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# The Elective Franchise

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Thesis

"The Elective Franchise"

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The elective franchise is a right of participation in the government by the governed - a taking part in the choice of officers and in the decision of public questions. This is political liberty as distinguished from civil liberty. During recent years considerable numbers have insisted that the right to vote is a natural right, corresponding to the right to life and liberty and equally unlimited. This claim is without substance in that it cannot be given practical effect, for it is absolutely impossible that even individual, without regard to sex, age, and mental condition,

should exercise the right. Suffrage cannot be the natural right of the individual, because it does not exist for the benefit of the individual, but for the benefit of the State itself. The so-called "right to vote" is not a natural right at all, but a political privilege, and there have always been limitations upon its exercise. Even when granted, it is not a vested, irrevocable, right, but it is held at the pleasure of the state that gives it, and the state may, by a change in its fundamental law, restrict as well as enlarge it.

Citizenship in the United States is, in the popular mind, erroneously supposed to include the right to exercise the elective franchise; the privilege, however, is not attendant

upon the allegiance thus due the government. The determination as to who shall possess this privilege of the franchise, rests almost wholly with the individual states. The only reservation made by the constitution of the United States as first adopted is found in Article I Section II which provides that "The electors for members of the House of Representatives in each state shall have the qualifications requisite for electors of the most numerous branch of the State Legislature". The only direct grant of power embraced in the constitution is that contained in Article II Section I relative to the election of President, providing that "Each State shall appoint, in such manner as the Legislature thereof may direct, a

number of electors equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress". And the function of the several states in this regard is made clear and manifest by the provisions of the tenth amendment, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It is thus seen that the suffrage is a privilege which each state may grant upon terms of its own choosing, provided only that those terms be not inconsistent with a republican form of government. Nearly all of the states

provide by their constitutions - for the qualifications of the electors, - giving to them a greater stability than if left subject to the action of the Legislatures. Participation in the suffrage is determined by the states on a consideration of what is for the best interests of the state. Its purpose is not private, but public, and is to maintain a system of government, to preserve and perpetuate public order and the protection of individual rights.

While there are many classes of citizens to whom is not accorded the privilege of voting, as minors, the insane, and, generally, women, the suffrage is in all the states given by constitutional provision.

to make citizens twenty one years of age; but it does not stop there.

Many of the states extend the privilege of the franchise to male residents of foreign birth who are twenty one years of age and have simply made a declaration of their intention to become naturalized citizens; and some of the states go so far as to extend it to every male inhabitant of voting age - something purely not within the contemplation of the framers of the Federal Constitution.

As a condition precedent to voting, the laws of almost all the states require residence in the state for a certain length of time previous to the election in which the privilege is sought to be exercised.



There is frequently a further residential requirement - as to the county, and sometimes it is necessary that the voter shall, for a specified length of time, have lived within the precinct or voting district in which he seeks to express his will.

The suffrage is denied in some of the states to those who have not paid certain required taxes; and in Connecticut and Massachusetts is confined to those who can read the laws of the state: and the various states have provisions peculiarly their own by which, generally for offenses against the law, their voters may be temporarily or permanently disfranchised. To the end that fraudulent voting may be made less easy, it is now

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was common to require, by means of register laws, that the voter shall register his name and address at a place and time specified prior to the election, and if then required, demonstrate his compliance with the laws entitling him to vote.

The general manhood suffrage of the present day is the result of a gradual but steady development. The property qualification required at one time in all the states has been removed by one after another until that feature of the franchise has almost disappeared. And with the extension of the suffrage has come the sentiment, growing continually stronger, that accompanying the rights of life, liberty and the pursuit of happiness guaranteed to

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the citizens of the United States by the Federal constitution in its guaranty to the states of a republican form of government, is that this, political, right - the right to vote. While this is but a sentiment, yet the grant of suffrage makes it a legal right - until it is recalled, and it is protected by the law.

This universal suffrage, so-called, has accomplished much good and is responsible for much that is evil. It is undoubtedly true that the largest number possible of those fitted to do so should take part in the affairs of the government; under this system as at present, many wholly unfitted have exercised an undue influence. The discussion of public questions

before the masses of the people, made necessary by their possession of the franchise, and their own increased interest by reason of their voice, have been powerful agents for the general increase of intelligence.

But there is a widespread feeling that the movement has gone too far, or rather, that it has been extended to its present limits with too few wholesome restrictions. For example, it is seen that the base, the illiterate, and the improvident have equal voice in the management of affairs of gravest moment with the upright, the well-informed, and the thrifty. Those who cannot govern themselves should be shorn of their power in the governing of others. Not alone are the ignorant, the vicious,

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and the paupers of native birth promoted by the attainment of their majority to this great privilege of sovereignty, but in the absence of state restriction, the law enforcement of the Federal naturalization laws places its authority over us. sovereigns of foreign birth who bear the impress of jail and almshouse. These of our voting population, capable of being influenced, not by arguments and appeals to reason, but only by appeals to narrow race or religious prejudices, or their own pecuniary interest, form a considerable section, approximating to a balance of power, and are coveted to by both the great parties. If government exists for the highest good of all the governed, it is thus seen that those who

should have no voice at all. have  
 come to have a preponderating influ-  
 ence in the determination of our  
 political questions, while the vote of  
 the upright, independent, and thinking  
 citizen has thereby a lessened value.

For these reasons, it seems  
 desirable that the franchise be hedged  
 about with further conditions than  
 those now existing. Let us consider in  
 what way it may be done. The only  
 way in which the states may not  
 restrict the suffrage is contained in  
 the Fifteenth Amendment of the United  
 States constitution, which reads "The right  
 of citizens of the United States to vote  
 shall not be denied or abridged by the  
 United States, or by any State, on  
 account of race, color, or previous  
 condition of servitude". Other than

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thus the respective states may restrict the suffrage in any way they will, - except that if the refusal be based upon anything else than "participation in rebellion or other crime" there is a loss to the state in its Congressional representation by the provisions of the second section of the Fourteenth Amendment; "But when the right to vote at any election for the choice of Electors of President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime,

the basis of representation therein shall be reduced, in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Suppose a state should adopt measures whereby the right to vote is withheld for reasons other than those enumerated in the Fourteenth Amendment, might it not well afford to do so if the restriction thus imposed should result in the election of men to represent the state in Congress, possessing greater mental abilities and more pronounced moral principles? That this would be the result will probably be admitted, for with the suffrage denied to those concededly inferiority of it, it will be less easy



for those who seek office for their own personal ends to gain it, and office will the more frequently seek the man, either because of the principles he represents or of some especial fitness.

With the retirement of the professional and intensely practical (?) politician, there will come a renewal of active participation in the affairs of state by men of whose services the state has pressing need, but who are now driven from successful political life by associations and methods to which they will not stoop. It is contended that a state may well afford a resulting decreased Congressional representation under these circumstances. The power of a state delegation in the National Legislature to accomplish good for the people of these United States - its

mission there, does not depend upon its numbers, but upon the individual character of its members.

All, save only those who make politics a trade, and whose success depends upon a continuation of present conditions, admit that something must be done. But individuals, ambitious of political preferment, and party organizations, more susceptible to the approval of the mob than zealous for the Nation's good, fear to touch the question. — The result is that unworthy voters, guided by no principles of their own, other than that of self interest, attached to no party permanently or for what it represents, drawn hither and thither by the magnet of patronage or open purchase, are calved to, and pampered, and alike debased, by all.

The property qualification of former days answered the purpose very well, although it became justly odious. The possession of property was relied upon to indicate the owner a person of virtue, thrift, and intelligence - qualities conducive to its accumulation - and it was supposed that inherited property would on the whole be accompanied by the similar inherited traits of character. This assumed general rule was of course subject to many exceptions in the persons of voters having neither desirable mental or moral qualities for the exercise of the suffrage: and on the other hand worked hardship in that it shut out from all voice in public affairs many men of intelligence, even of culture, and but no premium upon obedience to the law of property were

lacking.

The state of New York provides by its constitution and laws for the disfranchisement at any election of those who have sought by means of money or any other valuable thing to influence the giving or withholding of the vote of others, or whose own votes have been so influenced; and also those who are either directly or indirectly interested in any way or depending upon the result of such election. Provision is made for the permanent disfranchisement of all persons who shall have been duly convicted of bribery or of any infamous crime, unless such persons shall have been pardoned and restored to the rights of citizenship. An exception to this last is made in favor of persons who have been sentenced or

committed to one of the houses of refuge, or similar institutions, organized under the state law.

This is well as far as it goes, but no plan for a purification of the suffrage will be worthy of the name that fails to exclude the habitual and hereditary criminal who escapes disfranchisement under the present law if not convicted of one of the offenses named and sentenced to a state prison. There should be no hesitancy to deprive those who habitually break the laws from any part in making them.

Statistics show that fine and imprisonment do not prove effective to restrain the petty criminal. Offenders charged with assault and battery, vagrancy, breach of the peace, theft, and drunkenness re-appear in our police courts

with a regularity which shows that they possess no terrors for them, while the magistrate recognizes in them an established claim. Many of these men value the franchise; it is their one visible badge of equality with all the rest of mankind of whatever rank or station; it is the stepping-stone to political pre-eminence and advancement among their fellows, it gives an importance to those who would otherwise be unnoticed. To such, the penalty of disfranchisement would be a strong deterrent from the repeated commission of crime. Prevention would frequently take the place of punishment. And when disfranchisement were decreed, it would be for that time in substitution for a confinement not always dreaded by the culprit, and generally

expensive to the people. The privilege of becoming a voter might be denied to those who have been disfranchised in the state of their former residence, when the policy and laws of such state are in harmony with our own.

Another proposed feature of a restricted franchise is that only those shall be entitled to it - who can read and write, and have at least a rudimentary knowledge as to where are lodged the various functions of government and how administered. One of the faults to be found with the law as at present is that it does not make provision that the voter in whose hands it places the ballot shall have some basis, however slight, upon which to make an intelligent use of it. We would not expect

to put a man in charge of a set of books unless we had reasons to believe that he knew something of the use of figures: there could be no certainty as to the result, even if his intentions were good.

This ability to read and write should be to read and write in the English language - the official language of the state and country - It is an undoubted hardship to exact of alien applicants for the suffrage who may be able to write well in their own language, and to read the constitutions of the State and Federal governments in their mother tongue, the acquirement of the English language. But the individual must not be set above the State, and all the experience of history goes to prove



that nation and that people the most harmonious and welded in common interest that has a common language.

It is proposed to make this educational requirement applicable to the present voting population of the state - applied it - only to those hereafter attaining their majority within the state, and who come into the state from other states and countries. It is not conceived that with the means of education afforded by our system of public schools and academies, by the omnipresent newspaper, and the printed matter of all kinds with which the country is flooded, that any considerable number of native-born voters are unable to read and write, and

in English. Of the foreign-born illiterates probably most of them are of an age such that the enforcement of the educational requirement would mean their permanent disfranchisement, as being, generally, too old to learn. Many, having become voters when there was no such test, and having exercised the privilege so long as to believe they have a prescriptive right, would naturally feel the law to be retroactive, and a withdrawal of something accorded to them when they assumed the burdens of citizenship. The retention of the franchise by such illiterates as now possess it will be no injustice or rightful cause of complaint to such as seek it.

henceforth: to them the passage of such an amendment to the constitution will be the giving of due notice, for non-compliance with which they simply bear the penalty.

To the end that the youth of the country be fitted to take more honorably a part in political affairs, it should be impressed upon the children in the public schools at an early age that truth, and patriotism, and the performance of civic duty, are the chiefest virtues of citizenship; upon this soil will thrive a love of our country's history, and a keen interest in its civil administration. If it be necessary to maintain a system of popular education as one of the safeguards of the state, such a system shall

of its full measure of benefit except as it includes this most essential element.

A further proposed restriction is as to those who are supported by the public or who receive assistance from it as paupers. Under the law as at present in the state of New York such persons may exercise all the privileges of the franchise, save only that they do not lose or gain a voting residence by reason of being an inmate of any almshouse. The reason for not permitting paupers to thus gain a voting residence is not an evidence of a policy that those who are incapable of supporting themselves must generally be incompetent to act in directing the

affairs of all and should therefore have no voice, but is merely that a large number of voters who have little or no personal interest in the management of local affairs, should not exert a controlling influence thereon.

It is believed that the proposed restrictions as enumerated are perfectly feasible, and such as to appeal to the favorable judgment of the majority of right-thinking men. Certainly those who plead for the retention of the franchise by the criminal classes, by those subsisting on public charity, and for its extension to future illiterates, have upon them the burden of maintaining the soundness of their views. Under the existing state constitution,

the Legislature has no authority in the premises except as to "Subversive or any infamous crime", concerning which there are already enactments: so that the desired benefit must be brought about through a change in the fundamental law, in the form of an amendment proposed in the Legislature and duly submitted to a popular vote.

This curtailing of the franchise will of necessity invest it with an added dignity: those who will now retain it will value it as never before, while certainly not a few of those to whom it is denied will become the better citizens in their endeavor to regain it. Men are apt to make a proper use of that which costs them something, or which is

valuable, and the franchise will prove no exception. The means proposed will prove not alone a remedy for many of our political ills, but a preventive as well.

For such as are disfranchised the Governor of the state possesses the power of pardon "upon such conditions and with such restrictions and limitations, as he may think proper" and he may restore them to the full enjoyment of citizenship. The amendment itself may provide for the granting or restoration of the privilege upon the presentation of satisfactory proof of merit to some designated tribunal.

By a second amendment to the state constitution, providing for the extension of the suffrage to women, it is believed that the ends of --

good government sought to be attained by the first amendment will be further promoted. This idea of women exercising the franchise has met with very much ridicule in the past, and is still the object of the contempt of some, but while ridicule may help excite and keep alive the prejudices of a former stage of civilization, yet the married woman's legislation of recent years, removing one disability after another, has inevitably paved the way for this final acknowledgement of her full equality with man. It is difficult to see what reason or justice there is in denying it to her. The woman who holds bankstock, or who is a partner in some mercantile enterprise expresses her wish as to the conduct



of the business without a thought of objection by anyone because of her sex; but should her property be invested in houses and lands, she has nothing whatever to say in an administration of government that may enhance or depreciate their value.

Woman needs the ballot to protect her personal interests as well as her property interests. no class or portion of the population is so well able to voice its needs as that class itself. The possession of the franchise will elevate her in the estimation of men generally; it will be a power that he cannot arbitrarily control; if he would influence it, he must do so by the usual methods.

Women, in the personal exercise of the franchise, will be guided by an accompaning sense of personal

responsibility; while the influence she now wields is sometimes the careless influence of one upon whom no responsibility rests.

It is not, however, that many women earnestly desire the ballot as their right equally with men, that the adoption of this second amendment is urged; some women are indifferent as to its possession, as also are some men, though this is not put forth as a reason why all men should be denied a vote. But the adoption of this amendment is urged because the country and state have need of the co-operation of women in ~~the~~ political affairs. Decade after decade there has poured into the country a tide of immigration from foreign lands. Even as to those of this increase of the

population that are intelligent, law-abiding and thrifty, they have been reared, for the most part, under systems of government differing from our own, and do not readily adapt themselves to our views of the relation existing between the individual and the State; nor do they all sympathize with our separation of Church and State, the public school system, and others of our cherished National institutions. The addition to our enfranchised class, from this source, has taxed our powers of assimilation to the utmost, and it is thought by many that, if American ideas are to prevail on American soil, we must rid ourselves of the menace thus offered.

The remedy is at hand. The mothers, wives, and sisters of the country ask—

to be admitted to the franchise:  
 they have sprung from our common  
 ancestry; they have been educated in  
 the same schools; have read the same  
 books; are imbued with the same  
 patriotism. Party fealty or party necessity  
 will be less apt with them to be more  
 potent than principle, and the entrance  
 of women into politics will mark an  
 era of better government

Lincoln W. Dyer.