Topic:
The Right to Vote

Time:
2-4 class periods

Historical Period:
1700's to present

Core:

Utah	6100 - 0303
US I	6120 - 0602 & 0604
US II	6250 - 0201 & 0901
Gov.	6210 - 0301, 0401, & 0402

Objectives: Students will:

1. Understand that their right or prospective right to vote has a colorful history.
2. See that the right to vote is protected by the U. S. Constitution but subject to state laws and Supreme Court interpretation.
3. Accept that elections are media events and be able to view election media critically, with particular emphasis on political cartoons.

Procedure:

1. Distribute Handout 1, "Justice and the Right to Vote."
2. Using Handout 2, either in class discussions or with students working individually or in pairs, have students summarize chronologically significant changes in voting laws.
3. Use the Supreme Court case, *Oregon v. Mitchell*. This is quite difficult; the facts aren't complete, and it is probably best used in class discussion. But notice the two main issues:
   a. That 18-year-olds are old enough to vote is no longer a big hurdle and is dismissed summarily by the Court.
   b. **But**, the Justices disagree if age discrimination is as nasty as race discrimination justifying Congress' interference with state statutes.
4. Political cartoons provide delightful biting commentary on political figures and decisions generally. They can be especially insightful and/or acerbic in election years. We have reprinted four (Handout 4) cartoons, highlighting different aspects of an election year. After brief discussion, several assignments could be given:
   a. Draw a political cartoon illustrating an election issue. Submit it to your school paper.
   b. Collect a series of political cartoons illustrating one campaign issue.
   c. Compare two political cartoons expressing different points of view on one issue.
   d. Analyze thoroughly one political cartoon. Which makes a stronger statement — the written analysis or the picture?

Handouts/Worksheets:

1. "Justice and the Right to Vote"
2. Progress in Voting Rights
3. *Oregon v. Mitchell*
4. Political cartoons

Enrichment Activities:

1. "The Best White Friend Black Americans Ever Had
2. Emancipation Proclamation Seminar
3. The Organization of the NAACP
4. The Prejudice Game
5. *Craig v. Boren*
6. Seneca Falls Convention

Author: Carol Lear

INTRODUCTION

The right to elect their own leaders and choose representatives to make laws with their constituencies' interests in mind was an early demand of American colonists. Blacks, women, and young people have all lobbied for that symbolic right to cast a vote and participate in government. Ironically, and unfortunately, citizens' participation is at a low ebb, complaints are loud and prolonged, and apathy prevails. This lesson tries, optimistically, to put a dent in that apathy among the young. It offers some background on the right to vote; an important, but difficult, Supreme Court case on the 18-year-old vote; and concludes with the use of political cartoons.

HANDOUT 1

JUSTICE AND THE RIGHT TO VOTE

Condensed from *In Search of Justice*
Published by the American Bar Association

For many Americans, one aspect of the new U. S. Constitution must have been a major disappointment. It did not give them the right to vote.

Actually, the new Constitution said little that was specific about who could and could not vote. Instead, it said, in Article 1, Section 2, that "the electors (votes) in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." In other words, those qualified to vote in state elections were automatically qualified to vote in national elections. That left the determination of voter qualifications up to the individual states.

It may seem strange today that the Founding Fathers were not more specific about the right to vote. But is should be remembered that the move toward union of the states was opposed in many quarters on a wide variety of grounds.

At the time the Constitution was written, more than one state feared that a national government would deprive it of the rights to determine its own affairs. Some states viewed voting qualifications as an area in which the national government had no business meddling.

Of course, like most compromises, this one was less than desirable. For example, if a particular state wished to discriminate against a class of its citizens on the level of state elections, the discrimination carried over into national elections. And under the Constitution, there was nothing the federal government could do about it.

As it happened, voting qualifications among the states varied widely. In some states, only adult (at least 21 years old), white, male taxpayers were allowed to vote. In a few places, eligibility to vote depended also on whether or not a person belonged to an official, or recognized, church. Unfortunately, the right to vote was universally denied to two categories of people: women and Negro slaves.

In the scheme of things, Negroes were the first of the two to be given the right to vote. But passage of the Fifteenth Amendment to the Constitution, which forbade voting discrimination on the basis of "race, color, or previous condition of servitude", came only after the Civil War, which nearly destroyed the Union.

Following the Emancipation Proclamation, which came during the Civil War, an important question was raised: "If Negroes are to be free, should they not also enjoy the rights of free men, including the right to vote?" The mood in the South made it clear that a constitutional amendment was needed to guarantee Negroes the right. So Congress passed the Fifteenth Amendment to the Constitution, which was ratified in 1870, just 27 years after white male suffrage had more quietly become an accepted fact.

But the Fifteenth Amendment, by itself, could not immediately guarantee the franchise to Negroes. Certain states, intent on denying them their right to vote, imposed a poll tax on elections. Negroes, poor as they were after centuries of servitude, could not afford the tax and so could not vote.

In other states, exclusion from voting in primaries made meaningless the Negro's right to vote in a general election. Since these states were dominated by one political party, it was the primary election which determined the ultimate outcome of the race. Thus, even though Negroes were permitted to vote in the general election, their vote was rendered worthless.

In still other states, literacy tests had to be taken before a person was allowed to vote. Negroes, denied formal education for centuries, could not, as a rule, pass such tests. In many cases, the tests were rigged so that even literate persons could not have passed them. As a result, Negroes were not allowed to register to vote.

The struggle to overcome these obviously discriminatory laws against black people was long and difficult. In the early 1920's, a black man named Nixon claimed in court that a Texas law forbidding Negroes to vote in primaries violated his rights. Nixon's case eventually went to the U. S. Supreme Court. In 1927, the Court ruled that the law indeed violated Nixon's right under the Fourteenth Amendment, which provides equal protection of the law for all citizens.

But the Texas Legislature sidestepped the Court's decision by passing a new law. This time, instead of the state deciding that Negroes could not vote in primary elections, the right to decide who could and could not vote was placed in the hands of each political party in the state. That party decided to exclude Negroes, just as the state had done earlier.

Nixon once again filed suit, and in 1932, the Supreme Court ruled again in his favor. Both rulings were based on the Fourteenth Amendment. Both times the Court held that state action was responsible for infringing on the rights of citizens.

But the opponents of the Negro's right to vote were not easily put off. Next, the political party's state convention passed a resolution strictly defining membership in the party. The resolution declared that only whites eligible to vote under the state constitution were eligible for party membership. This meant that only whites could vote in primaries to select candidates for general elections.

When another black man challenged the constitutionality of this move, the Supreme Court ruled against him. In 1935, the Court said that the party's resolution was private rather than state action. It could not, therefore, be affected by the provisions of the Fourteenth Amendment.

It wasn't until 1944 that the Court rectified the situation. Lonnie Smith, who fulfilled all requirements for voting in Texas primaries except the color of his skin, filed suit against a state official who refused to give him a primary ballot. This time the Court ruled that the resolution of the Texas political party was state action under the terms of the Fifteenth Amendment. The all-white primary was history.

The struggle against the injustice of the poll tax took even longer. Ultimately, in January, 1964, the Twenty-Fourth Amendment to the Constitution was ratified. It forbade states to deny any citizen the right to vote for failure to pay a poll tax or any other tax.

But in spite of Supreme Court action against literacy tests and in spite of the Twenty-Fourth Amendment, abuses against the franchise for Negroes continued.

In 1965, Congress acted at last to eliminate these abuses. The Voting Rights Act of 1965 suspended literacy tests nationally and directed that Negro voters be registered by federal examiners whenever a state or county was found to have had literacy tests as of November 1, 1964, and could be shown to have had less than half of its eligible voters registered to vote. In the final analysis, it took nearly a century from the passage of the Fifteenth Amendment, guaranteeing Negroes the right to vote, until that guarantee became a reality.

One of the ironies surrounding the struggle for black suffrage is the role women played in the ratification of the Fifteenth Amendment. The women's suffrage movement, which dated all the way back to the 1840's, lent the Amendment its strong support. It did so in the hope that voting discrimination because of sex would also be eliminated by the Amendment. At the last minute, Congress decided not to include women in the Amendment. Their exclusion was a bitter pill for the suffragettes to swallow, but it had the effect of giving new momentum to the movement.

One result of this increased momentum was that by the end of the century, four states — Colorado, Idaho, Utah, and Wyoming — had extended full voting rights to women. The action by the legislatures of these states gave great encouragement to the movement. By 1913, seven more states followed suit. But piecemeal action by various state legislatures was not enough. The suffragettes feared that unless they were guaranteed the right to vote by the Constitution, they could never enjoy true equality with men.

Largely as a result of their strong contribution during World War I, sentiment for women's right to vote grew by leaps and bounds. Finally, in August, 1920, the Nineteenth Amendment to the Constitution was ratified by a very slim margin. The Amendment prohibited denying any citizen the right to vote because of sex.

Even after the right to vote had been extended to Negroes and women, one other group still sought the franchise — the 18-to-20-year-olds. For many years, people had argued that if a person were old enough to be required to serve in the armed forces, it followed that he or she was old enough to vote. "Old enough to fight, old enough to vote!" was a familiar cry of those favoring the franchise for persons between 18 and 20 years of age.

The strongest argument in favor of granting the vote to this age group was that, because of the draft, its members were required by law to take part in wars over which they had no political control. The right to vote, the argument went, would give young people power to state their views effectively to the politicians who had the power to send them off to foreign lands to fight.

Perhaps the strongest opposing argument was that the ability to fight in a war had little to do with the ability to vote intelligently. Just because a young person knew how to fire a gun didn't mean that he knew how to deal with the complexities of politics.

As much as anything, the war in Vietnam served to tip the scales in favor of granting 18-to-20-year-olds the vote. The war showed that young people had achieved a high degree of political awareness. And the course of the war demonstrated that they surely deserved to have a say in whether or not they should be required to go to war — especially an undeclared war.

By March, 1971, Congress had been persuaded that 18-to-20-year-olds should have the right to vote. It took only three months more for a majority of the states to agree and to ratify the Twenty-Sixth Amendment to the Constitution. The struggle for securing the franchise had consumed nearly two centuries since the signing of the Declaration of Independence.

Perhaps the greatest problem surrounding the right to vote today is that so few Americans do so — despite the fact that they are registered and that their role as voters is crucial to the continued existence of justice for themselves and their fellow citizens. In a very true sense, to vote is to participate in the quest for justice that is the American heritage.

HANDOUT 2

PROGRESS IN VOTING RIGHTS

Directions: Have students write a sentence or two about each of the following dates or phrases, or answer the questions as indicated.

1. At the time the Constitution was written (1787), did the states have consistent voting qualifications?

2. Emancipation Proclamation:

3. 1870:

4. Why did exclusion from voting in primaries make meaningless a black's right to vote in the general election?

5. 1990:

6. How and why did literacy tests affect a black's right to vote?

7. 1920:

8. 1927:

9. 1932:

10. 1935:

11. 1944:

12. 1964:

13. 1965:

14. 1971:

HANDOUT 3

OREGON v. MITCHELL
400 U. S. 122 (1970)

The U. S. Supreme Court had before it the validity of the Voting Rights Act Amendments of 1970. It held unanimously that Congress had the power to bar the use of literacy tests for voting for a period of five years in all elections — state and national. It held, with but one dissent, that Congress had power to regulate residency requirements and provide for absentee balloting in national elections for presidential and vice-presidential electors. It held by a vote of five to four that Congress had power to establish a minimum age of 18 for voters in elections for national officers. It also held by a vote of five to four that Congress had no power to establish a minimum age of 18 for voters in state and local elections — a result later changed by the Twenty-sixth Amendment.

In the debate over the validity of the provision setting a minimum age of 18 for voters in state and local elections, several of the justices addressed the question of the power of Congress to redefine the scope of the Fourteenth Amendment. Justice Black asserted that the Civil War amendments gave Congress enhanced power to deal with racial discrimination in voting. He noted that the 18-year-old vote provisions were not related to disenfranchisement by race. Then, he concluded:

> Since Congress has attempted to invade an area preserved to the States by the Constitution without a foundation for enforcing the Civil War amendments' ban on racial discrimination, I would hold that Congress has exceeded its powers in attempting to lower the voting age in state and local elections. On the other hand, where Congress legislates in a domain not exclusively reserved by the Constitution to the States, its enforcement power need not be tied so closely to the goal of eliminating discrimination on account of race.

Justice Stewart, joined by Chief Justice Burger and Justice Blackmun, said:

> Although it was found necessary to amend the Constitution to confer a federal right to vote to upon Negroes and upon females, the Government asserts that a federal right to vote can be conferred upon people between 18 and 21 years of age simply by this Act of Congress. Our decision in *Katzenback v. Morgan*, 384 U. S. 541, it is said, established the power of Congress under §5 of the Fourteenth Amendment, to nullify state laws requiring voters to be 21 years of age or older if Congress could rationally have concluded that such laws are not supported by a 'compelling state interest.'
>
> In my view, neither the Morgan case, nor any other case upon which the Government relies, establishes such congressional power, even assuming that all those cases were rightly decided . . . .

> *Katzenback v. Morgan*, supra, does not hold that Congress has the power to determine what are and what are not 'compelling state interests' for equal protection purposes . . . . The Court upheld the statute on two grounds: that Congress could conclude that enhancing the political power of the Puerto Rican community by conferring the right to vote was an appropriate means of remedying discriminatory treatment in public services: and that Congress could conclude that the New York statute was tainted by the impermissible purpose of denying the right to vote to Puerto Ricans, an undoubted invidious discrimination under the Equal Protection Clause. Both of these decisional grounds were far reaching. The Court's opinion made clear that Congress could impose on the states a remedy for the denial of equal protection that elaborated upon the direct command of the Constitution, and that it could override state laws on the grounds that they were in fact used as instruments of individuous discrimination even though a court in an individual lawsuit might not have reached that factual conclusion.
>
> But it is necessary to go much further to sustain §302. The state laws that it invalidates do not invidiously discriminate against any discrete and insular minority. Unlike the statute considered in Morgan, §302 is valid only if Congress has the power not only to provide the means of eradicating situations that amount to a violation of the Equal Protection Clause, but also to determine as a matter of substantive constitutional law what situations fall within the ambit of the clause, and what state interests are 'compelling.' I concurred in Mr. Justice Harlan's dissent in Morgan. That case, as I now read it, gave congressional power under §5 the furthest possible legitimate reach. Yet to sustain the constitutionality of §302 would require an enormous extension of that decision's rationale. I cannot but conclude that §302 was beyond the constitutional power of Congress to enact.

Justice Brennan, joined by Justices White and Marshall, took a broader view. Justice Douglas took a similar view in a separate opinion. Justice Brennan said, in part:

> As we have often indicated, questions of constitutional power frequently turn in the last analysis on questions of fact. This is particularly the case when an assertion of state power is challenged under the Equal Protection Clause of the Fourteenth Amendment. . . . When a state legislative classification is subjected to judicial challenge as violating the Equal Protection Clause, it comes before the courts cloaked by the presumption that the legislature has, as it should, acted with constitutional limitations. Accordingly, '[a] statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it.' *Metropolitan Cas. Ins. Co. V. Brownell*, 194 U. S. 580, 584 (1935).
>
> But, as we have consistently held, this limitation on judicial review of state legislative classifications is a limitation, not from the Fourteenth Amendment itself, but from the nature of judicial review . . . . The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the

kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as 'arbitrary,' 'irrational,' or 'unreasonable.'

Limitations stemming from the nature of the judicial process, however, have no application to Congress . . . . Should Congress undertake an investigation in order to determine whether the factual basis necessary to support a state legislative discrimination actually exists, it need not stop once it determines that some reasonable men could believe the factual basis exists. Section 5 empowers Congress to make its own determination on this matter . . . . It should hardly be necessary to add that if the asserted factual basis necessary to support a given state discrimination does not exist, §5 of the Fourteenth Amendment vests Congress with power to remove the discrimination by appropriate means . . . . The scope of our review in such matters has been established by a long line of consistent decisions . . . .

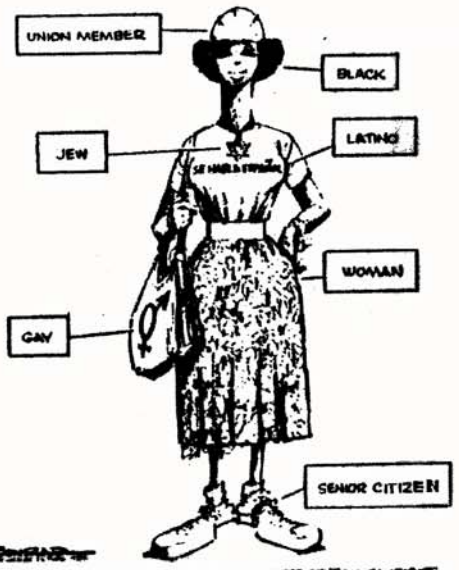
This scheme is consistent with our prior decisions in related areas. The core of dispute over the constitutionality of Title III of the 1970 Amendments is a conflict between the state and federal legislative determinations of the factual issues upon which depends decision of a federal constitutional question — the legitimacy, under the Equal Protection Clause, of state discrimination against persons between the ages of 18 and 21. Our cases have repeatedly emphasized that, when state and federal claims come into conflict, the primacy of federal power requires that the federal finding of fact control . . . . The Supremacy Clause requires an identical result when the conflict is one of legislative, not judicial, findings.

In sum, Congress had ample evidence upon which it could have based the conclusion that exclusion of citizens 18 to 21 years of age from the franchise is wholly unnecessary to promote any legitimate interest the States may have in assuring intelligent and responsible voting . . . . If discrimination is unnecessary to promote any legitimate state interest, it is plainly unconstitutional under the Equal Protection Clause, and Congress has ample power to forbid it under §5 of the Fourteenth Amendment. We would uphold §302 of the 1970 Amendments as a legitimate exercise of congressional power.

HANDOUT 4

POLITICAL CARTOONS
from the Salt Lake Tribune

"IT'S EASY FOR ANY OPPONENT TO SAY LET'S PUT THE BITTERNESS OF THE CAMPAIGN BEHIND US... HE WON."



THE COMPLETE DEMOCRATIC VICE PRESIDENTIAL CANDIDATE

ENRICHMENT ACTIVITY 1

THE BEST WHITE FRIEND BLACK AMERICANS EVER HAD

Condensed from *Pittsburgh Press*

One day in 1850, a tall, bony-shouldered cripple rose in the U. S. House of Representatives. Shifting his weight from his deformed left foot, he attached a recent statement by slaveholding Congressmen — that slaves really liked their condition and, if freed, would rush back into bondage.

"If this be so," he snapped, "Let us give all a chance to enjoy this blessing. Let the slaves who choose, go free. And the free who choose, let them become slaves. The white man," he added, "may attain that blissful state of slavery if he will go courageously to the swamp, spade and mattock in hand, and uncovered and half naked, toil in the broiling sun. A few short years, or a generation or two at most, will give him a color that will pass muster in the most fastidious and pious slave market in Christendom."

The house squirmed. It was not the first time that the lashing tongue of Representative Thaddeus Stevens of Pennsylvania had flayed its members over the slavery issue. Brilliant, fearless, unyielding, Stevens believed that slavery was the lone blot on the world's noblest document, the United States Constitution, and he was determined to have it erased.

Thaddeus Stevens had come down through history as a fling-faced thunderer. Detractors say that he helped bring on the Civil War, that he pestered Lincoln, and clamped a stiff Reconstruction on the defeated South. The picture is essentially accurate. But this extraordinary man can be properly understood in only one light — his towering hatred of human bondage. Decade after decade, he argued, schemed, and twisted political arms to bring a decent human existence to four million voiceless, oppressed Negroes.

He was not only the best white friend that black Americans ever had, but a patriot who deserves the gratitude of our nation. Over a century ago, he saw clearly that we could not become one people without drawing all our diverse elements to the table of brotherhood. Today his monuments — the Fourteenth and Fifteenth Amendments — safeguard the individual freedom of us all.

Pride and Prejudice

Stevens seemed born for crisis. Son of a ne'er-do-well farmer who abandoned his wife and four children in Danville, Vermont, he limped on a clubfoot and was terribly sensitive about it. His mother, noting his fierce pride, determined to educate him. She moved to Peacham, Vermont, and took housekeeping jobs to enter him at the academy there. The boy's response was instant. He excelled in history and the classics — fueling his brain and honing his tongue into what was to become the sharpest cutting edge in America.

After graduating from Dartmouth College in 1814, he found a poorly paying teacher's job in York, Pennsylvania. Restlessly ambitious, he began to study law. Within two years, he quit school teaching and hung out his shingle in Gettysburg.

Free Pennsylvania bordered on slaveholding Maryland, so the lean, hard-driving, young man was forever coming up against problems of runaways and human purchases. Ironically, his loathing of slavery stemmed from the only incident in which he supported the "peculiar institution." In 1821, he represented a Marylander suing in Pennsylvania courts for the return of a Negress, Charity Butler, who claimed her freedom. He won the case. Charity was returned.

Shocked by this victory of narrow legalism over what he considered basic human rights, he turned abolitionist and never looked back.

New General

Entering the Pennsylvania Legislature in 1833, Stevens jolted old-line politicians by saying publicly exactly what he thought. He called opponents fools and blackguards. And always, he blasted slavery. When prominent citizens of Gettysburg announced that troublesome abolitionists would not be allowed to speak in town, he himself addressed a mass meeting there and defied them to silence him. As a member of the 1837 Constitutional Convention of Pennsylvania, he refused to sign the new Constitution after the word "white" was inserted in front of "freemen" as a voting requirement.

His wit grew famous. Once an enemy met him on a narrow path and snarled, "I never step aside for a skunk." Stevens moved out of the way, saying, "But I always do."

Clients flocked, and Stevens became rich. By the late 1830's, he had gained commanding stature in his state. But gradually, he became convinced that the slave states were trying to extend their power and would have to be checked. "Confine the malady within its present limits," he urged. "Surround it by a cordon of freemen. In less than 25 years, every slaveholding state in the Union will have a law for its final extinction." Seeking a national forum, he was elected, in 1848, to Congress.

There he collided head-on with slavery's leading spokesmen. Representative Thomas Ross, for one, attacked him in a withering speech. Stevens listened, then rose. The House discovered what true invective is.

"To such remarks," said Stevens, "there can be no reply. There is, in the natural world, a little spotted, contemptible animal which is armed by nature with a fetid, volatile, penetrating virus, which so pollutes whoever attacks it, as to make him offensive to himself and all around him for a long time. Indeed, he is almost incapable of purification. Nothing, sir, no insults shall provoke me to crush so filthy a beast!"

In the stunned silence, slavery leader Howell Cobb of Georgia murmured, "Our enemy has a general now."

Sore Points

Thereafter, Stevens was the rallying point for abolitionists. His speeches so enraged pro-slavery Congressmen that they menaced him on the floor with knives. Ignoring threats, Stevens pounded home his theme: that the great United States was flawed by "the worst institution upon earth, one which is a disgrace to man and would be an annoyance to the infernal spirits." Sooner or later, he warned, the people would have to face up to it.

Compromise — the belief that slavery had to be tolerated, at least for a while, if the nation was to be held together — won, however. The new Fugitive Slave Act even ordered free citizens to help track down runaways. Revolted, Stevens left Washington in 1853, at the end of his second term, predicting accurately that the compromise would become "the fruitful mother of future rebellion, disunion, and civil war."

In 1858, as war clouds gathered, his sense of duty caused him to reenter politics. Elected again to the House of Representatives, he stood like a rock for the Union, rallying a divided Congress behind President-elect Abraham Lincoln. And when the fighting began, Stevens limped around Washington, stiffening the nerve of the government, spurring military leaders to be bold.

Stevens also pressed Lincoln to free the slaves immediately. Lincoln could not agree. Desperate to hold the border states in the Union, he dared not abolish slavery there at once. This became a sore point between the two men. As months passed, however, the President moved steadily toward his Emancipation Proclamation; Stevens recognized his statesmanship. Lincoln, reassured abolitionist friends, was not a "battering ram" against the citadel of slavery, but "with his usual shrewdness and caution, he is picking out the mortar from the joints until eventually the whole tower will fall."

Much has been made of Stevens' clashes with Lincoln over policy. His criticism was harsh, but he defended it by saying, "Faithful are the wounds of a friend, while the kisses of an enemy are deceitful." In 1865, when Lincoln's funeral train chugged past Lancaster, Pennsylvania, Stevens stood by a railroad bridge and waved, his face rigid with grief.

Winning the Peace

With the shooting finished and armies melting from the field, Stevens believed a strong hand was needed to keep diehard Confederates from trying to restore slavery. Slaveholders had always hated him. (In 1863, Confederate General Jubal Early, invading Pennsylvania, had promised to hang Stevens and "divide his bones and send them to the several states as curiosities.") Now Stevens moved to confound the diehards by writing a new concept of freedom into the Constitution.

The Thirteenth Amendment, ratified during the war, had already abolished slavery. But it hadn't given citizenship to the blacks. After bitter controversy — and a total break with President Andrew Jackson — Congress came up with the Fourteenth Amendment, which not only made ex-slaves citizens but threw federal protection around their rights. It stands today as a main pillar of the civil rights movement.

Though he battled tooth and claw for the Fourteenth Amendment, Stevens wanted something stronger. He set to work on the Fifteenth Amendment, which — although not ratified until after his death — specifically nailed down the right to vote for citizens of any race or color. He battled for the Freedmen's Bureau Bill, which brought free food and schooling to poor blacks and whites of the South. He helped set up courts, backed by federal bayonets, to ensure that ex-slaves got their rights.

The old and awkward man was not the undisputed leader of Capitol Hill. When he rose to speak, he would mutter as if talking to himself, while the House grew hushed in anticipation. Suddenly his head would come up, his dark brows would contract, his long fingers would shoot out, and his voice would explode in terse, vibrant language.

Sternly, the Old Commoner (as he was now called) argued that no former Confederate state should be allowed back into the Union until it granted full voting rights to all its citizens. He also wanted to see all large plantations confiscated and each ex-slave given 40 acres. President Johnson was horrified by this drastic program and publicly called Stevens a traitor who ought to be hanged. Stevens, in turn, referred to the President as a knave and fool. When one Congressman tried to heal the rupture by excusing Johnson as a "self-made man," Stevens snapped, "Glad to hear it. It relieves God Almighty of a heavy responsibility."

An impeachment trial followed, and the Radicals failed by one vote to oust the Tennessean from the Presidency. Whereupon, sick and disappointed, the Old Commoner limped off to his Washington home. Seeing ex-slaves still fettered by ignorance and ham-strung by race prejudice, he considered his life's labor woefully incomplete. Only his sardonic humor kept despair at bay. When a visitor observed politely that he looked well at 76, Stevens retorted, "It is not my appearance but my disappearance that troubles me."

Epitaph

On August 11, 1868, tended by two black nuns and his mullato housekeeper, the old man died. Thousands of common folk marched past his bier in the rotunda of the Capitol. Congressman Ingnatius Donnelly of Minnesota summed up Stevens' character: "He never flattered the people. On the contrary, he attacked their sins, assailed their prejudices, outraged their bigotries. And when they turned on him, he marched straight forward, like Gulliver wading through the fleets of the Lilliputians, dragging his enemies after him."

Ruthless with enemies, gruff with friends, Stevens was that rare phenomenon — a man who lived by his principles. He demanded an America rebuilt on a base of "perfect freedom." To critics who called him a fanatic, he replied, "There can be no fanatics in the cause of liberty."

He is buried in a humble cemetery in Lancaster, Pennsylvania, beneath an epitaph that he himself composed:

> I repose in this quiet and secluded spot,
> Not from any natural preference for solitude
> But, finding other Cemeteries limited as to Race
> by Charter Rules,
> I have chosen this that I might illustrate
> in my death
> The Principles which I advocated
> Through a long life:
>
> EQUALITY OF MAN BEFORE HIS CREATOR.

ENRICHMENT ACTIVITY 2

EMANCIPATION PROCLAMATION SEMINAR

On the first day of classes in January, following the holidays, use the occasion to celebrate the Emancipation Proclamation issued by Abraham Lincoln on January 1, 1863. Begin the proceedings by asking the students to imagine they are Lincoln and to compose an original emancipation proclamation of their own choosing between twenty-five and thirty words. After allowing about ten minutes for the composition period, let the students take turns standing before the class and reading aloud the proclamations they have improvised. When everyone has been heard, finish the hour by reading to the class the full text of the original proclamation which Lincoln signed.

ENRICHMENT ACTIVITY 3

THE ORGANIZATION OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP)

The Negro has often been referred to by historians as the "forgotten man of the progressive era." His only gains were in literacy, even though Negro schools were far inferior to those attended by whites. The 1896 *Plessy v. Ferguson* Supreme Court decision helped to guarantee that "separate and equal" education facilities would remain at least separate. The political, economic, and social failures of Reconstruction were obvious to the black man. In many cases, he was worse off than he had been under slavery. Progressives, while speaking of social reforms and social justice, often aided in the disenfranchisement of the Negro for fear of splitting the white vote and producing a Negro victory at the polls. With the exception of Tennessee, every state that had been in the Confederacy removed black names from the voting rosters and polling booths through a combination of literacy tests, high poll taxes, threats of violence, and in some cases, actual acts of violence.

In August of 1908, in Springfield, Illinois, a bloody race riot occurred at the 100th anniversary celebration of Abraham Lincoln's birthday. The tragedy resulted in the formation of the National Association for the Advancement of Colored People (NAACP). A nationwide call for a conference to seek solutions for racial evils resulted in a meeting on Lincoln's birthday in 1909 and produced the NAACP. Those accepting the challenge to help remedy racial discrimination and "evils" and agreeing upon a plan of action were: Jane Addams, William Dean Howells, Livingston Farrand, John Dewey, W.E.B. Dubois, and Oswald Garrison Villard.

The policies adopted by the newly formed NAACP in 1909 included:

1. Abolition of all forced segregation practices.
2. Provision of equal education for black and white children.
3. Complete enfranchisement of the Negro.
4. Enforcement of the Fourteenth and Fifteenth Amendments.
5. Widening of industrial labor opportunities for Negroes.
6. Increased police protection for Negroes in the South.
7. Challenging in the courts those "grandfather clauses" included in some state constitutions.
8. Crusades against lynchings and lawlessness directed at blacks.
9. Developing "Negro consciousness" through magazines such as *Crisis*, edited by Dubois.

Divide the class into four groups. Have each group discuss the following questions and develop their own guidelines or by-laws for the NAACP:

1. The three policies that should have top priority are:
   a.
   b.
   c.

2. As a result of these policies, I would hope to accomplish:

3. The three policies with lowest priorities are:
   a.
   b.
   c.

4. The probable losses to black citizens would be:

5. Do you think that as a director of the NAACP, you should act for all black people in choosing goals and priorities? Why or why not?

ENRICHMENT ACTIVITY 4

THE PREJUDICE GAME

Procedure:

1. Write the following descriptions on the board or illustrate on a poster. Descriptions can be easily changed to better fit characteristics of students.

   RUNTUNKI: Hair for males and females grows long and hangs down the back of neck. Last names are at least two syllables long. (Examples: Hamilton, Foster, Nikolaiev, Lavoglio.)

   FLUNKI: Hair for males and females is shaped in a round style, the great bulk of it being directly over the ears rather than down the back. Last names are only one syllable. (Examples: Lurd, Sparks, Stine, Smith.)

   BADO: Hair for males and females hangs down the back, similar to Runtunki style. Last names, however, are one syllable long. (Examples: Lurd, Sparks.)

   STINKU: Hair for males and females is shaped in round style. This may be distinguished from the Flunki by their longer names. (Examples: Hamilton, Foster, Nikolaiev.)

2. Introduce the game to the students by telling them that in the world today, anthropologists study hundreds of distinct societies, each with its own habits, beliefs, customs, and prejudices. Social prejudices are often as deeply rooted as their customs. Prejudice, after all, is a remarkably easy thing to learn. Do you believe you have already learned some prejudices yourself — against whites or blacks; against Asians; against Democrats or Republicans; against men or women. If you wish, you can learn more by playing this Prejudice Game. Have students study the descriptions on the board to find out which ethnic group they belong to. Each group is known by the length of its last name and its hair style.

3. After students have found out who they are, have them assemble in one corner of the room with their fellow tribesmen or ethnics. Teacher should designate one corner of the room for each of the groups with a large name poster so students can easily identify groups after the game has begun.

4. Distribute the "Always" worksheet to each group and explain the following directions. Each group should establish group pride and identity by writing in the spaces, four good qualities that members of their group all have. For example, if they are Flunkis, they might write: "A Flunki is always a courageous fighter." Then for each of the other groups, make up four very negative and derogatory statements. As a Flunki, for example, you might say:

"A Stinku is always lazy and stupid." Talk about your characterizations with other members of the group. Are the "others" smart or stupid? Trustworthy or untrustworthy? Hardworking or lazy? Truthful or devious? Clean or dirty? Moral or immoral? This part of the game should take about 10 minutes.

5. At this point, the teacher will pick a number from 1 to 20. The group that comes closest to the teacher's number is given absolute power to lay down the law for the other groups. The law says that the Flunki may or may not do, what the Runtunki may and may not do, etc.

6. Distribute the "Prohibiting" worksheet to the lucky group that wields all the power and makes all the next moves, while the other groups wait for the worst. They may discuss whether they should obey the power group or defy them and face possible arrests, imprisonment, or violence, etc.

7. Power group announces its set of laws.

8. Other groups have three minutes to decide what to do about these laws — whether to obey them, protest them, or revolt. Each group announces its decision.

9. If any group announces any policy short of strict obedience to the law, power group must decide whether it will react with show of force. How much force?

10. As a conclusion, the "tribes" are dissolved, and the class discusses what has been learned about prejudice and the reasons for it.

"ALWAYS" WORKSHEET

Meet with other members of your group. Establish group pride and identity by writing in the spaces below four good qualities that members of all your group have. For example, if you're a Flunki, you might write, "A Flunki is always a courageous fighter." Then for each one of the other groups, make up four very negative and derogatory statements. As a Flunki, for example, you might say: "A Stinku is always lazy and stupid." This part of the game should take 10 minutes.

RUNTUNKI:

1. A Runtunki is always _____.
2. A Runtunki is always _____.
3. A Runtunki is always _____.
4. A Runtunki is always _____.

FLUNKI:

1. A Flunki is always _____.
2. A Flunki is always _____.
3. A Flunki is always _____.
4. A Flunki is always _____.

BADO:

1. A Bado is always _____.
2. A Bado is always _____.
3. A Bado is always _____.
4. A Bado is always _____.

STINKU:

1. A Stinku is always _____.
2. A Stinku is always _____
3. A Stinku is always _____
4. A Stinku is always _____.

"PROHIBITING" WORKSHEET

The dominant group decides how to complete the following laws:

1. A law prohibiting any member of the _____ group from _____.

2. A law prohibiting any member of the _____ group from _____.

3. A law prohibiting any member of the _____ group from _____.

4. A law prohibiting any member of the _____ group from _____.

5. A law prohibiting any member of the _____ group from _____.

6. A law prohibiting any member of the _____ group from _____.

ENRICHMENT ACTIVITY 5

CRAIG v. BOREN
429 u. s. 190 (1976)

This case presents another discrimination issue between boys and girls.

Curtis Craig was a 19-year-old resident of Oklahoma. Under the law of his state, it was illegal to sell 3.2% beer to males under the age of 21 and to females under the age of 18. Craig felt that the law discriminated against males, aged 18-20, and brought a suit in federal court seeking to have the law declared unconstitutional under the Fourteenth Amendment's Equal Protection Clause. Craig argued that there was not sufficient reason for the legislature to make such a distinction based upon sex.

In defending itself, the state of Oklahoma argued that the distinction between the sexes was reasonable and was rationally related to the purpose of the law--reducing traffic accidents caused by drunken drivers. To support this claim, Oklahoma introduced statistics showing that drunken driving accidents could be effectively reduced by restricting the sale of 3.2% beer to a single group of drivers; males aged 18-20. The evidence included statistics demonstrating that many more males than females that age were arrested for "driving under the influence" and "drunkenness," that more males than females that age were injured in traffic accidents, and that more males than females that age were inclined to drink beer.

The district court upheld the constitutionality of the law and dismissed the suit. Craig then appealed to the United States Supreme Court.

Questions for discussion

1. The law in this case clearly seems to treat two groups of people (males and females) unequally. Do you think the Fourteenth Amendment's Equal Protection Clause prohibits state legislatures from passing any laws which apply differently to different groups of people?

2. Do you think this specific law violates the Equal Protection Clause when it treats males and females differently with regard to the sale of 3.2% beer?

3. When deciding the constitutionality of a state law, what sort of guidelines does the Supreme Court follow? Should the Court make its own assessment of whether the law is reasonable in terms of the state's legislative goal?

4. Is every kind of classification of discrimination unconstitutional? Give examples.

DECISION
CRAIG v. BOREN
429 u. s. 190 (1976)

A majority of the Supreme Court found that the Oklahoma law did violate the Equal Protection Clause. They did not find that the law was unreasonable, however. Rather, they applied another test which required that the law be more than reasonable if it were to be constitutional. Writing for the majority, Justice Brennan pointed out that this case involved classification on the basis of sex, a distinction which had in the past resulted in numerous instances of discrimination. Relying on previous Court decisions in this area, he declared that sex-based classifications must be "substantially" related to the legislative goal. Under this stricter test, the classification must have more than a reasonable connection to the legislative goal; instead, there must be a close, intimate connection between the classification and what the law seeks to accomplish. This standard shifts the burden of justification to the lawmaking body, which must show that the classification is not only rational but also a necessary element in achieving an important legislative objective.

Applying this tougher standard to the Oklahoma law, the majority concluded that the statistics did not justify treating males and females differently in the purchase of 3.2% beer . . . [T]he statistics failed to show whether those arrested had [sic] been drinking 3.2% beer or other alcoholic beverages; for example, they might have been drinking hard liquor. Finally, while Oklahoma law prohibited 18-20 year-old males from buying beer, it did not prohibit them from drinking it, even when it had been purchased by their 18-20 year-old girlfriends. The unpersuasive statistics and inconsistencies in the law's application, the majority said, made the relationship between gender and traffic safety "far too tenuous" to satisfy the "substantially related" test. As a result, the Court found the Oklahoma law to be unconstitutional under the Equal Protection Clause.

ENRICHMENT ACTIVITY 6

SENECA FALLS CONVENTION

The first Woman's Rights Convention was held at Seneca Falls in 1848. To dramatize the plight of the American woman, Elizabeth Cady Stanton wrote a Declaration of Sentiments and Resolutions. Modeled after the Declaration of Independence, it listed the repeated injuries and usurpations on the part of men toward women.

1. He has never permitted her to exercise her inalienable right to the elective franchise.

2. He has compelled her to submit to laws, in the formation of which she has no voice.

3. He has withheld from her rights which are given to the most ignorant and degraded men — natives and foreigners.

4. Having deprived her of this first right of a citizen, the elective franchise, thereby leaving her without representation in the halls of legislation, he has oppressed her on all sides.

5. He has made her, if married, in the eye of the law, civilly dead.

6. He has taken her from all right in property, even to wages she earns.

7. He has made her morally, an irresponsible being, as she can commit many crimes with impunity, provided they be done in the presence of her husband. In the covenant of marriage, she is compelled to promise obedience to her husband, he becoming, to all intents and purposes, her master, the law giving him power to deprive her of her liberty, and to administer chastisement.

8. He has so framed the laws of divorce, as to what shall be the proper causes, and in case of separation, to whom the guardianship of the children shall be given, as to be wholly regardless of the happiness of women — the law, in all cases, going upon a base supposition of the supremacy of man, and giving all power to their hands.

9. After depriving her of all rights as a married woman, if single, and the power of property, he has taxed her to support a government which recognizes her only when her property can be made profitable to it.

10. He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration. He closes against her all the avenues to wealth and distinction which he considers most honorable to himself. As a teacher of theology, medicine, or law, she is not known.

11. He has denied her the facilities for obtaining a thorough education, all colleges being closed against her.

12. He allows her in Church, as well as State, but a subordinate position claiming Apostolic authority for her exclusion from the ministry, and with some exceptions, from any public participation in the affairs of the church.

13. He has created a false public sentiment by giving to the world a different code of morals for men and women, by which moral delinquence which excludes women from society, is not only tolerated, but deemed of little account in man.

14. He has usurped the prerogative of Jehovah himself, claiming it as his right to assign for her a sphere of action, when that belongs to her conscience and to her God.

15. He has endeavored, in every way that he could, to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life.

16. Now in view of this entire disfranchisement of one-half the people in this country, their social and religious degradation in view of the unjust laws above mentioned, and because women do feel themselves aggrieved, oppressed, and fraudulently deprived of their most sacred rights, we insist that they have immediate admission to all the rights and privileges that belong to them as citizens of the United States.

17. On entering upon the tremendous work for us, we anticipate no small amount of misconception, misrepresentation, and ridicule; but we shall use every instrumentality within our power to effect our object. We shall employ agents, circulate tracts, petition the state and national legislatures, and endeavor to enlist the pulpit and the press in our behalf. We hope this Convention will be followed by a series of Conventions embracing every part of the country.

For the original wording of this document, see: Jacobs, William J., *Women in American History,* Beverly Hills: Benzinger Press, 1976, pp. 67-73.