past due, but many licenses were renewable yearly. *See* Campbell v. Goode, 2 S.E.2d 456 (1939).

37 Breedlove v. Suttle, 302 U.S. 277 (1937).

38 Rogers M. Smith, *"One United People": Second-Class Female Citizenship and the American Quest for Community*, 1 YALE J.L. & HUMAN. 229, 280 (1989).

39 Lind, *supra* note 18, at 206.

state elections for thirty years. Smith states that a unanimous Court "sustained the [Georgia] law through appeal to Americanist, separate-sphere, and republican arguments."[40] Justice Butler wrote that Georgia could exempt women "on the basis of special considerations to which they are naturally entitled. In view of burdens necessarily borne by them for the preservation of the race, the State reasonably"[41] could find the tax too much of a burden. Smith notes that:

> Butler left unclear just how the tax made racial preservation more difficult. . . . Butler's willingness to uphold denials of any public role to women was readily apparent in his further observation that the "laws of Georgia declare the husband to be the head of the family and the wife subject to him," so that a tax on women would improperly "add to his burden." Similarly, the income from the tax was to be used for educational purposes, and in Georgia (contrary to even the most minimally liberal separate-spheres ideology) it was "the father's duty to provide for the education of the children." As one might expect, Butler buttressed his deference to these near-feudal state practices by invoking the extensive state power over suffrage that remained despite the Fifteenth and Nineteenth Amendments. In a truly remarkable denial of the law's real effect, he also exculpated it from any charge that it discriminated against the right of *men* to vote on account of their sex![42]

JoEllen Lind, examining *Breedlove*, similarly finds that "[o]nce again, burdens were paraded as benefits, and women's separate and dependent condition was depicted as just and natural."[43]

An editorial in the *Savannah Morning News* perpetuated the Court's theme:

> The Atlanta citizen who challenged the law contended it was discriminatory because women were required to pay the poll tax only for the year in which they desired to vote, while men were required to pay all accumulated poll tax. That does seem at first glance to be unfair, especially when the women are demanding sex equality, but the nation's highest tribunal seems to take the view that the women make other sacrifices for the good of humanity that outweigh the failure to pay their back poll taxes and are therefore entitled to special consideration.[44]

The editorial focused solely on the limited role of women as reproductive beings, thereby characterizing the exemption for women

40 Smith, *supra* note 38, at 280–81.

41 *Breedlove*, 302 U.S. at 282.

42 Smith, *supra* note 38, at 280–81.

43 Lind, *supra* note 18, at 206.

44 *The Poll Tax Decision*, SAVANNAH MORNING NEWS, Dec. 8, 1937, at 6.

as a benefit they have earned. In reporting the Court's decision in this way, the editorial perpetuates this same limiting image of women.

The decision continued the Court's trend away from recognizing women as fully multi-dimensional. Fourteen years after declaring in *Adkins v. Children's Hospital* that the "ancient inequality of the sexes . . .[has] come almost, if not quite, to the vanishing point,"[45] the Court reinforced separate-sphere ideology by upholding the Georgia poll tax, declaring to the nation that "in view of burdens necessarily borne by [women] for the preservation of the race, the State reasonably may exempt them from poll taxes."[46]

The harm caused to women by separate-spheres ideology is both different and the same for white and black women. Kimberle Crenshaw suggests that grounding feminist insights in a white experiential base may result in over generalizations, at best. The subjugation of black women is better understood from the perspective "of how cross-cutting forces establish gender norms and how the conditions of black subordination wholly frustrate access to these norms." Thus, by supporting a separate-spheres ideology, Justice Butler promoted a vision of "woman" that denied the existence of women for whom inescapable racial subordination was manifested in a condition of economic subordination.[47]

C. Women's Economic Vulnerability

While conventional wisdom held that fewer women than men voted because women were not interested in voting and voted like their husbands when they did,[48] the reality of women's economic status showed that they were extremely vulnerable to a charge on the franchise.[49] Eleanor Bontecou, Dean of Bryn Mawr and a volunteer researcher for the National Committee to Abolish the Poll Tax, made a firsthand study of the effect of the poll tax in the eight southern states still employing it in the early 1940s.[50] In a letter to Margot Gayle, Eleanor Bontecou wrote:

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45 261 U.S. 525, 553 (1923).

46 *Breedlove*, 302 U.S. at 282.

47 *See* Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 155–56 (1989).

48 *See* Sara Alpern & Dale Baum, *Female Ballots: The Impact of the Nineteenth Amendment*, 16 J. INTERDISCIPLINARY HIST. 47 (1985); Frank R. Kent, *Women's Faults in Politics*, 11 WOMAN CITIZEN 23 (1927).

49 *See* LAWSON, *supra* note 8, at 64.

50 Letter from Lillian McVey to Margot Gayle (April 19,1941) (on file with the AAUWA).

> Incidentally, I have some very good evidence now of the extent to which the poll tax *does* disfranchise women, especially in the rural sections. In Alabama in the lists of voters there are about two men to one woman in most of the counties. In some the difference is greater. . . . [I]n most of the rural sections a ratio of 3 or 4 men to 1 woman is often found. I found that there is a little lingering prejudice among rural women against the idea of women voting, but that it is rapidly disappearing. It was sometimes used as an excuse when further investigation revealed that the family had not been able to afford the woman's poll tax as well as that of the man, but the woman was ashamed to say so.[51]

Earning wages outside the home did not necessarily translate into greater discretion over how it was spent. Investigations by the Women's Bureau in the 1920s and 1930s revealed that:

> Approximately 90 percent of employed women . . . went to work because of economic need and used their income for support of themselves and their dependents . . . . Hardest hit by poverty were the immigrant and black families from which the majority of female workers came . . . . One out of every four employed women was the principal wage earner for her family, and *as many as 95 percent of working wives contributed all their earnings to family support.* Among single women living at home, two out of three gave all their income to the household.[52]

In the 1920s, black women earned as little as two dollars a week. In Alabama in the 1930s, white women workers averaged $8.31 per week and black women averaged $6.20. During the same period, white women averaged $10 in Georgia and black women averaged $6 a week. These figures were consistent throughout the South.[53]

Comparing the earnings of Virginia men to those of the state's women highlights the disproportionate burden the poll tax could impose on women. The median income for males in 1949 was $1,964 while females earned less than half at $926 per year. By 1959, males' median incomes had increased 75% to $3,250 while females' only went up 33% to $1,232. Thus, in 1959 women's median incomes were

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51 Letter from Margot Gayle to Frances Speek, *supra* note 2. Ms. Gayle included a quote from an August 15, 1940 letter she received from Eleanor Bontecou. Ms. Bontecou was research director, with the New School for Social Research, on the Suffrage in the South project. The advisory Research Committee included H.C. Nixon (Univ. Of Missouri), Arthur Raper (Atlanta, Ga.), C. Vann Woodward (Univ. of Virginia), Ralph Bunche (Howard Univ.), Francis W. Coker (Yale Univ.), and Max Lerner (Williams College). *Id.*

52 WILLIAM H. CHAFE, THE PARADOX OF CHANGE: AMERICAN WOMEN IN THE 20TH CENTURY 76–77 (1991) (emphasis added).

53 *See* DUPRE LUMPKIN, *supra* note 8, at 56.

only 37% of men's. Examining these data by race indicates that while a white male's median income was $2,255 in 1949 and $3,734 in 1959, nonwhite men were earning $1,221 and $1,906, white women were earning $1,171 and $1,499, and nonwhite women were earning only $530 and $737.[54]

The leadership of the poll tax subcommittee of the Alabama Joint Legislative Council (composed exclusively of women's groups) published a bulletin that included a survey of the registration rates of the women in their member organizations:

> Very few farm women are on [the voter] list, as the Home Demonstration Clubs state that one out of six of their members are registered. Likewise very few members of the P.T.A.'s of the state, as check-ups indicate that about 1/3 of its members vote. The same is true of club women, while the leaders of both groups have a higher percentage, 2/3. The Business and Professional Women *with their earned incomes of ready cash* are the highest, 84%. We are justified in adding that practically all the professional politicians are in the voting list, and those whose votes were bought by the paying of the tax by a candidate for office.[55]

D. Perceived as Reformers, Women Were Marginalized in a SystemWhich Facilitated the Male Vote.

The poll tax was reputed to facilitate corruption through vote buying. However, blocks of votes were manipulated through legal means as well. While some states required that the voters themselves pay directly for their own poll tax receipt, others permitted third parties to do so. Still others gave out large blocks of receipts to unions, business interests, employers, civic groups, and others with the professed intent that these groups would encourage registration.[56]

A social system that either excluded women or did not naturally include them, whether honest or corrupt, functioned to increase the male electorate thereby diluting that of the female. In states with cumulative provisions, it was especially important to unions, local political machines, liquor interests, and others to keep individual supportive constituencies registered so that these constituencies did

54 *See* Record at 96–97, Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966).

55 Letter from Mrs. Harvey (Mary) Emerson to Esther Cole Franklin (Oct. 11, 1942) (on file with AAUWA Archives); Stoney reported the Women's Joint Legislative Council committee's survey of their membership's voting to also reveal: Federated Farm Women—16%, Federated Farm Women's Clubs—25–30%, Ala. Methodist Missionary Societies—30%. Stoney, *supra* note 8, at 42.

56 *See* OGDEN, *supra* note 1 (giving a comprehensive analysis of corruption and block receipts).

not accumulate prohibitively large arrears. In an interview with four farm couples during the 1940 elections, George Stoney reported in his *Suffrage in the South* series that only two of the eight could vote under Alabama's cumulative poll tax. It was not a coincidence that the two voters were men. One of the women told him: "'They drug me out and hauled me down when Bryan [sic] was arunnin' in '24. I hain't voted since. Wonder what they'd charge me now?' . . . It came to $22.50. 'That's as much as I give for that cook-stove yonder, . . . and hit'll last me a heap longer!'"[57]

The brewing and liquor industries, perceiving women as a potential vote for dry laws, provided funds and lobbying influence against the campaign for the Nineteenth Amendment. Liquor interests were known to require saloon keepers to meet quotas of customers who would vote "no" at the polls.[58] JoEllen Lind states:

> It is no accident that as arguments for female suffrage came to revolve around the moral superiority of woman and her potential for cleaning up politics and industry by the vote, business interests became one of the most significant sources of opposition.[59]

"[T]he alliance between suffrage and temperance forces . . . caused the liquor industry to oppose strongly woman suffrage and to engage in election fraud and bribery . . . of various state referenda . . . ."[60]

The passage of the Eighteenth Amendment, prohibiting the manufacture, sale and transport of liquor, followed shortly by the Nineteenth, resulted in women gaining the vote at the very beginning of the prohibition repeal movement. If women had enough "dry" influence with only limited voting prior to the Nineteenth Amendment, it was logical to assume that their influence would increase significantly with universal suffrage! Disabling or at least diluting that vote would be strategically advantageous for the "wet" forces.

In *American Women and the Repeal of Prohibition,* Kenneth Rose explains that local skirmishes over dry laws continued in the South well after the nation repealed the Eighteenth Amendment in 1933 and maintained the involvement of liquor and beer interests in electoral politics for decades.[61] Ogden notes that "[w]hen Arkansas permitted an agent to pay a person's poll tax, authorization forms were pro-

57 Stoney, *supra* note 8, at 7–8. Stoney does not indicate whether she paid her own tax in 1924 or not. This example indicates the oppressive nature of the cumulative feature of the tax for those who fell behind.

58 *See* ELEANOR FLEXNER, CENTURY OF STRUGGLE 296–98 (1972).

59 Lind, *supra* note 18, at 182.

60 *Id.* at 182 n.394.

61 KENNETH D. ROSE, AMERICAN WOMEN AND THE REPEAL OF PROHIBITION 35–36 (1996).

vided. Beer and liquor interests made considerable use of them. In many places, liquor stores had them available so their customers could authorize the owners to pay their poll taxes."[62]

V.O. Key similarly wrote about the influence of beer interests:

> The liquor stores [were] not alone in rendering this public service . . . . In Washington County—and presumably the practice is not limited to this county—beer parlors accept tax payments. Some beer licensees, in their enthusiasm to facilitate the performance of civic duty, even place signs on the front of their establishments announcing that poll-tax receipts may be purchased there. They theorize that anyone who pays his poll tax in a beer parlor will probably vote wet in the next local option election.[63]

This system facilitated male, not female, votes. Saloons and beer halls were male environments and gave men access to the political and power arenas of the community. When women were not barred from them by law, the culture of the establishments was generally unwelcoming to women. In describing the social function of saloons, Rose writes: "Men frequented saloons for a variety of reasons, and for working-class men especially, the saloon could serve the social functions of hiring hall, bank, meeting place, political headquarters, and most importantly, a place where [they] could come to socialize with their friends."[64]

Another almost exclusively male advantage came from union membership. Unions became very active in promoting registration of and voting by their membership during the 1930s and 1940s. Frustrated with the resistance they encountered from the Southern oligarchy and businesses interested in keeping wages low, union leaders determined that one way to get a foothold in the South would be to vote out the resistance. Key states:

> The CIO . . . attempted in various states to become, in effect, a sort of poll-tax collection agency and . . . worked out means, of varying degrees of legality, by which it . . . either collect[ed] the tax from its members, or loan[ed] them money, and act[ed] as their agent in the payment of the tax . . . .
>
> In one Alabama locality, . . . a large employer, by agreement with the union, operate[d] a check-off from wages for the collection of funds for payment of poll taxes. The union [paid] the taxes of its 1500 members and [was] then reimbursed . . . .

62 OGDEN, *supra* note 1, at 85.

63 KEY, *supra* note 8, at 591.

64 ROSE, *supra* note 61, at 17–18.

> . . . In Virginia labor groups . . . set up poll-tax collection systems in several industrial centers . . . .[65]

The franchise benefits of union membership belonged almost exclusively to men. Although some exceptions existed, Chafe found that women were not a significant portion of the trade-unions before the late 1930s:

> [A]lmost all women outside the garment industry lacked union representation. . . . Of 471,000 female textile workers, only 20,000 belonged to unions in 1927. Seventy-two thousand women were employed in iron and steel, but only 105 were organized . . . . The American Federation of Labor treated women workers with open hostility . . . . And the Women's Trade Union League (WTUL) . . . proved inadequate for the task.[66]

The CIO reversed this trend to some degree during the New Deal and dramatically increased the number of union members in the cotton mills, a predominantly female occupation. However, the vast majority of occupations where women workers concentrated continued to be unorganized, while benefits accrued to the men whose jobs were unionized.[67]

Male union representatives aggressively registered their members. This membership was almost exclusively male. Finding that this registration was facilitated by a delegation of power by local government officials, Ogden provided the following as an example of how this was accomplished:

> In January, 1949, the tax collector [of Tuscaloosa, Alabama] authorized two members of the Central Labor Union to accept payment of poll taxes. These men were appointed as deputy collectors on their own request because they were anxious for union members to become qualified voters. . . . He could collect from union men at their place of work, at home, at the union hall or at any place where he met them.[68]

Another institution of male dominance, the military, effectively facilitated male, but not female, votes. By virtue of their vast under representation in the armed forces, women as a group were unable to

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65 KEY, *supra* note 8, at 597.

66 CHAFE, *supra* note 52, at 80–82.

67 *See id.* at 79–98.

68 OGDEN, *supra* note 1, at 60–61. Efforts by women were generally not as targeted and did not intensively maintain large blocks of "captive voters." These were open to the general public, but in places more accessible to women, such as booths run by the League of Women Voters in downtown areas, supermarkets, and schools of Tuscaloosa.

benefit from this and from the liberal veterans' exemptions[69] provided by most poll tax states. Furthermore, during the Second World War and for a short time after, Lawson found that "most of the poll-tax states passed special legislation that temporarily abolished the restriction for their soldiers."[70] Again, by facilitating male votes and not female votes, the balance of the electorate tipped away from women. Of those women who were in the service, black women from Georgia were still excluded from the benefit while the white primary operated. Lawson wrote: "The Georgia statute extended the exemption to all those who, if they were in their home counties, could vote in primaries."[71] Even in 1951, Texas exempted "all officers and men of the active militia of the state."[72]

It is worth mentioning that in states where women could be on juries and juries were selected from lists of electors, the exclusion of women due to poll tax disfranchisement resulted in a double discrimination. In *Jury Service as Political Participation Akin to Voting*, Vickram David Amar writes that this denied women "the [second] most significant opportunity to participate in the democratic process."[73] At the same time, it denied female defendants a jury of their peers.

E. Impact on Women of Color

The poll tax's impact on women of color is not always clear since its effects are confounded by many additional tools used to disfranchise based on race. The incremental removal of obstructions to Black votes is one factor explaining the degree of impact of the poll tax on black women at different points in time and in different states. Until 1944, for example, the white primaries were the most significant obstacle and blocked true electoral participation despite one's paying the tax. As the name suggests, the white primary restricted voting to white citizens only. Since the viable candidates for the general elections were determined at the primary, election outcomes were dependent upon voting results from the primaries. Only when white primaries were eliminated[74] did other means of obstructing the non-

69 *See id.* at 39.

70 LAWSON, *supra* note 8, at 77.

71 *Id.* at 372, n. 81.

72 For specific laws, *see, e.g.*, 1943 Ark. Acts 155; 1943 Ala. Acts 244; 1944 Ga. Laws, Extraordinary Session; CONG. DIGEST (May, 1962).

73 Vikram David Amar, *Jury Service as Political Participation Akin to Voting*, 80 CORNELL L. REV. 203, 259 (1995) (quoting Powers v. Ohio, 499 U.S. 400, 407 (1991)).

74 *See* Smith v. Allwright, 321 U.S. 649 (1944).

white vote take on more importance both for non-white voters and for those who would disfranchise them.[75]

Much of the opposition to woman suffrage had racist foundations. Tennessee was the only Southern poll tax state to ratify the Nineteenth Amendment. A reference to race was included in a law review article speculating about the effect of the poll tax in Alabama should the Nineteenth Amendment pass. The author hypothesized that since the Alabama state constitution expressly required "males" to pay the tax:

> both black and white women could vote without the payment . . .[and that] would result in a discrimination to which the male citizens of the State would strenuously object, and would overthrow one of the most important restrictions on voting which the framers of the Constitution intended to secure. The payment of the poll tax so far in advance of the election and its cumulative provisions has resulted in restricting the exercise of the elective franchise by the negro citizen more than any other provision of the State constitutions.[76]

This underscores the significance of race, as well as gender, in analyzing the impact of poll taxes on women. Race significantly altered the poll tax experience and the tax did not discriminate equally against all women. Kimberle Crenshaw explains:

> Black women can experience discrimination in ways that are both similar to and different from those experienced by white women and Black men. . . . Yet often they experience double-discrimination—the combined effects of practices which discriminate on the basis of race, and on the basis of sex. And sometimes, they experience discrimination as Black women—not the sum of race and sex discrimination, but as Black women.[77]

In addition, she finds that analyses of discrimination tend to "limit inquiry to the experiences of otherwise-privileged members of the group. In other words, in race discrimination cases, discrimination tends to be viewed in terms of sex- or class-privileged Blacks; in sex discrimination cases, the focus is on race- and class-privileged women."[78]

In 1940, Congresswoman Caroline O'Day stated that, "[a]ccording to the Department of Labor, there are more than

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75 *See* DURR, *supra* note 4, at 130; Lawson, *supra* note 8, at 46, 55, 124–25.

76 Emmet O'Neal, *Susan B. Anthony Amendment: Effects of Ratification*, 6 VA. L. REV. 338, 347 (1920).

77 Crenshaw, *supra* note 47, at 149.

78 *Id.*

4,000,000 American women who are still denied the right of franchise due to the voting levy." She continued: "When the poll tax was abolished in Louisiana [in 1934,] the number of men voting increased from 260,00 to 335,000, an increase of 25 per cent. However, the women's vote jumped from 135,000 to 260,000, an increase of almost 100 percent."[79]

Data showing increases in voter participation after the repeal of Louisiana's poll tax imply that the tax had in fact effectively disfranchised large numbers of white women. Ogden wrote:

> Between October, 1934 and March, 1936, 123,000 white women were added to the rolls while just over 120,000 white men became voters. In October, 1934, 66 per cent of the registrants were white men while only 33.7 per cent were white women. By March, 1936, the proportions had been changed to 59.6 per cent and 40 per cent respectively. The proportion of white men has continued to decline and the proportion of white women to increase . . . . A very slight numerical gain occurred in 1936 for both Negro men and women. However, in 1940, fewer Negroes were registered than in 1930. Negro registration did not expand until after the end of the white primary.[80]

In 1953, Alabama reduced the cumulative requirement of their poll tax from twenty-four years to two years. Ogden found that "[a]s in Louisiana, white women were the chief beneficiaries."[81]

While the repeal of the Louisiana poll tax opened the booths to many white women, black women continued to face other barriers. Huey Long repealed the poll tax payment, but substituted a requirement that voters sign a poll book kept in each sheriff's office. Jennings Perry stated:

> The real or fancied inhospitality of the sheriffs' offices, where the poll books were kept, apparently proved as restraining to the Negroes as had been planned. Eleanor Bontecou . . . reports that after repeal in Louisiana the number of Negroes registering to vote dropped twelve percent.[82]

Repealing the twenty-four year cumulative feature in Alabama likewise still kept the discriminatory machinery in place and left an economic burden as well. After the demise of the white primaries, the

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79 Letter from Margot Gayle to Francis Speek, *supra* note 2. Ms. Gayle included a copy of remarks from the Congressional Record, 76th CONG. REC. H17015 (3rd Session Aug. 28, 1940). Jennings Perry reported that the "number of women on the voter's lists increased seventy-seven per cent." PERRY, *supra* note 8, at 218.

80 OGDEN, *supra* note 1, at 126.

81 *Id.* at 135.

82 PERRY, *supra* note 8, at 218.

poll tax took on new significance and some sheriffs would outright refuse payments from African Americans as well as use intimidation, threats and harassment to discourage payment.[83]

Finally, although access to wealth and the social settings that fostered payment and registration were an asset, family income and privileged social status did not necessarily immunize women to the poll tax's disabling effects. In her autobiography, Virginia Durr reported the story of her own experience trying to register to vote in Virginia. Although she was vice-Chairman of the National Committee to Abolish the Poll Tax (NCAPT), wife of a prominent New Deal lawyer who was a commissioner on the FCC, and sister-in-law of Justice Hugo Black, registering proved no easy matter, as the following story illustrates.

Durr set out to register to vote in order to become qualified to testify for the Virginia PTA before a congressional committee. The registrar lived a considerable distance out a country road, which posed a substantial problem during World War II, a time of gasoline rationing. Not until her third trip did she find the registrar at home. The poll book had been stored in a trunk in the attic because they had thought no one would come this far to register due to the gas rationing. After the registrar's wife dug the poll book out of the attic, Durr learned that the registrar did not even have a pen readily available, and Durr had not brought one with her. A diligent search turned up an old rusty pen, but she then realized that no ink was to be found. The registrar's wife ingeniously thought to mix Mercurochrome with some soot, creating a pale blue ink. Durr signed the book and was given a receipt as proof of registration.

The next step required Durr to visit the county courthouse and pay the poll tax, which she did. Virginia required two years' back poll taxes plus the current year. The total tax was $4.50, which she paid and received a receipt.

The next election, she went to the polling place but was told that her name was not in the book. She handed the official the receipt for the registration and the receipt for the poll tax. After some discussion of how this could have come to be, they realized that she had not paid the interest on the two years' back poll taxes—a total of twenty-seven cents!

83 *See, e.g.*, United States v. Holmes County, 385 F.2d 145 (5th Cir. 1967); United States v. Dogan, 314 F.2d 767 (5th Cir. 1963); Edward Gamarekian, *A Report from the South on the Negro Voter*, THE REPORTER, June 27, 1957, at 9.

After two years at Wellesley and five years of work on anti-poll tax legislation, Durr still had what she calls "a terribly hard time figuring out how to get registered to vote in Virginia."[84]

84 DURR, *supra* note 4, at 177–78, 215. Durr's rendition of her experience, although lengthy, is worth reproducing here:

> The PTA ladies said that I had to become a Virginia citizen in order to testify for the Virginia PTA before the congressional committee that was considering the bill to give federal aid to education. . . .
> I asked [my neighbor whose uncle was undersecretary of state] how I would go about getting to vote. She said, 'Well, the first thing you have to do is get registered.'
> 'Who is the registrar?'
> 'I will find out from the courthouse' She knew everybody at the courthouse, so she called up and found out who the registrar was and where he lived.
> 'Does he have a phone?' I asked.
> 'No.'
> 'How will I know he's going to be there?'
> 'You'll just have to take your chances.' Now, this was during the war and gasoline was rationed, but I was allowed five gallons to go to register to vote. I drove out an old road and came to an old country farmhouse. I asked the old lady who answered my knock on the door if I could see the registrar. She said he wasn't there and she didn't know when he would be back. I waited and waited, but dark came on and I had to go home. I went back a second time and he wasn't there. The third time, he was in and said he would be delighted to register me. Like most Virginians, he had nice manners.
> He said to his wife, 'Mamie, where is the poll book?'
> 'I think we've got it in a trunk in the attic.'
> Well, you see if you can find it.' So she went up in the attic and rustled around for a while, and finally she came back with the poll book. She thought no one would come to register during the war, because it was so hard to get gasoline and they lived way up there in the country. The registrar asked me for identification and then asked me to sign the book.
> 'Do you have a pen?' I asked.
> 'No. Don't you?'
> 'No, I don't. I have a pencil.'
> 'You can't register with a pencil.'
> 'Well, let's see if we can't find a pen,' I said. So the old lady began looking around, and she finally found an old rusty pen.
> Then he said, 'We don't have any ink.'
> 'You don't have a pen and you don't have ink?'
> 'Well, I thought certainly you would have brought your own.'
> I told him that I certainly thought he would have a pen and ink. I said, 'You know, this is the third time I have been here trying to find you at home so I could register. I've spent fifteen gallons of gas coming here.'
> 'Lady, that's just too bad. I don't have any ink.'
> I asked his wife if she knew of anything we could use for ink. She said, 'Well, I've got some Mercurochrome. Let's mix it up with a little soot and see if we can't make ink out of it.' And she did. She got the Mercurochrome and

III. The Women's Repeal Movement

In her autobiography, Virginia Foster Durr revealed that the roots of her involvement in the poll tax repeal movement were grounded in feminism:

> When I started working for the Women's Division of the Democratic National Committee and found that getting rid of the poll tax was one of their concerns, I was interested. . . . I was also slowly becoming something of a feminist. I had a great resentment, I now realize, of the role that Southern girls had to play. Nice Southern girls were supposed to try to get husbands, and so they were always fooling the men and being pleasant and putting up with almost anything to be popular. My resentment hadn't come to the surface yet. It was still gestating inside of me. But I must have felt it, because I plunged into the fight to get rid of the poll tax for the women of the South with the greatest gusto. I began to go to the headquarters every morning.[85]

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mixed it up with some soot, and it made a kind of pale red-blue ink. I signed the book and got my receipt to show I had registered.

When I came back home, I went to Mary Walton again and said, 'Now, what do I do next?' She said, 'You have to go up to the Fairfax County Courthouse and pay your poll tax.' That was about twelve or fifteen miles away so I had to scrounge around for some more gas. Virginia required two years' back poll taxes plus the current year. The tax was $1.50 a year, so I paid $4.50. I thought, Thank God, this is over. I am registered. I've got my registration receipt and the receipt for my poll tax.

The next election, I went to the polling place down the hill from us. Mr. Donaldson, who ran the polling place, told me my name wasn't in the book. I said, 'Mr. Donaldson, here is my poll tax receipt and here is my registration receipt. I must be on the book.'

'You are not,' he insisted.

'I just don't see how that is possible. What in the world could make me be not on the book?'

'Did you pay your interest?'

'My interest?'

'You know, when you pay your back poll taxes you have to pay interest on them.' I hadn't paid the interest because the people at the court house hadn't asked for any. They simply didn't want me to vote. If I had been a member of the courthouse ring, or somebody they knew, then they might have told me about the interest, but I was an outsider, a stranger. Now, I went to Wellesley for two years, and I had been working on the anti-poll tax legislation for five or six years. I was keenly interested in events and did my best to inform myself. But I still had a terribly hard time figuring out how to get registered to vote in Virginia. I had to go back to the Fairfax County Courthouse and pay twenty-seven cents before I finally got my name on the poll book.

85 *Id.* at 102–03.

As a manifestation of an elite-sustained women's rights movement, the efforts of Durr and others were held together by a commitment to women's rights and a desire to defeat the poll tax. Not all women active in repeal were working explicitly for women's rights, however. For some, their goal was to improve conditions for women, which they differentiated from working for "women's rights."[86] For many others, work against the poll tax was part of a broader civil rights movement. Finally, many women were motivated by more than one of these. Once involved, many women were influenced by their experiences and by each other, thereby incorporating a broader motivation into their activism.

Finding that "women active on behalf of women's rights were relatively few in number . . .[and] maintained their commitment in a period inhospitable to feminism," Rupp and Taylor believe "that the size of a movement's following is not the only criterion by which we can judge its significance."[87]

The small size of the women's poll tax repeal movement indicates not only the chilling effect that the prevailing cultural environment had on women's efforts to organize, but also that the means women employed to achieve their ends would have to maximize their ability to mobilize the resources of *others*. This, in turn, determined to some extent the profile of those who were successful under these conditions. Consequently, in the earlier years of the struggle, the movement was composed in large part of middle and upper class white women. These women often had a degree of power and influence of their own, as did members of the Business and Professional Women (BPW) and the American Association of University Women (AAUW). Others had access to the networks and collateral influence they gained through their husbands and were thereby able to mobilize resources well beyond those belonging to their small group of women.

Rupp and Taylor describe the typical profile of those active in the women's rights movement as white and middle to upper class.

> 'Women's rights' had traditionally meant property rights, the right to vote, and other legal and political issues of relevance to the white middle-class women who comprised the bulk of the movement. Reforms of particular interest to black women or working-class women, such as protection of the right to vote, . . . had been pushed aside as racial or class matters.[88]

86 *See generally* RUPP & TAYLOR, *supra* note 7.

87 *Id.* at 187.

88 *Id.* at 50.

This is not, however, entirely true of the poll tax repeal movement.

Much has been written of the influence of the civil rights movement on the emergence of the feminist movement of the late 1960s. Sylvia Law, along this line, wrote of the "high level of involvement of women in the struggle for racial liberation . . . and the eventual emergence of an expanded feminist consciousness, illuminated by an understanding of racism."[89] By applying the concept of social movements as chameleon-like and continuous, as do Rupp and Taylor, the women's poll tax movement may be seen as another manifestation of a link in the evolution of the women's rights movement, as an earlier step so to speak. The civil rights movement, rather than being "midwife to a feminist movement," provided the right set of circumstances to exponentially lift and propel the women's rights movement from its own dormancy.

For many in the women's poll tax movement, their initial involvement preceded the larger civil rights movement. For them, a high level of involvement in the struggle for *women's* liberation gave rise to the eventual emergence of their own expanded *racial* consciousness, illuminated by their understanding of *feminism.*

A. Women's Own Voices

Women's own voices may provide the best introduction to why they became active and what they hoped to attain from repeal of the poll tax. Durr's description of her transformation from a Southern "snob" illustrates the transformations that took place in the movement and within the players themselves as the repeal efforts progressed and metamorphosed through the decades between 1920 and the feminist movement of the 1960s:

> Up to [the Depression], I had been a conformist, a Southern snob. . . . What I learned during the depression changed all that. I saw a blinding light like Saul on the road to Damascus.[90]
>
> [In 1938,] I was concentrating on the poll tax and on getting women to vote. As time went on, I felt more strongly about women's rights.[91]
>
> [In the late 1930s,] [t]he goal of the Women's Division [of the Democratic National Committee] was to get rid of the poll tax so white Southern women could vote. There was no mention in the

89 Sylvia A. Law, *Rethinking Sex and the Constitution,* 132 U. PA. L. REV. 955, 971 n.48 (1984).

90 DURR, *supra* note 4, at xi.

91 *Id.* at 126.

> Democratic Committee at that time of black people. And there were no Negroes around the Women's Division. Of course, very few black people in the South voted, but the Southern women didn't vote either.[92]

A more expansive understanding is evident in her later comments: "I keep telling the women today, if you are just going to work for women's rights, you're not going to get anywhere. You have to work for the rights of other people, too."[93]

Finally, in looking back over a life committed to civil rights and feminism, Durr observed:

> As I see it, the discrimination against Negroes and women was all part of the exploitation of human beings by other human beings. . . . I certainly believe in women's rights and black rights, too, but since the beginning of time the haves have exploited the have-nots. People who accumulate money and property and power have always wanted someone else to do all the dirty work—to do the washing and the cleaning up, to nurse the babies and look after the sick.[94]

Other women involved in the repeal effort also described their involvement as one centered in women's rights:

> We feel that the issue of the poll tax has an important bearing on the status of women.[95]
>
> Having recognized that the work for women's suffrage cannot be considered as completed so long as countless thousands of women are virtually disfranchised because of poll tax voting restrictions, it had been decided that there could be no more suitable occasion for presenting a plea from the women of the states thus afflicted than the twentieth anniversary of the Nineteenth Amendment to the Constitution of the United States.[96]

The poverty that hit women more heavily than men was recognized as a factor in poll tax disfranchisement:

> Those of us who work with women in the southern states know that the requirement for poll tax payment is a tremendous handicap to women desiring to vote in these states. We also know that it is a

92 *Id.* at 102.

93 *Id.* at 131.

94 *Id.*.

95 Letter from Mrs. G. Lowell Field (Thea G. Field), Chairman, Legislative Committee, Austin Branch of the AAUW, to Dr. Susan Kingsbury (Dec. 17, 1940) (on file with AAUWA).

96 Letter from Margot Gayle to Frances Speek, *supra* note 2.

> penalty which bears heaviest on the women who are handicapped by poverty.[97]

The dilution of woman's political voice rallied still others. The following observation concludes by touching upon the potential harm alluded to in the second paragraph of the famous footnote four of *United States v. Carolene Products.* In that footnote, Justice Stone left for another day the consideration of "whether legislation which restricts those political processes which can ordinarily be expected to bring about repeal of undesirable legislation, is to be subjected to more exacting judicial scrutiny under . . . the Fourteenth Amendment."[98]

> [T]his system of charging a fee for voting and its resultant economic disfranchisement, [sic] affects the whole country. It denies to the nation a truly representative form of government. As we have observed with chagrin during recent years, a goodly sized group of representatives, practically irresponsible because they are put in office by an almost invisible electorate, can sabotage legislation that the whole country wants, including their own disfranchised constituents, AND be returned again and again to office!
>
> As we pointed out at our National League of Voters Convention last spring, the very measures which we seek put into legislation could be twice as readily won if a democratic system of elections were maintained.[99]

Women in the early repeal movement included civil rights in their reasons for involvement:

> We feel that the Geyer Bill [to repeal the poll tax through federal legislation] merits an important place on A.A.U.W.'s general legislative programs for protecting and strengthening civil rights.[100]
>
> I believe that only those of us in the deep South can really appreciate the far reaching results of the various methods of disfranchisement practiced here. Of these the poll tax is only one, but that it is a major *one* no one denyes [sic].[101]

The heightened national consciousness toward tolerance as fascism spread across Europe is revealed in a letter from another woman:

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97 Letter from Dr. Hallie Farmer, president of the Alabama Joint Legislative Council to Dr. Susan Kingsbury (Oct. 10, 1940) (on file with AAUWA). Dr. Farmer, an active BPW member, was a major leader in their fight to repeal the poll tax.

98 United States v. Carolene Products, 304 U.S. 144, 152 n.4 (1938).

99 Letter from Margot Gayle to Frances Speek, *supra* note 2.

100 Letter from Mrs. G. Lowell Field (Thea G. Field) to Inez Colcord (Dec. 17, 1940) (on file with AAUWA).

101 Letter from Margot Gayle to Dr. Caroline Ware (Jan. 3, 1941) (on file with AAUWA).

> As to A.A.U.W.'s support of . . . [poll tax repeal], I would welcome it. . . . I should think the Geyer-Pepper bill might come under . . . [p]rotection of civil rights, and *such measures as may be necessary* to strengthen and maintain the American democratic way of life, particularly in a period of national emergency.[102]

B. Groups Involved

Those involved ranged from individual women, unaffiliated with any organization, to organizations whose sole purpose was to repeal the poll tax. Many women's groups took up the repeal effort as one of their many goals. On a national level, the leader was the National Committee to Abolish the Poll Tax, or NCAPT. Although NCAPT maintained male figureheads, it was run by women, most notably Virginia Foster Durr. Other groups worked within or parallel to NCAPT on the national effort to repeal the poll tax through federal legislation. Others sought to work through judicial repeal and brought constitutional challenges on the federal level. Among these were the Virginia Reform League and The Parents and Wives of Fighting Americans. At the state level efforts to repeal state poll taxes through legislation or state constitutional amendment were most often led by groups such as the state branches of the League of Women Voters (LWV), the Business and Professional Women (BPW), and the American Association of University Women (AAUW).[103]

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102 Letter from Mrs. Harvey M. Emerson, Legislative Chairman, Alabama Division, AAUW, to Dr. Esther Cole Franklin (Oct. 11, 1942) (on file with AAUWA). Ms. Emerson signed her letters as "Mrs. Harvey M. Emerson," providing no information about her own first name.

103 In addition to those groups already mentioned, the following list is provided as a sampling of the diverse support repeal had amongst women's groups. It is by no means complete, nor does it indicate a rank order of involvement or commitment to the issue: Virginia Federation of Women's Clubs, Catholic Women, Council of Jewish Women, Virginia Teacher's Association, League of Women Shoppers, Women's International League for Peace and Freedom, Women's Society of Christian Service of the Methodist Church, YWCA, Women's Division of the National Democratic Committee, Council of Negro Women, National Association of Colored Women, the Alabama Joint Legislative Council (including: Congress of Parents and Teachers, Council of Home Demonstration Clubs, BPW, Home Economics Association, AAUW, and the Society of Christian Service of the Methodist Church), and the National Federation of Temple Sisterhoods. This list is gleaned from various sources in the footnotes, most notably OGDEN *supra* note 1, LAWSON *supra* note 8, DURR, *supra* note 4, and the N. Y. TIMES.

C. Women's Leadership and Involvement

Women were a major force in the repeal effort, frequently running operations under male figureheads. When the Southern Conference for Human Welfare (SCHW) established its poll tax committee in 1938, Maury Maverick was elected president, Durr was vice-president, and Joe Gelders was executive secretary. Maverick, defeated for re-election to Congress in 1939, returned to Texas. Gelders came and went, involved in union organizing around the country, leaving Durr in charge of the committee.[104]

Durr deserves credit for developing the Civil Rights Committee of the SCHW into the independent, and more powerful, national committee, NCAPT.[105] Lawson stated: "Throughout most of [NCAPT's] existence, Jennings Perry . . . served as its chairman, while Virginia Durr held the post of vice chairman. The latter and the various executive secretaries carried on the organization's daily operations, while Perry reigned as a figurehead."[106] The executive secretaries were all women: "During its existence the committee had four executive secretaries: (a) Sylvia Beitscher, (b) Frances Saylor, the daughter of Senator Burton Wheeler, (c) Katherine Shryver, who had worked for the TVA, and (d) Sarah d'Avila, a Vassar-educated social worker involved with the CIO."[107]

When Hoyt Haddock of the Maritime Union appeared before committees to testify against the poll tax, he was actually presenting speeches written for him by the NCAPT women. The women wrote and distributed literature under the names of friendly congressmen, benefitting from the use of their franking machines.[108]

Ogden credits the women of Alabama for reducing that state's cumulative provision from twenty-four to two years.[109] The campaign involved many women's groups; the League of Women Voters (LWV) was in the forefront of the efforts. Hallie Farmer, state chair of the Legislative Committee of the Business and Professional Women (BPW), was a major figure in the state's movement.[110] Stoney wrote that "Alabama's anti-poll tax fight has been carried on chiefly by wo-

104 *See* DURR, *supra* note 4, at 128–29.

105 See *id.* at 127; OGDEN, *supra* note 1, at 250.

106 LAWSON, *supra* note 8, at 62.

107 *Id.* at 368 n.30.

108 *See* DURR, *supra* note 4, at 189.

109 OGDEN, *supra* note 1, at 232–33.

110 *See* TARLETON COLLIER, AMERICAN COUNCIL ON PUBLIC AFFAIRS, SOUTHERNERS FOR SUFFRAGE REFORM: THE POLL TAX (1940).

men."[111] In Tennessee, he found the LWV prodding the legislature and in Arkansas, "a goodly assortment of clubwomen" were active.[112]

Durr attributes the limited nature of the help from some national women's groups to their cautious nature. "The AAUW didn't give us much help because it was always a very cautious organization and had to have meetings and pass ten resolutions before doing anything. The League of Women Voters was the same way."[113] Letters by AAUW members illustrate a cautious manner. Lillian McVey wrote to Margot Gayle: "[A]lthough it seems obvious to many that action should be taken in this field, there have been a number of protests . . . . For this reason it is necessary to go cautiously . . . ."[114] The Nashville Branch objected to AAUW support of repeal and wrote to the national office: "[C]onsidering the sectional aspect of the bill, your action is indeed alarming."[115] The national secretary immediately wrote back: "Let me say at once that the national Association is not at the present time supporting the Geyer anti-poll tax bill," and, a few weeks later, wrote: "The committee came to the conclusion that the replies showed there had not been a sufficient amount of study . . . [or] unanimity in support of the bill. . . . The Committee, therefore, decided to do nothing about the bill."[116]

National leaders, under pressure to drop divisive issues in order to maintain cohesiveness within their organization, nevertheless provided assistance within these limitations. The national AAUW requested that all chapters study the poll tax and report back to national headquarters. In an effort to educate their membership, they distributed Eleanor Bontecou's poll tax research to their members. This had the effect of bringing the issue to the attention of many chapters, some of which became involved in repeal efforts. Individual and state chapters had a personality of their own, as well, and often led the fight for repeal on the local level.[117]

The National Women's Party (NWP) never supported repeal efforts. Durr found this odd and never forgave them:

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111 Stoney, *supra* note 8 at 5.

112 *Id.*

113 DURR, *supra* note 4, at 153.

114 Letter from Lillian McVey to Margot Gayle (Apr. 19, 1941) (on file with AAUWA).

115 Letter from Theresa Davidson, Nashville Branch of AAUW, to Inez Colcord (Jan. 28, 1941) (on file with AAUWA).

116 Letters from Frances Valiant Speek, Secretary to Committee on Economic and Legal Status of Women, to Mrs. Davidson (Theresa Davidson) (Feb. 24, 1941) (on file with AAUWA).

117 *See* OGDEN, *supra* note 1, at 43–44, 228, 232–33.

> They were too sectarian. They believed in women's rights and an equal rights amendment that they were working on back then, but they never supported the anti-poll tax bill. Those were the most rigid, sectarian women I have ever known. They wouldn't talk to you about anything but their own cause.[118]

Rupp and Taylor refer to the NWP's single-issue intensity and report that other women's organizations distrusted and disliked the NWP because of its willingness to use tactics that sacrificed "all other issues to the cause of women."[119] Future study as to why the NWP remained out of the repeal effort might include the party's disciplined focus on passage of the ERA, the repealers' coalition with the anti-ERA AFL and CIO, and the conservatism of many NWP members that occasionally extended to red-baiting to win support for the ERA.

Court challenges after *Breedlove* were brought by a proportionately large number of women plaintiffs. For example, in 1944, twenty-one year old Dorothy Bentley Jones, a member of the Virginia Electoral Reform League and of the Parents and Wives of Fighting Americans, Inc., filed a complaint against Virginia election judges, doing so again in 1947.[120] Eileen Evans filed a claim against Virginia in 1944.[121] Jesse Butler sued local officials in Virginia,[122] claiming that "the purpose of the state poll tax law was to 'disfranchise citizens because of race, color and previous condition of servitude.'"[123] Her appeal eventually went to the U.S. Supreme Court where their affirmance of the lower court's decision so outraged her attorney that *The New York Times* reported that he "asked withdrawal of his name as a member of the bar of the United States Supreme Court."[124] Victoria Gray and Ceola Wallace challenged the Mississippi law under the new Twenty-fourth Amendment and were successful in getting it declared unconstitutional.[125] Finally, also in 1964, Annie Harper, Gladys Berry,

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118 DURR, *supra* note 4, at 131.

119 *See* RUPP & TAYLOR, *supra* note 7, at 136–37. Some members "stooped to the McCarthyite tactic of comparing a legislator's votes to those of Vito Marcantonio, an American Labor Party representative from New York." *Id.* at 142–46. Marcantonio worked closely with NCAPT and sponsored one of the major anti-poll tax bills. *See* RUPP & TAYLOR, *supra* note 7, for a description of the NWP's reactions to Communism and labor.

120 *See* OGDEN, *supra* note 1, at 274–76; *Tests Virginia Poll Tax— Roanoke Woman Asks $3,500 for Refusal to Register Her*, N.Y. TIMES, May 14, 1944, at 39.

121 *See* OGDEN, *supra* note 1, at 275.

122 *See id.* at 278–79.

123 *High Court Rejects Fight on Poll Tax—Virginia Law Upheld—Justices Let Stand 2 Other Decisions Against Segregation*, N.Y. TIMES, May 29, 1951, at 17.

124 *Quits Supreme Court Bar in Protest at Decision*, N.Y. TIMES, June 2, 1951at 17.

125 *See* Gray v. Johnson, 234 F. Supp. 743 (S.D. Miss. 1964).

Myrtle Burr and her husband, Curtis Burr, filed a complaint in U.S. district court against the Virginia Board of Elections, challenging the tax on the grounds that it denied them equal protection by reason of their poverty. Evelyn Butts brought a companion case. In 1966, the Supreme Court agreed, rendering the remaining state poll tax requirements unconstitutional.[126]

D. Sexism/Racism

Because their movement was built by necessity on the mobilization of resources controlled by men, women were more vulnerable to the whims and pressures of these men. As a consequence, they had to be flexible, resourceful, and pragmatic. In the words of Virginia Durr, it was not uncommon for them to have to "either eat crow or . . . get out of the business."[127]

They had to work with congressmen who felt little accountability to female constituents. It was not unusual for NCAPT lobbyists to encounter sexual harassment and outright assault. Durr reported:

> We began to lobby on the Hill in an effort to get support for the poll tax bill. I was about thirty-six . . . and I was subjected for the first time to passes from senators and congressmen. . . . Well, frequently they'd chase you around the desk, literally. You'd see this large mountain of a man rise up and come toward you, and you'd back toward the door. . . . It was something you had to get used to. . . . Some of the young ladies we would send out to lobby would come back considerably disheveled.[128]

She found that even working within her own coalitions could present similar circumstances: "I remember going to one of the CIO conventions. . . . All the men wanted to do was take me out and buy me a drink. . . . [I thought] they were going to be just as interested as I was in getting rid of the poll tax and fighting for the rights of labor. . . . I lost a lot of illusions."[129]

The amount of time women could devote to poll tax work was dependent on their domestic duties and could be a major obstacle to a movement relying on volunteers. Women still had the proverbial second shift of domestic responsibilities waiting for them at home. In 1942, Mrs. Harvey Emerson wrote to Dr. Parkinson:

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126 Harper v. Virginia Bd. of Elections, 383 U.S. 663, 667 (1966).

127 DURR, *supra* note 4, at 161.

128 *Id.* at 129–30.

129 *Id.* at 134.

> Sunday, October 4, we almost put four eggs instead of the one required in the breakfast muffins so busily were we still arguing with you over the poll tax situation. . . .
> . . . We have written six of our thirteen [AAUW] branches in the state and it will take us several days to finish up. We do all the writing—between household duties and the few meetings we try to attend.[130]

Virginia Durr revealed the role pressure she had faced and expressed her choice to give up somewhat on the domestic front by explaining:

> My children, as they reached young adulthood, would sometimes say they wished I had stayed home and baked brownies as other mothers did. But what good were brownies in a society that tolerated poverty and denied people the education to enable them to get out of poverty? What good were brownies in a society that denied people the right to vote?[131]

Gaining a base of support from women was further limited because getting the message out to them was difficult. Rupp and Taylor found that "the media hampered feminist activism by failing to give it much publicity."[132] News and magazine coverage portrayed poll tax reform as an impliedly male issue.[133] Pictures in *The New York Times*, accompanying an article on the tax, for example, showed a man at work in a cotton field and another of a man sitting at a kitchen table filling in a form, his wife and two children standing over him watching.[134] Stoney wrote that, in Arkansas, the repeal campaign raised questions about the poll tax, but these were then "smothered. No word about it in the papers; candidates for office in the Democratic primary in August would not speak on it."[135]

When congressional hearings were held on the Geyer anti-poll tax bill, the head of the House Judiciary Committee never published them, contrary to established procedure.[136] Margot Gayle urged Frances Speek, national AAUW secretary, to write immediately to Congressman Francis Walter, chairman of the subcommittee of the House Judiciary, for copies of the testimony presented because "[t]his testi-

130 Letter from Mrs. Harvey M. Emerson, Legislative Chairman, Alabama Division AAUW, to Dr. Parkinson (Oct. 14, 1942) (on file with AAUWA).

131 DURR, *supra* note 4, at 336–37.

132 RUPP & TAYLOR, *supra* note 7, at 20–21.

133 *See Southern Labor and the Poll Tax*, THE CHRISTIAN CENTURY, May 11, 1938, at 581.

134 *See* Virginius Dabney, *Shall the South's Poll Tax Go?*, N.Y. TIMES, February 12, 1939 (Magazine), at 9.

135 Stoney, *supra* note 8 at 5.

136 *See* OGDEN, *supra* note 1, at 246.

mony is without doubt the most significant collection of information on the operation and effects of poll tax voting requirements" and contained the testimony of Congresswoman O'Day, detailing the disfranchising effects on women.[137] Ms. Speek was unable to get a copy of the hearings.[138] Ms. Gayle wrote:

> I am dubious now as to whether we shall ever get the printed testimony from the hearings because both . . . [chairmen] are both unalterably opposed to letting the hearings be made public. . . . I had a long talk with Mr. Walter . . . when I was in Washington. He was reluctant to discuss the hearings and was non-committal as to just how soon he would have them printed.[139]

Ms. Speek replied: "I wrote to Rep. Walter some time ago for a copy of the Hearings, but received no reply. Your letter explains the reason for the lack of response."[140]

Durr reported that NCAPT was in "abeyance" during the war. Gasoline rationing made it more difficult to get around and, for women, car pooling was generally unavailable and humiliating. She wrote: "I had a hard time getting to town. If I went in with the car pool in the morning, I would sit on somebody's knees, usually Kenneth Galbraith's, which were very boney, I must say." Her friend, Decca, likewise was relegated to sitting on the knees of the men who regularly commuted.[141] Letters between AAUW women similarly indicated that the war was taking its toll on their ability to mobilize for poll tax repeal. Euginie Terry, for example, indicated that she only took the leadership role in her local chapter because wartime responsibilities drastically reduced chapter participation to such a degree that the chapter was not likely to survive otherwise. Ms. Terry wrote: "Rather than risk our local [poll tax] study group die as result [sic] of the war and its inroads, I consented to keep it for a while."[142] Another wrote of the response to her poll tax survey: "The small response may be in part traceable to a decision of some eligibles who attended the

137 Letter from Margot Gayle to Frances Valiant Speek (Sept. 20, 1940) (on file with AAUWA).

138 Ms. Speek wrote to Congressman Francis Walter for "a copy of the testimony presented at the Hearings on H.R. 7534, the Geyer Bill which would make impossible the requirement of poll tax payment for voting in federal elections." Letter from Frances Speek to Congressman Francis Walter (Sept. 24, 1940) (on file with AAUWA).

139 Letter from Margot Gayle to Frances Speek, *supra* note 2 (rec'd Oct. 3, 1940).

140 Letter from Frances Speek to Margot Gayle (Oct. 3, 1940) (on file with AAUWA).

141 *See* DURR, *supra* note 4, at 150–51.

142 Letter from Euginie Terry to Dr. Esther Cole Franklin (Oct. 14, 1942) (on file with AAUWA).

opening reception, not to join the organization in these days of demands. . . . Two of the [respondees] thought the [tax] was not important in comparison with the war effort."[143]

Women were seen as having influence, in some quarters, by virtue of their being women. Perceived as less threatening, women were employed in certain elements of the campaign to take advantage of their immunity as "ladies." Lucy Randolph Mason, a founder of the Southern Conference for Human Welfare (SCHW), which spawned NCAPT, is a good example. Before her SCHW involvement, discouraged with the little progress she was able to accomplish for poor women workers through her YWCA work, she had her brother-in-law approach John L. Lewis of the CIO to help her get into the labor movement itself. Durr explained that:

> Miss Lucy was a pretty, dainty, white-haired Virginia lady who wore glasses. She was extremely aristocratic and had a lovely soft Virginia voice. . . .
>
> Mr. Lewis was a very bright man in many ways, and he immediately saw that Miss Lucy could be a great advantage in the South. As his public relations person Miss Lucy would be very disarming. All the fierce police chiefs and sheriffs and newspaper editors would be looking for some big gorilla to come in, and Miss Lucy would appear.[144]

Lucy Randolph Mason's CIO work led directly to her involvement with the SCHW and poll tax reform involvement.[145]

As George Stoney saw it, "[e]xcept for the help of the Alabama Policy Committee, . . . Alabama's anti-poll tax fight has been carried on chiefly by women. This is fortunate. Women in the South can defy the Negro domination threat without loss of gallantry, and they are less in danger of economic reprisals."[146]

According to Rupp and Taylor:

> The women's rights movement, throughout its history, defined its priorities with reference to white middle- or upper-class women. Thus "discrimination that affected all women" included the right of owning property but not black women's voting rights. Black women had formed their own organizations, including the National Association of Colored Women and the National Council of Negro Women, to fight racial discrimination and foster solidarity among black women. . . . They sought contact with white women's organizations

143 Letter from Frances Speek to Margot Gayle, *supra* note 140.

144 DURR, *supra* note 4, at 118–19.

145 *Id.*

146 Stoney, *supra* note 8 at 5; *see also* Lewis T. Nordyke, *Ladies and Lynchings*, SURVEY GRAPHIC, Nov. 1939, at 683.

> but were often overlooked if they did not insist on inclusion in coalitions.
>
> . . . .
>
> Women's organizations in this period, like their nineteenth-century predecessors, remained largely segregated.[147]

In a time known for white and black women working separately, some in the poll tax repeal movement tried to work together and were successful to a degree. Their efforts often met strenuous resistance, making repeal that much more difficult. Ogden wrote that "the close alliance of the suffrage movement (NCAPT) with the causes of the Negro heightened southern trepidations."[148]

Both Mary Church Terrell, head of the NACW, and Mary McLeod Bethune of the NCNW worked with NCAPT to abolish the poll tax.[149] Eleanor Roosevelt was an active supporter of repeal. Susan B. Anthony II, grandniece of the famous suffragist,[150] was also involved in repeal.[151] Ms. Anthony was a strong critic of women's organizations which failed to "'tie up the status of women with the oppressed, because of color or class'"[152] and was noted for holding "up a very modern feminist vision of a world free of both racial and sexual inequality."[153]

Economic reprisals were an obstacle to women's involvement in repeal and the threat of such against their husbands worked to diminish the size of the grass roots base. After defeat of the Arkansas anti-poll tax amendment, Stoney reported that there were "swift reprisals in the form of lost jobs, ruined businesses, and the like, against the leaders of the movement."[154] Durr reported what happened in Montgomery, Alabama, when she and other United Church Women integrated their two racially separate groups into one. They met in Black churches and eventually "grew to be about a hundred wo-

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147 RUPP & TAYLOR, *supra* note 7, at 154–55.

148 OGDEN, *supra* note 1, at 83.

149 *See* DURR, *supra* note 4, at 158.

150 *See* Rupp & Taylor, *supra* note 7, at 21.

151 *See* Letter from Margot Gayle to Frances Speek, *supra* note 2. Ms. Gayle wrote:

> Probably the most complete statistical compilation on poll tax disfranchisement and effects was prepared by Henry Collins, Jr. . . . . His wife is Susan B. Anthony. They live in Washington and are both very interested and wll [sic] informed on this. Susan would be glad to talk with your committee or discuss the matter with any group near Washington if they cared to invite her.

Id.

152 RUPP & TAYLOR, *supra* note 7, at 164 (*quoting* Ms. Anthony).

153 *Id.*

154 Stoney, *supra* note 8 at 5.

men . . . from all over the state."[155] She described their last meeting as follows:

> John Crommelin had a group of people . . .[take] all the license numbers of our cars at the meeting. . . . He published the names . . . and addresses of everybody at the United Church Women meeting in his paper, *Sheet Lightning*. The women began to get terrible calls at night and were harassed in other ways. That broke the group up. We never met after that.
>
> The women became frightened . . . . Even their husbands began getting phone calls from people who threatened to stop doing business with them if their wives went to any more integrated meetings. Several husbands took out notices in the papers disassociating themselves from their own wives.[156]

Sexism, racism, and the roles women were supposed to restrict themselves to, despite the pressures of reality, were obstacles to developing a broad base of support. For Southern white women, Durr claimed there were three role alternatives:

> She could be the actress, playing out the stereotype of the Southern belle. . . . If she had a spark of independence or worse, creativity, she could go crazy . . . . Or she could be the rebel. She could step outside the magic circle, abandon privilege, and challenge this way of life. Ostracism, bruises of all sorts, and defamation would be her lot.[157]

Women needed thick skin to deal with the combined sexism and racism they encountered, as Durr reported:

> I had to take some sweet Southern ladies with the Women's Society for Christian Service of the Methodist church to see [Senator] Eastland one day. The WSCS was one of the poll tax committee's greatest supporters . . . .
>
> . . . .
>
> Everything started off very pleasantly until they came to the poll tax. And do you know what he did? He jumped up. His face turned red. He's got these heavy jowls like a turkey and they began to turn purple. And he screamed out, "I know what you women want—black men laying on you!"
>
> . . . It was so embarrassing to these ladies that their senator had said such a thing.[158]

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155 Durr *supra* note 4, at 245.

156 *Id.* at 244–45.

157 *Id.* at xi.

158 *Id.* at 171–72.

Durr was active with the Women's Division of the National Democratic Committee when she lived in Alabama in the late 1930s. Their efforts to repeal the poll tax were soon cut short:

> [The women were quietly] getting out literature against the poll tax and trying to get somebody to introduce a bill to abolish it.
> . . . The chairman of the Democratic National Committee, Jim Farley, . . . had gone to the president of the United States and said, "You've got to shut up these damn women in the Democratic Committee because it's making trouble on the Hill with the Southern senators and congressmen."
> . . . The poll tax fight was put in a state of abeyance. The Democratic Women had been forbidden to work on it.[159]

When the Southern Conference for Human Welfare came together in Birmingham in 1938 for the first time, Durr reports that 1500 people attended

> from all over the South, black and white, labor union people and New Dealers . . . .[W]e all went away from there that night just full of love and gratitude. . . . [W]hen we got there [the next morning] we found the auditorium surrounded by [police] . . . . And there was Bull Connor saying anybody who broke the segregation law of Alabama would be arrested and taken to jail.[160]

The room was divided across the aisle and blacks had to sit on one side, whites on the other. Eleanor Roosevelt arrived and first sat in the "colored" section and then defied the police by setting her folding chair in the center of the aisle.[161] The police followed them everywhere, enforcing the segregation laws and creating as much of an obstacle to the convention's activities as they could.[162]

Much of the NCAPT women's funding came from unions. The railway union gave them office space in the Railway Building and assisted by doing printing for them and other favors. Trouble developed when the railroads changed over to diesel engines and no longer needed coal. A fight arose in the union over eliminating the African American firemen who had shoveled the coal. Durr reported: "A lot of the railway men, particularly the Southern ones, would come into our office and see Negroes working at typewriters and working on the anti-poll tax bill, and they didn't like it . . . . So we had to move out."[163] The women decided to move and scrounge for rent money

159 *Id.* at 114–15.
160 *Id.* at 120–21.
161 *See* ROGER BILES, THE SOUTH AND THE NEW DEAL 118 (1994).
162 *See* DURR, *supra* note 4, at 120–21.
163 *Id.* at 156.

for another office rather than stop working as a racially integrated coalition.[164]

Some white women's groups attempted to distance themselves from the race-baiting they saw as an obstacle to their campaign.[165] In a move sadly reminiscent of the early suffragists, some attempted to soothe white supremacist fears with reassurances that removal of the poll tax would help white women and not increase the Black vote.[166] The Civil Rights Committee of the SCHW, the predecessor to NCAPT, refused to do this. Lawson writes: "In an attempt to check Negrophobic appeals, some reformers wanted to play down the [null] effect that eradication of the capitation tax would bring on black suffrage."[167]

E. Red-baiting

Red-baiting proved a major obstacle to poll tax reformers and some consider it responsible for the demise of national reform efforts.[168] In 1958, Ogden wrote: "These [national poll tax repeal] organizations are defunct. They were most active in the early and middle 1940's [sic] . . . [and] were injured, especially the Southern Conference [closely allied with NCAPT], by the communist label pinned on them by opponents."[169]

"Considerable furor was raised early in December, 1939, when a report on Communist penetration of consumer organizations issued by the Dies Committee Investigating un-American Activities in this country listed the League of Women Shoppers as a Communist-sponsored group," began one in a series of articles about communist infiltration of consumer groups published by the *Consumers' Digest*.[170] The League, active in fighting the poll tax and urging women to use their consumer dollars to effect change for women workers, was founded by Mrs. Arthur Garfield Hays, wife to the lead ACLU attorney challenging the Georgia poll tax in the 1937 *Breedlove* case.[171] Mary Church

164 *Id.*

165 *See* OGDEN, *supra* note 1, at 43–44.

166 *See* DUPRE LUMPKIN, *supra* note 8, at 222; *see also,* Bulletin from the Sub-committee of the Alabama Joint Legislative Council, AAUW Archives.

167 LAWSON, *supra* note 8, at 61.

168 *See id.* at 82.

169 OGDEN, *supra* note 1, at 250.

170 M.C. Phillips, *Half-way to Communism with the League of Women Shoppers,* CONSUMERS' DIGEST, Apr. 1940, at 39, 42–43.

171 *See id.* Unfortunately, I do not yet have Ms. Garfield's first name—as is all too frequently the case during this time period, women's identities are melded into their husbands' as news sources, and even women themselves, report identities as "Mrs.

Terrell and Susan B. Anthony II, women's rights supporters also active in poll tax repeal, were targets of HUAC.[172] Virginia Durr was "the subject of one of [Senator] McKellar's famous [poll tax] filibusters. . . . [Y]ou never heard such carrying on about me. . . . I think he called me a Communist, a n— loving Communist."[173]

"The hostile environment reinforced organizations' tendencies to withdraw into themselves, distrust outsiders, including potential new members, and shun coalitions," Rupp and Taylor wrote of the post-war period.[174] Biles noted that the presence of Communists "scared off potential members."[175] Lawson explained:

> [H]ysteria over the communist menace also helped to break up the cooperation on the suffrage issue and to destroy the NCAPT. As Congress investigated the influence of foreign subversion and President Truman established procedures to ensure loyalty in the federal government, liberal groups attempted to clean out their own houses. During 1946–1950, the ACLU, CIO, and NAACP tried to purge suspected Communists from their ranks. [176]

Up until Roosevelt's death, Durr states that NCAPT "hadn't been hurt badly by the red-baiting."[177] Durr was focused on the poll tax and had room at the table for anyone willing to work on repeal, regardless of their other associations. "All the different groups and isms used to bore me to death. I always felt it was like the distinctions in religions—are you going to get to heaven by dipping or sprinkling or total immersion."[178] When the FBI tried to infiltrate NCAPT, the women simply put the suspicious looking "volunteers" to work cranking out mimeograph copies for hours on end. The only active Communist Durr knew who was working in the office was an older woman, Sarah Rosenbaum: "She was the cutest thing. She used to make cocoa on the radiator."[179]

NCAPT, holding to the ideal "that if you didn't fight fascism from the start, it ate you up," lost supporters and funds as other groups purged and distanced themselves. The International Ladies Garment Workers Union (ILGWU), headed by David Dubinsky, offered finan-

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(husband's name)"; *see also,* Minutes of the Board of Directors of the American Civil Liberties Union, December 21, 1936.

172 *See* RUPP & TAYLOR, *supra* note 7, at 139.

173 DURR, *supra* note 4, at 162–63.

174 RUPP & TAYLOR, *supra* note 7, at 139.

175 BILES, *supra* note 161, at 149.

176 LAWSON, *supra* note 8, at 82.

177 DURR, *supra* note 4, at 166.

178 *Id.* at 124–25.

179 *Id.* at 188.

cial support if NCAPT cleaned house. Durr refused. One after the other, anticommunist liberals distanced themselves from NCAPT. The CIO similarly withdrew support. The Jewish Anti-Defamation League offered to raise money and help all they could.[180] Like the other organizations, however, they were reluctant to become involved unless NCAPT eliminated any participants found on the attorney general's subversive organizations list. By this time, NCAPT didn't even have an office. Still, they declined the assistance so long as there was a proviso attached.[181]

Throughout the campaign, repealers worked against the current of racial prejudice, red-baiting, and the sexism that pervaded their society. These obstacles operated both from outside and from within the groups, retarding their growth, preventing significant coalition building and eventually splitting them apart. By the end of the 1940s, NCAPT was bankrupt. The national repeal effort faded into the 1950s as efforts to repeal poll taxes continued at the state levels. The accelerating civil rights movement became more prominent in the poll tax repeal efforts. By 1964, when the Twenty-fourth Amendment banned poll taxes in federal elections, only four Southern states still had poll taxes. Attempts to include repeal in the 1965 Voting Rights Act were contentious and it was finally left to the Court to lay the poll tax to rest in 1966.[182]

IV. Resource Mobilization and the Women's Movement to Repeal the Poll Tax.

The women's movement to repeal the poll tax was a manifestation of the women's rights movement, fighting for suffrage after 1920, during a period generally hostile to feminists. Not readily recognizable as a traditional feminist movement, it was shaped by the cultural, political, and economic environment of the changing times. As the repeal efforts progressed and metamorphosed, different groups of women were involved as shifts took place in the movement and within the players themselves.

Applying to the poll tax movement the analysis Rupp and Taylor applied to the National Women's Party further substantiates my belief that this was another manifestation of the women's rights movement. Rupp and Taylor emphasize that a "dynamic view of social movements helps to illuminate social movement continuity by recognizing that

180 *See id.* at 188–89.

181 *See* Lawson, *supra* note 8, at 82.

182 For a general history, see Ogden, *supra* note 1; Lawson, *supra* note 8; Durr, *supra* note 4; and *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966).

the same general social movement might adopt different structural forms and strategies at various periods in its history, depending on whether it is in a stage of formation, success, continuance and survival, or decline."[183]

> They found it useful to draw upon "resource mobilization theory" to understand the nature of the women's movement during the post-WWII "doldrums," because of the emphasis it places on the role of resources—money, expertise, access to publicity, and the support of influential groups and individuals outside the movement—in determining the nature, course, and outcome of a movement. . . .
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> . . . .
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> . . . [T]he argument that the small size and limited scope of the women's rights movement in these years was a manifestation of the absence of any deeply felt injustice on the part of American women is not only simplistic but inaccurate. . . . Put simply, the history of any social movement is shaped by an interactive process in which the movement pursues a course of action, and the societal response to its actions, in turn, modifies the movement's structure, goals, and strategies.[184]

Rupp and Taylor argue further that social psychological factors, such as shared group discontent, ideology, and emotionality, in themselves do not fully explain the formation and development of movements. These authors consequently find "collective behavior theory" inadequate. Instead, they claim that the development of movements is driven by the availability of particular resources at various points in time (resource mobilization theory):

> In most instances, grievances among groups whose discontent derives from basic conflicts of interest rooted in the institutional framework of society—as in the case of gender, race, ethnicity, and class—are relatively constant over time. What changes, giving rise to collective action, is not the degree of dissatisfaction among discontented groups, but the amount of social resources available to them that makes it possible to launch an organized demand for change.[185]

From this perspective, major events, such as the Depression, might determine the particular manifestation of the women's rights movement not as a function of women's shared disfranchisement, but as a function of the resource sinks available to them. Political, economic, and social change influenced both the nature of those resources available to women and simultaneously influenced women's

183 RUPP & TAYLOR, *supra* note 7, at 9.
184 *Id.* at 8, 194.
185 *Id.* at 194.

ability to mobilize them. As these resources waxed and waned over time, the women's rights movement essentially "resource surfed," much the way a surfer maintains forward momentum by shifting to a powerfully swelling wave as the energy of the last diminishes. [186]

The available "waves" were limited. Since the poll tax disadvantaged women in the electoral arena itself, their ability to mobilize the female ballot as a means to repeal the tax was weak, at best. The courts were even less of an alternative and remained unavailable for decades after *Breedlove.* Left without these two major avenues, women directed their energies, by necessity, into whatever channels were left. Consequently, resource mobilization took on greater significance as repealers ran campaigns to educate the public and to lobby for reform.

Gaining momentum on the crest of the Great Depression, the movement continued through a world war, only to decline as red-baiting and domesticity filled the post-war air. Yet, as the names of leading organizations faded, others became more prominent. The defeat of the white primary in 1944 permitted civil rights groups to redirect their efforts onto the poll tax and other means of black disfranchisement. The tide of tolerance was encouraging at home as the people reacted against the fascism sweeping Europe. As the Cold War emerged and chilled feminist activity, it also informed the national conscience regarding racial injustices here at home and promised more resources for the civil rights struggle ahead. Women's rights advocates continued, some swept up in the broader civil rights movement, having entered upstream where the powerful currents of feminism and civil rights merged in the confluence of the poll tax campaign.

A. The Great Depression: Privileged White Women Utilize Union Resources

An elite-sustained movement was itself a resource. For some of the more privileged women, the Depression awakened social consciousness. For Durr and others, it was "a blinding light like Saul on the road to Damascus."[187] It was the first time they had seen "the other side of the tracks . . . the rickets, the pellagra."[188] Once in-

186 This is not meant to imply that each wave is selected wholly, or even in part, for opportunistic reasons. For example, many white women shifted from the union-based into the civil rights-based poll tax repeal movement. In retrospect, this was a natural progression. These women developed a broader social conscience from the enlightening influence of the very resources they utilized.

187 DURR, *supra* note 4, at xi-xii.

188 *Id.*

volved, these women brought with them access to the power, influence, and ties of their husbands. Durr, of "royal" Southern heritage, was herself the wife of an influential New Deal lawyer and, as stated earlier, was sister-in-law to Justice Hugo Black. She personally knew Eleanor Roosevelt and they conferred together on poll tax reform strategy. Eleanor Roosevelt, of course, had access to her own resource—her husband, the President. Frances Wheeler, the daughter of the senator from Montana, was one of NCAPT's secretaries. The office space in the Railway Building was donated because the head of the railroad union was a friend of her father's. And so it went, on and on, as the networks these women could marshal went toward fighting the poll tax.[189]

The onset of the Depression intensified the effects of the tax on the poor. It also signaled a time of increased activity and power for unions as they tried to make inroads into the South. It didn't take long before union leaders like John L. Lewis decided that one way to overcome the resistance from the Southern oligarchy was to vote it out. Of course, this meant enfranchising impoverished workers. In unionizing an essentially white male membership, union leaders recognized the disfranchising power the poll tax had against this group in particular. Unions threw their weight into the battle against the tax.[190] This became an immense resource for women who had the social position to access this opportunity.[191]

For women like Durr, it brought them into closer contact with unions and other New Dealers. Drawn to the first meeting of the SCHW by her burning drive to eliminate the poll tax so white women could vote, she entered and was exposed for the first time to a diverse working coalition. In the following passage about the first conference, she describes many of the people she later worked with on poll tax reform:

> In the end, the New Dealers, the Southern Policy Committee, the labor people, and the black people all got together in Birmingham in November 1938, for the first meeting of the Southern Conference for Human Welfare.
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> A variety of groups came together at the conference in Birmingham. I attended as a delegate from the Women's Division of the Democratic National Committee. Miss Lucy and Joe Gelders represented labor. Cliff and Clark Foreman and Tex Goldschmidt represented a group of young Southerners in the New Deal. Jane and

189 *See* LAWSON, *supra* note 8, at 63; OGDEN, *supra* note 1, at 187; DURR, *supra* note 4, at 132.

190 *See, e.g.*, DURR, *supra* note 4; LAWSON, *supra* note 8; OGDEN, *supra* note 1.

191 *See* DURR, *supra* note 4, at 156.

> Dolly Speed, who now ran a Communist bookstore in Birmingham, and Rob Hall, the Communist secretary for Alabama, were there. Bill Mitch and others represented the mine workers and the steel workers. I understand that Mrs. Roosevelt was the one who insisted that blacks be included, and Mary McLeod Bethune was her emissary.[192]

Resources that women depended upon came in the form of money, expertise, access to publicity, support from influential groups, and access to other resources as one connection became a springboard to the next. Lawson reported that NCAPT "functioned as a federation of autonomous organizations, supplementing its own small staff by utilizing the Washington delegates of its sponsoring groups to influence Capitol Hill legislators."[193]

They utilized free labor from wherever they could get it. Unfamiliar with the equipment needed to run an office, the women recruited young unemployed lawyers from other offices in their building. Even infiltrating FBI men were used to crank out literature and mailing lists.[194]

These women consciously sought the power and influence of unions. Durr wrote:

> The real power lay in the unions, in the big organizations. I was a key figure, and I think I did a lot of good. . . . But I myself had no power, no organizational power. I had no money and no power but I got along with the disparate groups who were backing the anti-poll tax bill.[195]

This dependence on others left them vulnerable to the forces that affected their "hosts." NCAPT women found themselves in the roles of peacemakers in order to keep their supporters at the table and the movement viable.[196]

This resource was finite, however, and red-baiting and the end of the Depression led to the decline of union resource availability. In the end, keeping the unions together and at the repeal table proved beyond the women's control. Coupled with the overpowering red-baiting that left most groups purging and distrusting each other, the inherent feuding between unions finally became too much:

> The war was over and the National Committee to Abolish the Poll Tax still existed, but the labor movement had changed. During the

192 *Id.* at 120.
193 LAWSON, *supra* note 8, at 62.
194 *See* DURR, *supra* note 4, at 129, 188.
195 *Id.* at 163.
196 *See id.* at 129, 187.

> war, the CIO had formed from unions that split off from the AFL, and the AFL refused to come to the poll tax committee as long as the CIO was there.[197]

The financial resources they mobilized through these unions were lost.

> When the AFL got mad at the CIO, our main source of support was threatened, and that was the beginning of the end of NCAPT. Then John L. Lewis got mad at Phil Murray and pulled his mine workers out of the CIO. Lewis had given us a lot of money and been wonderful to us. He sent word that if we didn't get rid of those leftist CIO unions, he couldn't support us anymore—and he didn't. Then the CIO split right open. . . . That was the fatal blow. . . . [T]he red-baiting just overwhelmed us.[198]

B. The Shift From Unions to a Civil Rights Base

As union solidarity declined, the civil rights movement was gaining momentum. Funding and resources for poll tax reform began channeling toward civil rights-based initiatives. World War II highlighted the stark contrast between the deadly intolerance marching across Europe and the democratic society our troops were fighting for, thereby influencing the nation's consciousness. The *Poll Tax Repealer*, published by the NCAPT women, touched upon this mood when it wrote that "our country today is engaged in a war between a free and a slave world. A war in which the prerequisite for a victory is that we move forward now to full freedom for the common man."[199]

At the same time that civil rights was gaining momentum as an issue, the end of the white primaries meant that the poll tax would become a more central focus. During the early years of the repeal movement, civil rights groups prioritized issues and placed the greatest emphasis on removal of the white primaries.[200] In 1944, white primaries were held unconstitutional in *Smith v. Allwright*.[201] Turning their attention to poll taxes, "reformers harbored great expectations as to the benefits of an assault on the poll tax for impoverished members of both races."[202] The *Chicago Defender*, a leading Black newspaper, wrote of reformers' hopes of mobilizing resources beyond those of their own constituencies:

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197 *Id.* at 189.
198 *Id.*
199 *Id.* at 72.
200 *See* LAWSON, *supra* note 8, at 46.
201 321 U.S. 649 (1944).
202 LAWSON, *supra* note 8, at 55.

> [A]n unencumbered franchise would 'hasten the advent of certain white progressive elements to power. With a clear perception of the mandates of a functioning democracy, liberal white Southerners would so implement state laws as to usher in a new era of justice and equality to a mass of inarticulate whites and Negroes.'[203]

The NAACP began voter drives and encouraged payment of poll taxes. The removal of the white primary also hardened the resolve of the Southern oligarchy, giving it greater reason to keep the poll tax and maintain "control over their electoral machinery."[204]

After the war, as the new Cold War developed, the poll tax situation at home demanded more attention as its disfranchisement was uncomfortably reminiscent of policies we condemned overseas. In *Desegregation as a Cold War Imperative*, Mary Dudziak writes:

> The focus of American foreign policy at this point was to promote democracy and to 'contain' communism. . . . [At the same time,] international attention given to racial segregation [in the U.S.] was troublesome and embarrassing. . . . U.S. government officials realized that their ability to sell democracy to the Third World was seriously hampered by continuing racial injustice at home. Accordingly, efforts to promote civil rights within the United States were consistent with, and important to, the more central U.S. mission of fighting world communism.[205]

Truman established a Presidential Committee on Civil Rights. Investigating the poll tax was one of its responsibilities. [206] The committee stated: "An American diplomat cannot forcefully argue for free elections in foreign lands without meeting the challenge that in many sections of America qualified voters do not have free access to the polls."[207]

Lawson's following comment illustrates the transition toward a civil rights base of support for poll tax reform. The red-baiting and conservatism of the late 1940s existed at the same point in time as the growing civil rights movement:

> Finances were hard to obtain as a postwar conservative reaction set in, and liberal organizations felt the pinch. Customary friends like the SCHW and the CIO could not afford to provide economic aid, and in the summer of 1948, the bankrupt NCAPT permanently closed its doors. Moreover, after the introduction of Truman's om-

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203 *Id.* (quoting the CHICAGO DEFENDER, Jan. 8, 1944).

204 *Id.* at 73, 78, 124–25.

205 Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 STAN. L. REV. 61, 62–63 (1988).

206 *See* LAWSON, *supra* note 8, at 78.

207 OGDEN, *supra* note 1, at 267 (citation omitted).

> nibus civil-rights program, key sponsoring groups decided to channel their funds into securing the comprehensive [civil rights] bill. Thus, Roger Baldwin, Director of the ACLU, rejected a plea for money to keep alive [NCAPT's] attempt to lobby for an antipoll-tax bill, since "so many organizations are interested in pushing it with the rest of the program we feel efforts should be concentrated on the job to push it as a whole."[208]

The *Brown v. Board of Education*[209] decision further shifted the emphasis of the poll tax issue to a civil rights base. Ogden stated that "appeals to racial prejudice did not have the power in December, 1953, which they assumed following the Supreme Court school segregation decision of May, 1954."[210] By way of example, he explained that in 1953 the NAACP urged adoption of a reform measure to decrease the cumulative feature of Alabama's poll tax to two years from twenty-four years. Although their association with the repeal measure brought on the expected race-baiting by poll tax supporters, the amendment passed. However, *after Brown*, "re-agitation of the race issue" translated into segregationists bootstrapping other poll tax repeal initiatives onto the issue of school desegregation. This resulted in even more resistance to repeal. At the same time, it also meant channeling more resources into fighting the poll tax through civil rights groups. Ogden reported: "The school segregation controversy reawakened interest in the protection of civil rights by the national government. Some of the resulting civil rights proposals included an anti-poll tax provision."[211]

Riding the crest of the civil rights movement, the Twenty-fourth Amendment was passed in 1964. It prohibited poll taxes in federal elections. However, several states continued to implement their poll taxes in state elections.

The final court cases, laying the poll tax to rest at last, were brought by four women and one man, all African Americans.[212] They

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208 *See* LAWSON, *supra* note 8, at 82 (citations omitted).

209 374 U.S. 483 (1954).

210 OGDEN, *supra* note 1, at 238–39.

211 *Id.* at 249.

212 Annie E. Harper, single, relied entirely upon federal social security benefits when the case was filed. She had worked as "a domestic" when she was younger. Gladys Berry, also single, was not employed outside of the home, and was caring for seven children (two of her own, and five belonging to her two married daughters—her daughters were separated from their husbands and trying to support themselves, Ms. Berry, and all seven children on the wages they earned doing household and domestic work). Myrtle Burr and her husband, Curtis Burr, supported themselves and their nine children on Mr. Burr's earnings doing seasonal construction labor. Evelyn Butts was not employed outside the home. Her sole support was "her disabled

claimed that Virginia's poll tax in state elections violated the Fourteenth Amendment and that they were denied equal protection by reason of their poverty. The briefs filed by the appellants detailed the inordinate impact of poverty on women as a class and on women of color in particular. The case was not decided as an issue of race or of gender, but rather upon one manifestation of the intersection of the two: the inability to participate in the political process by reason of poverty. The issue of gender discrimination in *Breedlove* was left intact. Justice Black wrote: "The *Breedlove* case upheld a poll tax which was imposed on men but was not equally imposed on women and minors, and the Court . . . does not overrule that part of *Breedlove* which approved those discriminatory provisions."[213]

As a final note, unrelated to unions or to the civil rights movement per se, a decidedly traditional feminist stance directly motivated some. This activism was a response to a gendered effect of WWII. After the war, American women were pushed or coerced out of jobs and positions in government. The media promoted a Hollywood image of a happy white housewife, secure in her suburban home and women had a difficult time getting their issues before the public.[214] Even so, in 1953, women organized in Alabama. The percentage of men who were veterans skyrocketed as a result of the war and women recognized that the veterans' exemption was benefitting a large portion of the population from which they themselves were essentially excluded. These women are largely credited for reducing the cumulative provision of that state's poll tax from twenty-four to two years.[215]

The United States Supreme Court at last declared the poll tax unconstitutional in *Harper v. Virginia Board of Elections.* This case was decided almost thirty years to the day from the date Nolen Breedlove filed his original mandamus. Joan Hoff, in *Law, Gender, and Injustice,* calls women the "'broken barometers' of U.S. legal history":

> Almost without exception, each legal change or improvement . . . has reflected the American past, not its future. . . . [All of] these changes in the legal status of women and their own and society's perceptions about them occurred as policy and opinion mak-

husband, whose sole income [was] his veteran's pension. She and her husband [also] support[ed] in their home" their fifteen year old daughter and Ms. Butts' ninety year old father. *See* Brief for Appellants, Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966), Civil Action No. 3253 at 3.

213 *Harper,* 383 U.S. at 673.

214 *See* RUPP & TAYLOR, *supra* note 7, at 14–15.

215 *See* OGDEN, *supra* note 1, at 232.

> ers were moving on to other 'more important' and innovative activities.[216]

The poll tax had outlived its economic effectiveness by 1966—one dollar was not the barrier it had been during the Depression and, by the 1950s and 1960s, sheriffs were more often disfranchising African Americans by *refusing* to accept payment. The *Harper* decision spoke eloquently for equal protection and yet remained a sad reminder that women were still playing "catch up." Still, women persevered in the long chain that both freed and bound them. On that same March day in 1966, as *The New York Times* declared the poll tax dead at last, another article was published at the bottom of page one: "Older Stewardesses Win Round Against Airlines on Retirement."[217] Airline policies required stewardesses (flight attendants were exclusively women then) to retire at a young age. This policy was justified by airline executives as a business decision, claiming that male customers preferred young, sexually attractive women to serve them during flights. The battle for equal protection from discrimination based on sex was beginning to gain momentum. Women were speaking out against sex discrimination that deprived them of jobs and equal opportunities. For decades, women had experienced difficulty getting their issues directly before the public. The women's rights movement had been submerged, collaterally dependent on the resources that were available for other issues. After surviving a long drought, they would again, at least for a while, mobilize resources in their own right.[218]

*Ronnie L. Podolefsky**

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216 JOAN HOFF, LAW, GENDER, AND INJUSTICE 3 (1991).

217 *Older Stewardesses Win Round Against Airlines on Retirement*, N.Y. TIMES, Mar. 25, 1966, at 1.

218 During the era of white primaries, the tax payment was rarely refused since the vote it bought was useless. *See* OGDEN, *supra* note 1. *See also* LAWSON, *supra* note 8.

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