

SUFFRAGE



Women at the polls in Wyoming Territory, 1870 -

Newspaper illustration shows women at the polls in Wyoming Territory in September 1870. The U.S. Constitution does not specify who can vote, but amendments have subsequently specified the grounds on which neither state nor national governments can exclude a person from voting. Although not specifically prohibited from voting by the Constitution, most states barred women from the polls. Early New Jersey provided a fascinating exception to the rule established elsewhere limiting voting rights to men. From the adoption of a state constitution in 1776 through the adoption of a law in 1807, New Jersey permitted women who were worth "fifty pounds" or more to vote. [Library of Congress]

One of the Convention's most striking omissions was arguably its failure to designate uniform requirements for voting in national elections. Delegates addressed the issue on a number of occasions, most involving qualifications in voting for members of one or both houses of Congress or for the presidency. They ultimately finessed the issue by providing in Article I, Section 2 that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature," and by specifying that state legislatures would select U.S. senators and special electors would choose presidents.

Developments in the States

Marc Kruman has established that early state constitutions placed great emphasis on the right to vote. Although some states required that adult white males (to whom such voting was often limited) own a certain amount of property deemed sufficient to grant them a "stake" in society, these requirements were rarely onerous in a society where property ownership was fairly widespread. Moreover, some states had moved to the idea that all taxpayers should be able to vote (1997, 94). Operating from similar rationales, other states had lifted the bans that once applied to those who were not Protestant Christians (96–97). Still, property qualifications varied from one state to another.

Influence of State Variation on Convention Debates

Such differences account for the Convention's ultimate solution. New York's Alexander Hamilton observed on June 29 that

individuals forming political Societies modify their rights differently, with regard to suffrage. Examples of it are found in all the States. In all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the States the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property, to vote for a member in another branch of the Legislature, a higher quantum of property is required. In like manner States may modify their right of suffrage differently, the larger exercising a larger, the smaller a smaller share of it. (Farrand 1937, I, 465–466)

Similarly, in discussing the possibility of popular election of the president on July 19, Virginia's James Madison observed that

there was one difficulty . . . of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. (II, 57)

He went on to observe that "the substitute of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections" (II, 57). Further commenting on this problem on July 25, Madison expressed the hope that the "disproportion" between the number of voters in the Northern and Southern states "would be continually decreasing under the influence of the Republican laws introduced in the S. States, and the more rapid increase of their population" (II, 111).

Discussion of Proposal by Committee of Detail

On August 6, the Committee of Detail submitted a draft Constitution providing that "the qualification of the electors shall be the same, from time to time, as those of the electors in the several States, of the most numerous branch of their own legislatures" (II, 178). The next day, Gouverneur Morris moved to "restrain the right of suffrage to freeholders" (II, 201) and was seconded by fellow Pennsylvanian Thomas Fitzsimons. Hugh Williamson of North Carolina opposed the change, and James Wilson of Pennsylvania attempted to justify leaving states to determine the matter:

This part of the Report was well considered by the Committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovation he thought too should be avoided. It would be very hard & disagreeable for the same persons, at the same time, to vote for representatives in the State Legislature and to be excluded from a vote for those in the Natl. Legislature. (II, 201)

Morris saw no significant problem:

Such a hardship would be neither great nor novel. The people are accustomed to it and not dissatisfied with it, in several of the States.

In some the qualifications are different for the choice of the Govr. & Representatives; in others for different Houses of the Legislature.

Another objection agst. the clause as it stands is that it makes the qualifications of the Natl. Legislature depend on the will of the States, which he thought not proper. (II, 201)

By contrast, Connecticut's Oliver Ellsworth thought that an attempt to dictate national standards was likely to stir up trouble:

The right of suffrage was a tender point, and strongly guarded by most of the [State] Constitutions. The people will not readily subscribe to the Natl. Constitution, if it should subject them to be disenfranchised. The States are the best Judges of the circumstances and temper of their own people. (II, 201)

Virginia's George Mason reinforced this argument: "The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised" (II, 201–202).

Mason went on to make the additional argument, consistent with republican fears of government, that "A power to alter the qualifications would be a dangerous power in the hands of the Legislature" (II, 202). Pierce Butler of South Carolina argued that "there is no right of which the people are more jealous than that of suffrage," and he observed that the legislature in Holland had used its power to abridge voting to create an aristocracy (II, 202).

The advocates of freehold suffrage were not yet willing to concede. Delaware's John Dickinson offered a strong defense on its behalf:

He considered them [the freeholders] as the best guardians of liberty; And the restriction of the right to them as a necessary defence agst. the dangerous influence of those multitudes without property & without principle, with which our Country like all others, will in time abound. As to the unpopularity of the innovation it was in his opinion chimerical. The great mass of our Citizens is composed at this time of freeholders, and will be pleased with it. (II, 202)

Ellsworth raised practical concerns. He asked, "How shall the freehold be defined?" (II, 202). He further raised the idea that a freehold might unfairly discriminate against merchants. In a theme reminiscent of the Revolutionary War, he affirmed that "taxation and representation ought to go together" (II, 202).

Gouverneur Morris demonstrated in his response how different ideas in the eighteenth century could be from those of the present. At a time when citizens would have cast their votes publicly, Morris observed that the House could birth an aristocracy if voters for its members had no property qualifications:

Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this Country will abound with mechanics & manufacturers who will receive their bread from their employers. Will such men be the secure & faithful Guardians of liberty? . . . The man who does not give his vote freely is not represented. (II, 202–203)

Morris went on to observe that children do not vote "because they want [lack] prudence" and "have no will of their own." He contended that "the ignorant & the dependant can be as little trusted with the public interest" (II, 203).

Mason cautioned the Convention not to get sidetracked by English precedents. Although the freehold served as a qualification there, Mason thought that the true qualification should not turn on whether one owned property. Rather the delegates should proceed from the principle that "every man having evidence of attachment to & permanent common interest with the Society ought to share in all its rights & privileges" (II, 203). By such a standard, he rhetorically asked: "Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in their own [Country], to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow Citizens?" (II, 203).

Fellow Virginian James Madison responded with an apparent sop to both sides. He observed that "the right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature," which could so adjust it as to create an aristocracy (II, 203). As a matter of theory, Madison appeared to favor a freehold. He thus observed that "viewing the subject in its merits alone, the freeholders of the Country would be the safest depositories of Republican liberty" (II, 203). He explained:

In future times a great majority of the people will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case, the rights of property & the public liberty, [will not be secure in their hands] or which is more probable, they will become the tools of opulence & ambition, in which case there will be equal danger on another side. (II, 204)

However, Madison knew that theory might not work in practice: "Whether the Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in States where the right was now exercised by every description of people" (II, 203).

Benjamin Franklin feared that the delegates were underestimating "the virtue & public spirit of our common people" that he believed they had displayed during the Revolutionary War (II, 204). He strongly opposed giving the elected the right to "narrow the privileges of the electors" (II, 205). In apparent answer to Madison's concerns about how the people would accept a freehold requirement, he observed that such a restriction "would give great uneasiness in the populous States" (II, 205). He cited the example of "The sons of a substantial farmer, not being themselves freeholders," who he thought "would not be pleased at being disfranchised" and added that "there are a great many persons of that description" (II, 205).

Coming at the issue from a very different angle, Maryland's John Mercer objected to the whole idea of letting the people select members of the House. He was especially concerned that members of the towns could always outvote those in the country (II, 205). South Carolina's John Rutledge ended the discussion by arguing that restricting the suffrage to freeholders would be "unadvised" since "It would create division among the people & make enemies of all those who should be excluded" (II, 205). The Convention thus rejected Morris's idea of doing this by a vote of 7-1, with an additional state divided (II, 206).

Analysis and Subsequent Developments

The delegates thus decided that it would be better to leave existing state qualifications in place than to try to impose a single nationwide qualification. Although the pattern was not uniform, the nineteenth century witnessed a broadening of the suffrage in most states (see Keyssar 2000). Significantly, the U.S. Constitution still does not specify who can vote, but amendments have subsequently specified the grounds on which neither state nor national governments can exclude a person from voting. Such grounds now include race (the Thirteenth Amendment, ratified in 1870), sex (the Nineteenth Amendment, ratified in 1920), failure to pay a poll tax (the Twenty-fourth Amendment, ratified in 1964), and ages 18 or above (the Twenty-sixth Amendment, ratified in 1971). Additional amendments, most notably the Twelfth (ratified in 1804) and the Twenty-third (ratified in 1961), have modified the Electoral College mechanism for selecting the president. Most significantly, the Seventh Amendment (ratified in 1913) provided that voters would thenceforth select U.S. senators rather than having them selected by members of the state legislatures.

References:

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