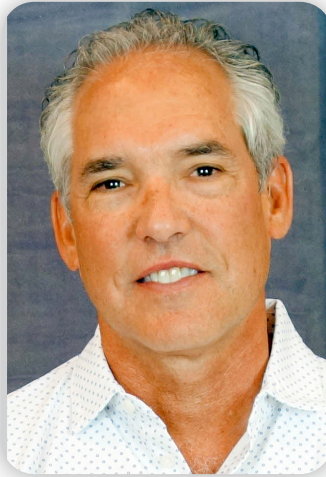


# PRESIDENT'S MESSAGE



## Equal Access Applies to All Americans

BY ERIC DOBBERSTEIN, ESQ., PRESIDENT,  
STATE BAR OF NEVADA

As we enjoy the month for love, I wanted to remind us all as to where my better half's ancestors and sisterhood were when the colonies started and how far we've come from then to today. Since this issue honors a number of Nevada's trailblazing Black women attorneys and acknowledges their accomplishments; I'd also like to discuss additional trailblazing women both within and outside of Nevada. The experiences of women during the colonial era varied from colony to colony. In 1619, women from England went to Jamestown to become wives. They were each auctioned off for 150 pounds of tobacco, which was paid to the shipping company. These women became known as "tobacco brides."

The term "housewife" – called "goodwife" in New England – referred to a married woman's economic and cultural roles. At that time, everything

she did was under her husband's authority. Although she had certain legal rights to property after he died, while her husband was alive, she was in charge of feeding; cleaning; home manufacturing of clothing, candles and foodstuffs; and medical care of everyone in the household. The legal statutes at the time allowed for husbands to exert physical power over their wives. In 1756, Lydia Chapin Taft became the only colonial woman to vote. From 1775 until 1887, New Jersey permitted all persons worth 50 pounds who resided in the state for one year to vote.

The women's suffrage movement officially began in 1865 to gain rights in the areas of property and child custody. By 1869, Wyoming became the first state to grant women the right to vote, and in 1870, Louisa Ann Swain became the first woman in the U.S. to vote in a general election. While women started to obtain the right to vote, they were still mostly restricted to domesticated roles as servants, or workers in shops or factories until marriage, after which they

would become full-time housewives. Career women were few, but as educational opportunities expanded, many women took on teaching roles, and became missionaries or nurses.

In 1873, Congress passed the Comstock Act, which made it illegal to distribute birth control information or contraceptives through the U.S. Postal Service. In *United States v. One package* 86 F.2d 737 (2<sup>nd</sup> Cir 1936), the circuit court allowed for the mailing of birth control devices and information to married people. But it was not until 1972 that such dissemination became legal for unmarried people. *Eisenstadt v. Baird*, 405 U.S. 438 (1972). This case followed one we all studied in law school – *Griswold v. Connecticut*, 381 U.S. 479 (1965) – for ruling that a right to privacy encompasses the rights of individuals to make decisions concerning intimate personal matters such as childbearing.

In *Reed v. Reed*, 404 U.S. 71 (1971), Ruth Bader Ginsburg wrote a brief for the American Civil Liberties Union that led the U.S. Supreme Court to rule that a law that discriminates against women is unconstitutional under the 14<sup>th</sup> Amendment. *Roe v. Wade*, 410 U.S. 113 (1973), established that the state cannot interfere with a woman's decision to have an abortion without a compelling interest, and then only after the fetus becomes viable.

It is amazing that we had to have cases brought before the Supreme Court to have women treated the same as men. There are many examples of discriminatory laws against this half of our country. The court in *Cleveland*



*Board of Education vs. Lafleur*, 414 U.S. 632 (1974), struck down a rule that required women to take unpaid maternity leave after the first trimester because of the presumption that women were no longer able to work. In *Weinberg v. Weisenfeld*, 420 U.S. 636 (1975), sex-based distinctions in the awards from Social Security benefits were declared unconstitutional.

In *Carey v. Population Services, Int'l*, 431 U.S. 678 (1977), the

court struck down a New York statute restricting distribution and advertising of non-prescription contraception, holding that it burdens the right of individuals to use contraceptives and serves no compelling state interest, and that the ban on advertising violates the First Amendment. The court further struck down a provision banning the distribution of contraception to minors. In *Orr v. Orr*, 440 U.S. 268 (1979), the court invalidated on equal protection grounds statutes providing that husbands, but not wives, may be required to pay alimony upon divorce and thus cast off the assumption that wives are dependent upon their husbands for financial support, but husbands are never dependent on wives. In *Wengler v. Druggists Mutual Insurance Co.*, 446 U.S. 142 (1980), the court struck down a state law denying widowers worker's

compensation benefits upon the work-related death of their wives unless they prove dependency or incapacity, while granting widows such benefits automatically.

*Kirchberg v. Feenstra*, 450 U.S. 455 (1981), was the first to invalidate a law that gives a husband the right to control marital property without his wife's consent. The court overturned a Louisiana statute that gave husbands the exclusive right to dispose of

community property, as an abridgement of married women's constitutional rights under the Equal Protection Clause of the 14<sup>th</sup> Amendment. The *United States v. Virginia*, 518 U.S. 515 (1996), was a landmark case in which the Supreme Court struck down the Virginia Military Institute's long-standing male-only admission policy in a 7-1 decision.

Here in Nevada, our first female lawyer was admitted to practice law in 1893, when Laura May Tilden Wilson was sworn in. Our first elected official to the state assembly occurred in 1918 when Sadie Hurst, from Washoe County, took office. In 1983 we had our first female member of congress elected when Barbara Vucanovich won. Also in 1983, Patricia Cafferata became the first woman elected as state treasurer. In that same year, Miriam Shearing became the first district court judge in Clark County. She continued her lead by becoming the

first female elected to the Nevada Supreme Court in 1993. Our first female Attorney General was Frankie Sue Del Papa in 1990, followed by our first female lieutenant governor, Sue Wagner, in 1991. Three years later, the State Bar of Nevada had its first female president when Margo Piscevich was sworn in.

Once the groundwork was laid by these trailblazers in the 1980s and '90s, Barbara Buckley became the first female Speaker of the Assembly in 2007, which happened at the same time that Nancy Pelosi became the first female Speaker of the U.S. House of Representatives. Then our state completely changed the roof from a glass ceiling to an architectural wonder, when in 2019, Nevada became the first state to have a female majority in the state legislature, and now in the Nevada Supreme Court. Finally, in January 2021, Kamala Harris became the first woman to be sworn in as vice president of the United States.

I hope you all will agree with me that it is so nice to see our country and state operating at full capacity with all of us having equal access to everything without any thought that one of us should be treated differently based upon our sex. By the way, you all are in good hands at the state bar with the progression of our leadership. I have been working with President-elect Ann Morgan and Vice President Paola Armeni during this past year, and they will both serve the state bar well into the future.

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