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The Constitutional rights of the women of the United States

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LIBRARY CARRIE CHAPMAN CATT SUBJECT Section VII Suffrage - Speeches ZX Records NO 1 (10)

The Constitutional Rights OF THE Women of the United States. An Address before the International Council of Women, Washington, D. C., March 30, 1883. BY ISABELLA BEECHER HOOKER.

In the month of August, 1774, that eminent statesman and true patriot, Thomas, Jefferson, in a little tract entitled "A Summary View of the Rights of British America," used certain words which I will take for my text while addressing you to-day on the "Constitutional Rights of the Women Citizens of the United States." They are these:

"The whole art of government consists in the art of being honest."

And again:

"The God who gave us life gave us liberty at the same time; the hand of force may destroy, but cannot disjoin them."

May I ask your patient attention while I attempt to show: First, that under a proper interpretation of the constitution of the United States, which he had so large a part in preparing, women have a right to vote to-day, on precisely the same terms with men; and secondly, that they ought, for various reasons, to exercise this right without subjection to molestation or delay, and men ought to help them to do so by every means in their power.

First let me speak of the constitution of the United States, and assert that there is not a line in it, nor a word, forbidding women to vote; but, properly interpreted, that is, interpreted by the Declaration of Independence, and by the assertions of the Fathers, it actually guarantees to women the right to vote in all elections, both state and national. Listen to the preamble to the constitution, 2 and the preamble you know, is the key to what follows; it is the concrete, general statement of the great principles which subsequent articles express in detail. The preamble says:

"We, The People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of American."

Commit this to memory, friends; learn it by heart as well as by head, and I should have no need to argue to question before you of my right to vote. For women are "people" surely, and desire, as much as men, to say the least, to establish justice and to insure domestic tranquillity; and, brothers, you will never insure domestic tranquillity in the days to come unless you allow women to vote, who pay taxes and bear equally with yourselves all the burdens of society; for they do not mean any longer to submit patiently and quietly to such injustice, and the sooner men understand this and graciously submit to become the political equals of their mothers, wives, and daughters—aye, of their grandmothers, for that is my category, instead of their political masters, as they now are, the sooner will this precious domestic tranquillity be insured. Women are surely "people," I said, and were when these words were written, and were as anxious as men to establish justice and promote the general welfare, and no one will have the hardihood to deny that our foremothers (have we not talked about our forefathers alone long enough?) did their full share in the work of establishing justice, providing for the common defense, and promoting the general welfare in all those early days.

The truth is, friends, that when liberties had to be gained by the sword and protected by the sword, men necessarily came to the front and seemed to be the only creators and defenders of these liberties; hence all the way down women have been content to do their patriotic work silently and through men, who are the fighters by nature rather than themselves, until the present day; but now at last, when it is established that ballots instead of bullets are to rule the world, and we in this country are making and upholding our just laws by ballots alone, keeping our bullets for the few wretched Indians on the frontiers, whom we are wicked enough to wish to exterminate rather than to civilize and educate, now, it is high time that women ceased to attempt to establish justice and promote the general welfare, and secure the blessings of liberty to 3 themselves and their posterity, through the votes of men, because they cannot control these votes and turn them to high moral uses in government; on the contrary, our brothers, the best of them, are at their wit's end to-day, and so appalled at the moral corruptions of the body politic that they are ready, some of them, to throw away their own power to vote and go back upon the whole theory of our government of the many, of the people (our government nominally of the people, by the people, and for the people), and to ask for the government of the *few* once more—the few rich, the few wise, the few educated.

But I shall deal with this point hereafter. I only wish to fasten upon your minds now this thought, that women are included in this word "people" of the preamble, and were intended to be included

as much as men, and that their non-use of the ballot in all the past, because they chose to exercise their people's powers in other ways, has not cut them off from their right to use the ballot at any time they may see fit; and you will perceive by a careful examination of the whole constitution which follows the preamble, and which became the law of the land so early as 1789, that women were embraced in its provisions precisely as men were, and that the word “people,” so frequently used, always included them.

This is true of the four articles which I will consider, and of every other article in the constitution where the word “people” is used. Article I of the Amendments is: “The right of The People to peaceably assemble and petition for a redress of grievances,” etc. No one doubts that women have that right equally with men; in fact, this is about the only political right that is cheerfully accorded to us to-day, because it is so easy to get rid of us and silence us in that way.

For years and years women have been petitioning Congress and the State Legislatures to take down the political bars which men have put up, contrary to the national constitution and the whole spirit of our government, and allow them to become a active co-workers in promoting the general welfare; but the reply has been “leave to withdraw,” or its equivalent; and this simply because these women petitioners had no power to cut off the heads of these Congressmen and Assemblymen; (their political heads, I mean, because we do not believe much in bloodshed of any sort). So long ago as 1871 I got an order from a Senator to the clerk of the Senate for a search for petitions then on file his office, and here is the clerk's report. He found the names of 20,000 women slumbering 4 in the dusty pigeon-holes of his office, and the honorable gentleman who asked me with a smile of contempt “How many women really want to vote?” was surprised at the record, which was not a tenth part of the number who had been wearily petitioning our legislative bodies year after year since 1848.

And then there is Article II, with its provision for “the right of The People to keep and to bear arms,” etc., which right women assuredly have equally with men, and which, unless some new protective element is brought into society, women will be compelled to use in self-defense as never before, for the crimes against woman in her very womanhood are becoming unendurably frequent all over our land. The new protective element I hardly need say is the ballot in her own hands, since it is already in the hands of these ruffians who make night hideous, and who virtually close the thoroughfares of our cities and villages even to all honest women the moment the sun has gone down. Have you ever thought of it, gentlemen, you who are opposed to woman's use of the ballot, that among her so-called protectors, who are to use her ballot for her, are these very men for whom we build most of our jails and penitentiaries, taxing the women to do it, and that every election day sees paupers and vagrants taken from the workhouse to elect the men who are to make and administer the laws for all women no less than all men?

Article IV provides for "the right of The People to be secure against unreasonable searches and seizures," etc. Women surely need to be and are thus secured. And Article IX provides that the "enumeration in the constitution of certain rights shall not be construed to deny others retained by The People."

Is it not perfectly clear that all these are the rights of women equally with men, and that the term "people" as here used was intended to embrace both?

Thus, then, the preamble and the constitution under which our government was formed and began its work of protective legislation, plainly embraced women in all its provisions; and when the preamble declares that the object of all was to secure the blessings of liberty to ourselves and our posterity, it surely did not mean to secure to men alone and their posterity these blessings of liberty, to the half of ourselves and the half of our posterity, but to the whole people, women as well as men.

And note again the word *"secure"* in this preamble, which is scarcely less important than the word "people." *"Secure* the blessings of liberty to ourselves and our posterity"—not *give* the 5 blessings of liberty, as though the framers of the constitution were autocrats, with power to bestow or withhold liberties, but *secure* the blessings of liberty to those who already had the right to them from God and by their own free nature, and who were coming together for purposes of defense and security as against an outside world that still insisted that liberty was not the right of the many but of the few, and who might be able to overthrow this right of individuals to life, liberty, and the pursuit of happiness, unless they combined together to defend and secure these rights.

And this is where the Declaration of Independence comes in as an interpreter of the constitution, and it utters no uncertain voice on this question as to who are the "people" meant in the preamble and articles following. It says: "We hold these truths to be self-evident"—(mark that, *self-evident;* that is, that they require no proof)—"that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights;"—(here again is the word *"secure,"* not *give, grant,* or *bestow*)—"governments are instituted among men, deriving their just powers from the consent of the governed" (not from the consent of half the governed—the consent of the made half—but *the governed*), and that "whenever any form of government becomes destructive of these ends it is the right of The People to alter or abolish it, and institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to affect their safety and happiness.

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That is to say, the fathers in Congress assembled in Philadelphia on the 4th of July, 1776, proclaimed over the whole earth that governments derive their just powers from the consent of the governed, and that taxation representation is tyranny, and for the support of this declaration, with a firm reliance on the protection of divine Providence, they mutually pledged to each other their lives, their fortunes, and their sacred honor; and yet we are told to-day that the women of these states have no right to vote until the men, who alone have been in the habit of voting, shall make some new and special laws to meet their case; in other words, till men shall grant women a right to life, liberty, and the pursuit of happiness—a right to promote the general welfare—a right to establish justice and secure the blessings of liberty to themselves and their posterity. Now, friends, do you wonder that it makes my blood boil to hear such words as these; to hear from the lips of mere boys the 6 assertion that they and their sex alone have the right to make and execute the laws that I and my daughters are to live under; that they are born to rule, and I born to obey; that because and I and other women have blindly thought and loved to think in all the past that law-making and law-executing were safe in the hands of our brothers and fathers and husbands, they being the accredited protectors of women, we are to leave men now and forever to the use of this power, when we have reluctantly opened our eyes to the truth that it is not good for man to be alone in the state any more than in the family, in the church, and in social life; that the state needs mothers as well as fathers, and that moral corruption will not only continue to prevail, but with an advancing civilization will be steadily on the increase so long as woman is powerless to put down moral evils by the direct use of political power as well as by moral influence.

You tell me that I must submit to conditions before I can vote; I, who am a free-born citizen of the United States; while yet you admit this ignorant foreigner, if he is a man, to the full privileges and responsibilities of citizenship. I defy this assumption of power on the part of the men of this country. I declare to you as did the Apostle Paul: “I am free-born.” “With a great price obtained I this freedom,” said the Roman centurion to this patriotic old apostle; but he replied: “I am free-born.”

Ah, friends, there is music in these words to my ear. They are the deep vibrations of a soul that loves its country as itself, and there are tens of thousands of women to-day that are ready to pledge their lives, their fortunes, and their sacred honor, to the maintenance of their rights as free-born citizens of this Republic, and who will never willingly consent to such desecration of constitutions, state or national, as would be cased by the addition of special articles providing for the right of women to vote. Such articles would virtually read thus: “All men are created equal; all women are also created equal not only to each other but to men; all men may peaceably assemble and petition for redress of grievances, may keep and bear arms, may be secure against unreasonable searches

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and seizures, may retain to themselves all rights not enumerated in the constitution, and all women may assemble, etc., etc"

As well may theologians interpret "Whatsoever ye would that *men* should do unto you, do ye even so to them," to mean literally men, and therefore demand a new Scripture specially to include women in these and the like injunctions: "He that believeth shall 7 be saved, and he that believeth not shall be condemned," "No man can serve two masters," "A good man out of the good treasure of his heart bringeth forth good things," etc. No, friends, the truth is, precedent and prejudice, custom and blind conservatism, are the only barriers against women in government to-day. Constitutions are all right when properly interpreted and shorn of their man-made inconsistencies, and the laws are right save the voting laws. Every other law recognizes woman by the use of the masculine pronoun, and compels her to pay taxes, to be fined, imprisoned and hung as he, his and him, and it is simply absurd and wicked to tax and hang a woman by one statute and deny her right to vote by another, when the phraseology is precisely the same in both.

And now, as to the one article of the national constitution which, it is claimed, forbids women to vote. Will you follow me patiently while I attempt to show that this article really in fact guarantees to women the right to vote for members of Congress rather than forbids it, and not only so, but it virtually calls upon the general government to interfere with the state governments if necessary for the purpose of protecting women in the exercise of this right. That article reads thus:

Art. I, Sec. 2. The House of Representatives shall be chosen every second year by The People of the several states, and the electors of each state shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Here you have it in full. The only paragraph in the United States constitution that can be tortured to exclude women from voting for United States officers, and this is the way it is tortured by our adversaries. I speak advisedly when I say "adversaries"; for, friends, it is no pleasant task, this work of going up and down the length and breadth of the land proclaiming that women are free, and ought to use their freedom under a sense of responsibility and by the conscientious use of the ballot, the only token of political responsibility; and the men who keep up these laws of precedent and prejudice and shut us from the peaceful and womanly expression of our opinion and our will in matters of government are therefore the worst kind of adversaries. They compel us to most unwelcome duty, and to penalties of whose sting they have but little conception. Some of us know in our hearts to-day of fire and fagot, whose burning makes deeper scars than martyr fires of old, and were it not for faith in God and love to man we should have given up the contest long ago.

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Here, then, you have, I say, the only argument against the right of women to vote contained in the constitution of the United States, and briefly stated it is this: The latter clause says that electors for members of Congress must have the same qualifications as electors for members of the state legislature, and the constitution of Connecticut, for instance, declares in Article VI, Section 2, that

"Every white male citizen of the United States, who shall have attained the age of twenty-one years and resided in this state one year and in the town six months, and shall be able to read any article of the constitution, shall, on his taking such oath as may be prescribed by law, be an elector of the state."

Now, say objectors, women are not white male citizens of the United States, and as these are the only ones that may choose members of the legislature, these are the only ones who may choose members of Congress. To which I reply: *first,* that by the fourteenth amendment to the constitution of the United States the word "white" was expressly, and the word male virtually, blotted out from our state constitutions; and in Connecticut black men under that amendment were allowed to vote for years before the word "white" was expunged from its constitution; and *second,* that the first clause of this Article II, Section 2, which says that the House of Representatives shall be composed of members chosen by the people, *denies to every state the right to make any qualification for state electors that shall interfere with the predominating right of the whole people* to elect their members of Congress.

It is as if the United States constitution had said, "The right of trial by jury shall be secured to all the people of the United States," and Connecticut had said in her constitution, "Every white male citizen shall be entitled to a trial by jury." Plainly such an article of a state constitution would be pronounced null and void, and the only reason the other has not been so pronounced long ago is that in the beginning men alone thought of voting, wished to vote, did vote, and so the authors of the state constitution, in defining who should be electors, naturally and as a matter of exactness, and without any thought of women, said "all white male citizens," with such and such qualifications, may vote; and the case is all the stronger for women than for black men, because the enslavement and disfranchisement of black men was contemplated, reluctantly it is true, but nevertheless contemplated and recognized by the national constitution, while the disfranchisement of women was not thought of or seriously considered for a moment.

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This is so plainly true that women did actually vote in a few instances in the earlier days, and they only ceased to do so because they did not appreciate its importance, or, as in New Jersey,

because that state, in direct violation of the constitution of the United States, as I think, specially disfranchised the women of the state.

And to those who may not be ready to admit that the national constitution secures to women the right to vote in all cases equally with men, there is this special and decisive argument with regard to their right to vote for members of Congress. The constitution, as we have seen, gives the right to the *people* of the state with only this limitation—that the electors for members of Congress shall have the *qualifications* requisite for electors for the most numerous branch of the state legislature. The right is absolute, except that the state may fix the "qualifications."

Now what is a qualifications? Sex is not one. A qualification is something that may be acquired, as a certain age, a certain time of residence, ability to read, etc. A certain height of stature could not be, a certain color of the eyes could not be. Nothing natural and unchangeable could be. So sex cannot be. The state, therefore, in making sex a disqualifications, has attempted that which it had no power to do, and its action is so far void.

If then, as is claimed, the United States may step in and punish a citizen of the United States for voting illegally for members of Congress, as in the case of Susan B. Anthony, because the state had limited the voting privilege to male citizens, surely the United States may much more be called upon to step in and protect the right of all the people of every state to become electors for members of Congress, including the women people as well as the men people. Do you not see it, friends? "Members of the House of Representatives shall be chosen by the *people of the several states,"* and yet when one of these people, being an honest, law-abiding, tax-paying woman, after consulting the best lawyer in her city, and being duly registered and sworn in as an elector, puts her ballot in the box for a member of Congress, the United States Government, by marshal and commissioners, seizes her, and by a Judge of the Supreme Court of the United States condemns her to a fine and costs of prosecution on the ground that the State of New York has a right to disfranchise half its citizens, they being guilty only of being women, and in the face of the express provision of this article that The People of every state shall elect the members of Congress of that state. And I may as well finish what I have to say of Miss Anthony's trial 10 just here, because Judge Hunt's decision against her was based partly on this very article, and it is time that his interpretation of it and the consequences thereof were fully made known to all the people of this land.

Judge Hunt decided that the right of voting is a right or privilege arising under the constitution of the state, and not of the United States, and this in the face of the fourteenth and fifteenth amendments, recently ratified by three-fourths of the states, and thereby made as much the law of the land as any other part of the United States constitution. These amendments read thus:

“Fourteenth. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.”

This amendment was supposed to cover the whole ground of enfranchising the black men made free by the thirteenth amendment, and it ought to have been sufficient.

But the white men of the South were naturally averse to seeing black men, just out of slavery, the chief rulers of their states, they being recently disfranchised themselves for rebellion, and they made it so difficult for black men to vote that the Republican party, which was absolutely dependent upon their votes for continuance in power, determined to strengthen the right of black men to vote by another amendment, and so they passed the fifteenth amendment, which reads thus:

“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. Congress shall have power to enforce this act by appropriate legislation.”

And notice here, that while these specified grounds of denial are forbidden, this fifteenth amendment does not by implication authorize a denial on other grounds. If it did, a majority in a state might at any time disfranchise a minority. In a state like Massachusetts, where the woman are in a large majority, they might, if allowed to vote (we will merely imagine the absurdity), amend the state constitution, and exclude all men from the franchise. Yet no one would for a moment claim that this action would be valid. It would be held by every court in the land that the men had, under the national constitution, a right to vote that could not be taken away. 11 And by the way, a question is often made as to what this right to vote shall be called—whether a natural right or mere privilege. I do not care for names. But if the men of Massachusetts were thus debarred from voting, and were struggling to recover the franchise, their right to it would be precisely what that of women is to-day. I do not care what you call it. I am satisfied to call it a *fundamental right.*

Here, then, we have the constitution of the United States declaring in the fourteenth amendment that all *persons* born in the United States and subject to the jurisdiction thereof are citizens, not only of the United States, but of the *State wherein they reside;* and in the fifteenth recognizing the right of citizens to vote; and yet a Judge of the Supreme Court of the United States declares from the bench that the citizen's right to vote comes from the state alone, and thus that a state may disfranchise any of its citizens except black men, these alone being protected from disfranchisement

by the latter clause of the fifteenth amendment—“on account of race, color, or previous condition of servitude.” Thus you perceive that, as I have just suggested, a majority of the present voters in any state may, under this view, disfranchise every other voter who has gray hair or blue eyes, or any physical peculiarity but a black skin; may disfranchise all men over forty years of age, or all men worth less than $50,000, or all men of the temperance party, or the labor party, or the republican or democratic parties; in short, every one but themselves, the then majority of voters; and Judge Hunt accepted this conclusion and declared that this is the constitutional law of the United States as interpreted by him in his capacity of Judge of the Supreme Court of the United States.

He did this because he was so imbued with the theory of state rights as against national rights, and so filled with prejudice against the rights of women in government, that he was determined to interpret these amendments in behalf of black men alone, although the wording of them leaves no room for question that they embrace all the people of the United States, according to the meaning and intent of that word “people” in all the previous articles of the national constitution.

And yet this is but half, and the least criminal half, of his unjust decision in the case of Miss Anthony. Not content with misinterpreting the law of the United States by proclaiming that the right to vote of every citizen but black citizens was subject to loss at the pleasure of a bare majority of voters, he denied to Miss Anthony 12 the right of trial by jury—that is, he decided the case himself, and caused the clerk of the court to record the verdict of guilty without reference to the jury, who were impaneled for the case, who had been sitting all through the trial to hear the case, and who alone were legally competent to bring in a verdict upon it. And when Miss Anthony's counsel asked leave to address the jury he was denied; and when he asked that the jury might be polled—that is, that each member might be asked by name if this was his verdict, he was again denied, and Judge Hunt then instructed the clerk to take the verdict, and the clerk said, in the usual form: “Gentlemen of the jury, hearken to the verdict as the court hath recorded it. You say you find the defendant guilty of the offense charged. So say you all.”

No response was made by the jury, either by word or sign. They had not consulted together in their seat or otherwise. Neither of them had spoken a word. Nor had they been asked whether they had or had not agreed upon a verdict. No juror spoke a word during the trial from the time they were impaneled to the time of the discharge, and so soon as the judge refused to poll the jury he said, “Gentlemen of the jury, you are discharged,” and the jurors left the box, and one of them declared by a bystander that guilty was not his verdict, neither was it the verdict of the other eleven “Could I have spoken,” said he, “I should have answered *not guilty,* and men in that jury box would have sustained me.” It seems, friends, that he and the other jurors had a right to speak and to demand that the verdict be submitted to the jury in some way. But they did not understand their rights in

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this respect, and were naturally in awe of a Judge of the Supreme Court of the United States, and the judge must have known that they would be thus awed, or he would not have dared thus to transgress the ordinary rules of law. And for this act he deserved impeachment, and had the accused been a foreign born, though naturalized, citizen of the United States, on trial for fraudulent voting, which is a criminal offense, you know, punishable by heavy fine and imprisonment, and had he been thus denied a verdict from the jury, the press would have rung out the injustice all over the land. And this simply because this man being an acknowledged voter would have had a political party behind him, whose interest it was to protect him and every other citizen, whether free-born or naturalized, in his right to vote.

Thus you see how in this right to vote is wrapped up the great volume of our cherished rights. Judge Hunt began with denying to women their citizen's right to vote, and by an easy step passed on to denying that right regarded most sacred of all, the right of trial by jury.

And the crime of Judge Hunt in refusing Miss Anthony her right of trial by jury was all the greater because there was no appeal from his court to any higher one, as is customary in all our other courts. A circuit court judge may review his own decision, but there is no appeal from his final decision in such a case as this, and in this case the judge refused even to reconsider the case, though strenuously urged to do so by Judge Selden, Miss Anthony's able counsel. Do you ask why Judge Hunt was willing thus to soil the purity of his judicial ermine and lower the dignity of the Court? I answer, precedent and prejudice held him in bonds, as it does many other men of character and position, and he felt doubtless that he was rendering his country a good service when he pronounced it a crime for a woman citizen of the United States to vote under the same charter with the men citizens of the United States. And there are hundreds of men who think themselves both wise and just who would have been glad of his opportunity to do the same thing and thus crush out this heresy of woman's right to help to make and execute the laws she is to live under. But, friends, you remember that "truth crushed to earth shall rise again"; and this truth of the political equality of woman has risen already from its judicial grave, and in white raiment is marching on, like John Brown's soul, conquering and to conquer. And the day is not far distant when this decision of Judge Ward Hunt will be overruled and trodden under foot, and he himself will be compelled to submit at last to a verdict, just but humiliating, a verdict recorded on high in the Book of Everlasting judgments. *

* The atrocity of Judge Hunt's course in Miss Anthony's case so strikingly illustrates the almost universal rule that in striking down one just right other important ones are trampled down with it, that I have thought it best to append a critical review of the matter prepared at the time by my husband, Mr. John Hooker, and published in Miss Anthony's history of her trial.

And now permit me to give you briefly the argument of woman's right to vote in our state elections as well as national, in consequence of the fourteenth and fifteenth amendments to the constitution of the United States. It is simply this: Before the war, and reconstruction acts following it, the word “citizen” was not fully defined, some jurists contending that all persons owing 14 allegiance to the government and protected by it were properly citizens, and others that only those who were accredited legal voters could properly be called citizens. Then, when the Republican party desired to enfranchise the black men, partly for the sake of securing their votes (I do not say that this was the sole motive) in the next Presidential election, it was not willing to deface the national constitution by such words as these: “All black men, formerly slaves, are citizens of the United State;” and “No State shall make or enforce any law which shall abridge the privileges or immunities of black men;” and again, “The right of black citizens of the United States to vote shall not be denied or abridged by any State;” and therefore it was driven to the annunciation of a general principle of citizenship, applicable to all persons at all times, and this was the principle that “all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the sate wherein they reside.” This is a grand assertion, a true one, and one in harmony, as I have already shown, with the spirit and letter of the whole Constitution of the United States and the Declaration of Independence, and, like them, it embraced all women as well as all men, and secured to all women no less than all men their right to vote.

Now, friends, mark these words: “Secure” and “right to vote.” Our claim is that the original constitution gave no right to vote to any man or woman, but it simply constitution gave no right to vote to his or her original, natural right to govern himself or herself, except so far as he or she delegates this to others for purposes of social order. And these amendments, following the spirit of the constitution in preamble and articles, declare that all persons are citizens, and recognize the citizen's right to vote. Can anything be plainer then than that a woman, being a “person,” is a citizen, and being a “citizen” has the citizen's right to vote?

It was under this conviction that she had a plain right to vote, and therefore a plain duty to vote, that Miss Anthony determined to cast her vote for President and members of Congress at a certain election. And she succeeded in convincing the registrars of her ward and the inspectors of elections that she had this right, insomuch that they registered her name, and the oath of the elector was administered and her ballot was received and counted, and then the United States came down upon her as a criminal and prosecuted her for illegal voting, under a law of Congress passed in 1870 on purpose to enforce the provisions of the fourteenth and fifteenth amendments.

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Please notice, now, that formerly each state had charge of its own elections and the United States had no right to interfere with the elections in any state even though the election was for national officers, but in the eagerness of the Republican party to enforce the amendments which would bring black votes to their aid, they gave a new power to Congress in this section: “Congress shall have the power to enforce this article,” viz: “The right of citizens of the United States to vote without denial on account of race, color, or previous condition of servitude.” And Congress passed what is called the Enforcement Act of 1870, which is entitled, “An act to enforce *the right of citizens of the United States to vote in the several states of the Union.”* General terms again here you perceive, not an act to enforce the right of *black men* to vote in the several states of the Union, but of *all citizens* of the United States. And the first eighteen clauses of the act are very minute in their provisions for the protection of these black men whose votes were wanted, and then there was a nineteenth clause that was intended solely to hinder white rebel men from voting, who had been disfranchised during the war, and this clause reads thus: “If at any election for representatives or delegates to Congress of the United States any person shall vote without having a lawful right to vote, every such person shall be deemed guilty of a crime, and shall for such crime be liable to prosecution in any court of the United States of competent jurisdiction, and on conviction thereof shall be punished by a fine not exceeding $500, or by a term of imprisonment not exceeding three years, or both, in the discretion of the court, and shall pay the costs of prosecution.”

And under this clause of the Enforcement Act of 1870, which was made expressly to punish white male rebel citizens for voting after they had been disfranchised for rebellion, Judge Hunt condemned Susan B. Anthony for the crime of voting “without having a lawful right to vote.” This woman, the blackest of black Republicans, who had, with others like herself, furnished Mr. Sumner with half his ammunition, in the shape of petitions from thousands and thousands of citizens in behalf of the black man—names which it is an enormous task to collect, but without which all appeals to Congress to do justice would have been in vain—this woman, who had violated the infamous fugitive slave law every time by giving the cup of cold water to the panting fugitive and speeding him on his way to free soil in Canada—she, thank God! of all women in this land, was selected by the government of the United States to be prosecuted, 16 dragged from one court to another, harassed during the space of nearly a year, tried at last in another city, and fined for the crime for voting for the President of the United States and members of Congress, under an act entitled *“An act to enforce the right of citizens of the United States to vote in the several states of this Union,”* and under a clause of that act that made it a crime for a rebel to vote, because he had been deprived of his citizen's right to vote by special act of Congress in consequence of his crime of rebellion.

And, friends, do you not know that no citizen can be lawfully disfranchised either by State or Nation, except for crime or rebellion, and then only by the judgment of his peers? But in this case of Miss

Anthony, she was punished, not only as if she had been guilty of crime or rebellion, or both, but she was, so far as the unjust judgment of the court could do it, disfranchised for evermore, and that without the judgment of her peers in a double sense; for she was not only denied the verdict of the male jury sitting there on purpose to render their verdict, but a jury of her peers she could not have, nor can any woman so long as women are denied the right to vote and to sit upon a jury. And in the case of Miss Anthony's jury, had they been allowed to render a verdict, it would have been a verdict not of her peers, but of her political superiors, of this would have been true of them however ignorant or uneducated they were; whether black men or white, drunk or sober every man of them was her *sovereign,* with power not only to make but to administer the laws under which she is compelled to live.

And herein is the degradation of woman to-day, not only that she cannot have a voice in making the laws and choosing officers to execute the laws, but she is compelled to be taxed, fined, imprisoned, hung even, by the verdict always of her political superiors—her male sovereigns, every one of whom is considered competent to legislate for her and to sit in judgment upon her by court and jury now and for evermore. Do you wonder that Miss Anthony declared to Judge Hunt that she should never pay this fine, or that he, apparently cowed by this modern John Hampden, blandly replied: “The court does not order you to stand committed till the fine is paid”? Judge Hunt knew full well that Miss Anthony would go to jail a thousand times before she would pay this unjust fine. And he knew also that the spectacle of this woman in prison for three years under charge of voting “without having a lawful right to vote” would rouse the nation to a sense of woman's political status 17 before the law as nothing else could do; therefore he virtually remitted the fine, and by so doing sealed forever his own condemnation.

Do you ask, why recount this trial and so asperse the character of a learned and otherwise upright judge? I answer, because his decision has become a precedent, and on this account we have been compelled to relinquish, temporarily at least, our high vantage ground of constitutional rights and guarantees, and resort to the advocacy of an amendment to the national and state constitutions, measures alike dishonoring to the constitutions and to the womanhood of the country.

We believe, with Senator Hawley, from my own state, whom I have been proud to claim as a personal friend for many years, that (and I now give his own language as reported in the *Hartford Courant*), “Our government involves a great deal of labor for us. ‘Liberty is a burden, not a release,’ a French philosopher has said. If you want ease, appoint as good a king as you can find, give him good counselors, and tell them to save you all trouble. You will have ease; but if you desire real freedom, it means labor. The twelve million sovereigns of this country” [notice here that my friend calls this voting half of the people the “sovereigns,” just as I have done] “are bound each to know something

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of the responsibility that is constantly taught in caucus, town meetings, etc. The caucus should be only a meeting of honest citizens to see what had best be done." And as there are thousands of women quite ready to assume this responsibility of seeing what had best be done in the primary meetings of all the cities and villages of our land, and thousands more who will do it conscientiously, though reluctantly, when called to it by invitation of their fathers, brothers, husbands, and sons, we desire most earnestly that the approaching second century of male legislation should witness a reversal of this unjust decision of Judge Hunt and proclaim the freedom and responsibility of ALL the citizens of these United States. Let our brothers, then, consecrate this opening century of constitutional government by an act of justice that shall be a supreme one, and that shall make our national constitution forever a charter of the highest human rights. And let them, in token of their willingness to recognize our equal political rights, at least invite us to participate with them by personal representation in the ceremonial and pageant that is to welcome in this new century of constitutional government.

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I said in the beginning that women ought to exercise their constitutional right to vote, and men ought to help them to do so by every means in their power. And this for two reasons:

1. Because questions of legislation to-day are largely questions of morals, and men alone are incompetent to deal with the morals of a community, however wise and just they may be, and however honest in their desire to promote the general welfare. Education, secular and religious, temperance, chastity, police regulations, penal institutions and reformatories—who has more interest than women citizens in all these questions, or more wisdom to bring to their solution?

2. There can be no true manhood nor true womanhood when men rule and women merely obey. Every mother in her home, every woman teacher in our schools, is at a discount to-day because of her political subordination. Every boy knows this, and consciously or unconsciously acts accordingly, and true political economy, which is only another name for the science of government, can never be taught until women are intelligent and responsible thinkers upon the subject equally with men and are able to carry out their convictions at the ballot-box as men do. Hence, I repeat, it is the plain duty of every woman to desire to vote, and of every man to remove the obstacles in her way.

I will only answer one objection. It is said, "We have too many voters already. It is unjust, to be sure, to exclude all women on this account, but we cannot help it. Men will not consent to be disfranchised, so we must make amends for our mistake in inviting all men to vote by forbidding all women." This is too much like Charles Lamb, who, being reproved for going so late to his desk in the morning, said he made up for it by going home early in the afternoon.

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But have we too many voters? In other words, is the doctrine of God and the fathers of this republic an unsound one, that personal liberty and personal responsibility are the only foundations of integrity, whether in the individual or the nation? No, it is not unsound. It is just as true to-day as it was t Sinai and Plymouth Rock.

“Thou shalt” and “We will,” reads the Decalogue and the Covenant of that old-time Jewish people; and thus in spirit speak the Constitution of the United States and the Declaration of Independence; and it is a grand and wholesome doctrine and one we cannot afford to lose sight of for a moment. But those do lose sight of it 19 who say we have too many voters already. No, we have not too many. On the contrary, to take away this ballot even from the ignorant and perverse is to invite discontent, social disturbance, and crime. The restraints and benedictions of this little white symbol are so silent and so gentle, so atmospheric, so like the snow-flakes that come down to guard the slumbering forces of the earth and prepare them for springing into bud, blossom, and fruit in due season, that few recognize the divine alchemy, and many impatient souls are saying we are on the wrong path —the old world was right—the government of the few is safe; the wise, the rich, should rule; the ignorant, the poor, should serve. But God, sitting between the eternities, has said otherwise, and we of this land are fore-ordained to prove his word just and true. And we will prove it by inviting every new-comer to our land to share our liberties so dearly bought and our responsibilities now grown so heavy that the shoulders which bear them are staggering under their weight; that by the joys of freedom and the burdens of responsibility they, with us, may grow into the stature of perfect men, and our country realize at last the dreams of the great souls who, “appealing to the Supreme Judge of the world for the rectitude of their intentions,” did “ordain and establish the Constitution for the United States of America”—the grandest charter of human rights that the world has yet conceived.

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Judge Hunt and the Right of Trial by Jury. BY JOHN HOOKER, HARTFORD, CONN.

In the recent trial of Susan B. Anthony for voting (illegally, as was claimed, on the ground that as a woman she had no right to vote—a point which we do not propose to consider, though we have a very positive opinion in favor of her right), the course of Judge Hunt, in taking the case from the jury and ordering a verdict of guilty to be entered up, was so remarkable, so contrary to all rules of law, and so subversive of the system of jury trials in criminal cases that it should not be allowed to pass without an emphatic protest on the part of every public journal that values our liberties.

Let us first of all see precisely what were the facts. Miss Anthony was charged with having knowingly voted, without lawful right to vote, at the congressional election in the eighth ward of the City of

Rochester, in the State of New York, in November, 1872. The Act of Congress under which the prosecution was brought provides that, "If, at any election for representative or delegate in the Congress of the United States, any person shall knowingly personate and vote, or attempt to vote, in the name of any other person, whether living, dead, or fictitious, or vote more than once at the same election for any candidate for the same office, or vote at a place where he may not be lawfully entitled to vote, or vote without having a lawful right to vote, every such person shall be deemed guilty of a crime," etc.

The trial took place at Canandaigua, in the State of New York, in the Circuit Court of the United States, before Judge Hunt, of the Supreme Court of the United States.

The defendant pleaded not guilty—thus putting the government upon the proof of their entire case, admitting, however, that she was a woman, but admitting nothing more.

The only evidence that she voted at all, and that, if at all, she voted for a representative in Congress, offered on the part of the government, was that she handed four bits of paper, folded in the 21 form of ballots, to the inspectors, to be placed in the voting boxes. There was nothing on the outside of these papers to indicate what they were, and the contents were not known to the witnesses nor to the inspectors. There were six ballots-boxes, and each elector had the right to cast six ballots.

This evidence would undoubtedly warrant the conclusion that Miss Anthony voted for a congressional representative, the fact probably appearing, although the papers before the writer do not show it, that one of the supposed ballots was placed by her direction in the box for votes for members of Congress. The facts are thus minutely stated, not at all for the purpose of questioning their sufficiency, but to show how entirely it was a question of fact, and therefore a question for the jury.

Upon this evidence Judge Hunt directed the clerk to enter up a verdict of guilty. The counsel for the defendant interposed, but without effect, the judge closing the discussion by saying, "Take the verdict, Mr. Clerk." The clerk then said, "Gentlemen of the jury, hearken to your verdict, as the court has recorded it. You say you find the defendant guilty of the offense whereof she stands indicted, and so say you all." To this jury made no response, and were immediately after dismissed.

It is stated in one of the public papers, by a person present at the trial, that immediately after the dismissal of the jury one of the jurors said to him that that was not his verdict, nor that of the rest, and that if he could have spoken he should have answered "Not guilty," and that the other jurors would have sustained him in it. The writer has no authority for this statement beyond the letter mentioned. The juror, of course, had a right, when the verdict was read by the clerk, to declare that

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it was not his verdict, but it is not strange, perhaps, that an ordinary juror, with no time to consider or consult with his fellows, and probably ignorant of his rights and in awe of the court, should have failed to assert himself at such a moment.

Probably the assumption by the judge that Miss Anthony in fact voted did her no real injustice, as it was a notorious fact that she did vote, and claimed the right to do so. But all this made it no less an usurpation for the judge to take the case from the jury, and order a verdict of guilty to be entered up without consulting them.

There was, however, a real injustice done her by the course of the judge, inasmuch as the mere fact of her voting, and voting unlawfully, was not enough for her conviction. It is a perfectly settled 22 rule of law that there must exist an intention to do an illegal act, to make an act a crime. It is, of course, not necessary that a person perpetrating a crime should have an actual knowledge of a certain law which forbids the act, but he must have a criminal intent. Thus, if one is charged with theft, and admits the taking of the property, which is clearly proved to have belonged to another, it is yet a good defense that he really believed that he had a right to take it, or that he took it by mistake. Just so in case where, as sometimes occurs, the laws regulating the right to vote in a state are of doubtful meaning, and a voter is uncertain whether he has a right to vote in one town or another, and, upon taking advice from good counsel, honestly makes up his mind that he has a right to vote in the town of A. In this belief he applies to the registrars of that town, who upon the statement of the facts are of the opinion that he has a right to vote there, and place his name upon the list, and on election day he votes there without objection. Now, if he should be prosecuted for illegal voting, it would not be enough that he acknowledged the fact of voting, and that the judge was of the opinion that his view of the law was wrong. There would remain another and most vital question in the case, and that is, did he intend to vote unlawfully? Now, precisely the wrong that would be done to the voter in the case we are supposing, by the judge ordering a verdict of guilty to be entered up, was done by that course in Miss Anthony's case. She thoroughly believed that she had a right to vote. In addition to this she had consulted one of the ablest lawyers in western New York, who gave it as his opinion that she had a right to vote, and who testified on the trial that he had given her that advice. The Act of Congress upon which the prosecution was founded uses the term “knowingly”—“shall knowingly vote or attempt to vote in the name of any other person, or more than once at the same election for any candidate for the same office, or vote at a place where he may not be lawfully entitled to vote, or without having a lawful right to vote.” Here most manifestly the term “knowingly” does not apply to the mere *act* of voting. It is hardly possible that a man should vote and not know the fact that he is voting. The statute will bear no possible construction but that which makes the term “knowingly” apply to the *illegality* of the act. Thus, “shall knowingly vote without having a lawful right to vote,” can only mean, shall vote knowing that there is no lawful right to vote. This being so,

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there was manifestly a most vital question beyond that of the fact of voting, and of the conclusion of the judge that the voting 23 was illegal, namely, did Miss Anthony vote knowing that she had no right to vote.

Now, many people will say that Miss Anthony ought to have known that she had no right to vote, and will perhaps regard it as an audacious attempt, for mere effect, to assert a right that she might think she ought to have, but could not really have believed that she had. But whatever degree of credit her claim to have acted honestly in the matter is entitled to, whether to much, or little, or none, it was entirely a question for the jury, and they alone could pass upon it. The judge no right even express an opinion on the subject to the jury, much less to instruct them upon it, and least of all to order a verdict of guilty without consulting them.

There seems to have been an impression, as the writer infers from various notices of the matter in the public papers, that the case had resolved itself into a pure question of law. Thus, a legal correspondent of one of our leading religious papers, in defending the course of Judge Hunt, says: “There was nothing before the Court but a pure question of law. Miss Anthony violated the law of the state intentionally and deliberately, as she openly avowed, and when brought to trial her only defense was that the law was unconstitutional. Here was nothing whatever to go to the jury.” And again he says: “In jury trials all questions of law are decided by the judge.” This writer is referred to only as expressing what are supposed to be the views of many others.

To show, however, how entirely incorrect is this assumption of fact, I insert here the written points submitted by Miss Anthony's counsel to the Court, for its instruction to the jury.

First—That if the defendant, at the time of voting, believed that she had a right to vote, and voted in good faith in that belief, she is not guilty of the offense charged.

Second—In determining the question whether she did or did not believe that she had a right to vote, the jury may take into consideration, as bearing upon that question, the advise which she received from the counsel to whom she applied.

Third—That they may also take into consideration, as bearing upon the same question, the fact that the inspectors considered the question, and came to the conclusion that she had a right to vote.

Fourth—That the jury have a right to find a general verdict of guilty or not guilty, as they shall believe that she has or has not been guilty of the offense described in the statute.

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This certainly makes it clear that the question was not "a pure question of law," and that there was "something to go to the jury." And this would be so, even if, as that writer erroneously supposes, Miss Anthony had openly avowed before the Court that she voted.

But even if this point be wholly laid out of the case, and it had been conceded that Miss Anthony had knowingly violated the law, if she should be proved to have voted at all, so that the only questions before the Court were, first, whether she had voted as charged, and secondly, whether the law forbade her voting; and if in this state of the case a hundred witnesses had been brought by the government to testify that she had "openly avowed" in their presence that she had voted, so that practically the question of her having voted was proved beyond all possible question, still the judge would have had no right to order a verdict of guilty. The proof that she voted would still be *evidence,* and *mere evidence,* and a judge has no power whatever to deal with evidence. He can deal only with the law in the case, and the jury alone can deal with the facts.

But we will go further than this. We will suppose that in New York, as in some of the states, a defendant in a criminal case is allowed to testify, and that Miss Anthony had gone upon the stand as a witness, and had stated distinctly and unequivocally that she did in fact vote as charged. We must not forget that, if this had actually occurred, she would at the same time have stated that she voted in the full belief that she had a right to vote, and that she was advised by eminent counsel that she had such a right; a state of the case which we have before referred to as presenting a vital question of fact for the jury, and which excludes the possibility of the case being legally dealt with by the judge alone; but this point we are laying out of the case in the view we are now taking of it. We will suppose that Miss Anthony not only testified that she voted in fact, but also that she had no belief that she had any right to vote; making a case where, if the Court should hold as a matter of law that she had no right to vote, there would seem to be no possible verdict for the jury to bring in but that of "guilty."

Even in this case, which would seem to resolve itself as much as possible into a mere question of law, there is yet no power whatever on the part of the judge to order a verdict of guilty, but it rests entirely in the judgment and conscience of the jury what verdict they will bring in. They may act unwisely and unconscientiously, perhaps by mere favoritism, or a weak sympathy, or prejudice, or on any other indefensible ground; but yet they have entire 25 *power* over the matter. It is for them finally to say what their verdict shall be, and the judge has no power beyond that of instruction upon the law involved in the case.

The proposition laid down by the writer before referred to, that "in jury trials all questions of law are decided by the judge," is not unqualifiedly true. It is so in civil causes, but in criminal causes it has

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been holden by many of our best courts that the jury are judges of the law as well as of the facts. Pages could be filled with authorities in support of this proposition. The courts do hole, however, that the judges are to *instruct* the jury as to the law, and that it is their duty to take the law as thus laid down. But it has never been held that if the jury assume the responsibility of holding a prisoner not guilty in the face of a charge from the judge that required a verdict of guilty, where the question was wholly one of law, they had not full power to do it.

The question is one ordinarily of little practical importance, but it here helps to make clear the very point we are discussing. Here the judge laid down the law, correctly we will suppose, certainly in terms that left the jury no doubt as to what he meant; and here, by all the authorities, the jury ought, as a matter of proper deference in one view, or of absolute duty in the other, to have adopted the view of the law given them by the judge. But it was in either case the *jury only* who could apply the law to the case. The judge could *instruct,* but the jury only could *apply the instruction.* That is, the instruction of the judge, no matter how authoritative we may regard it, could find its way to the defendant *only through the verdict of the jury.*

It is only where the confession of facts is *matter of record* (that is, where the plea filed or recorded in the case *admits* them), that the judge can enter up a judgment without the finding of a jury. Thus, if the defendant pleads “guilty,” there is no need of a jury finding him so. If, however, he pleads “not guilty,” then no matter how overwhelming is the testimony against him on the trial, no matter if a hundred witnesses prove his admission of all the facts, the whole is not legally decisive like a plea of guilty; but the question still remains a question of fact, and the jury alone can determine what the verdict shall be. In other words, it is no less a question of fact for the reason that the evidence is all one way and overwhelming, or that the defendant has in his testimony admitted all the facts against himself.

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The writer has intended this article for general rather than professional readers, and has therefore not encumbered it with authorities; but he has stated only rules and principles that are well established and familiar to all persons practicing in our courts of law.

This case illustrates an important defect in the law with regard to the revision of verdicts and judgments in the United States Circuit Court. In almost all other courts an application for a new trial on the ground of erroneous rulings by the judge is made to a higher and independent tribunal. In this court, however, an application for a new trial is addressed to and decided by the same judge who tried the case, and whose erroneous rulings are complained of. Such a motion was made and argued by Miss Anthony's counsel before Judge Hunt, who refused to grant a new trial. Thus it was Judge Hunt alone who was to decide whether Judge Hunt was wrong. It is manifest that the

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opportunity for securing justice, even before the most honest of judges, would be somewhat less than before an entirely distinct tribunal as the judge would be prejudiced in favor of his own opinion, and the best and most learned of judges are human and fallible; while if a judge is disposed to be unfair, it is perfectly easy for him to suppress all attempts of a party injured by his decision to set it aside.

The only remedy for a party thus wronged is by an appeal to the public. Such an appeal, as a friend of justice and of the law, without regard to Miss Anthony's case in any other aspect, the writer makes in this article. The public, thus the only appellate tribunal, should willingly listen to such a case, and pass its own supreme and decisive judgement upon it.

The writer cannot but regard Judge Hunt's course as not only irregular as a matter of law, but a very dangerous encroachment on the right of every person accused to be tried by a jury. It is by yielding to such encroachments that liberties are lost.

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REMARKS OF MRS. HOOKER BEFORE THE Judiciary Committee of the House of Representatives, At Washington, in January, 1871. In Reply to a Suggestion of the Committee as to the Propriety of a Greater Restriction rather than Enlargement of the Right of Suffrage. [Taken down by a Stenographer.]

We are told by themselves that there are too many voters already; restriction is what we want, not enlargement of the suffrage. Let us see how this is, my friends,—let us reason to together on this point for a few moments. The one great propelling power of this government that moves the great political engine, and that keeps us alive as a nation on the face of the earth, is God own doctrine of personal liberty and personal responsibility. That is all we have to go upon. It is, in fact, fuel and steam. Liberty is the steam, responsibility puts on the brakes, and then what is the safety valve, I ask you? Is it not our election day? Look at it in this way. Every honest lawyer will tell you that the next best thing to settling a quarrel between two belligerents is to bring the parties into court; because the court room is a great cooling off place, a perfect refrigerator. A man who has quarrelled with his neighbor comes into court, before the lawyers get through with him, he wishes he hadn't quarreled. How is it that our courts act in this way? What do we gain in this? Everything. In old times a dispute between man and man was settled by blows—fisticuffs—gradually superseded by the sword; and now we have thrown that out, and established a system of jurisprudence. Now all these petty grievances must be settled in court. Private violence must no longer be permitted, and that is a great march in civilization.

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Now the parallel case is this: We in this country—we men, I mean, for women are nobodies and nowhere when you come to the discussion of great questions like these—but I use the conventional we,—“we” in this country are attempting to carry our ideas 28 of liberty and responsibility into legislation; and we don't agree—we quarrel bitterly and almost come to blows again; but election days cool us off, acting like a court room itself upon us. We accept their judgment, and go about our business quietly till next time. Now if we were all Americans, acting under an intelligent sense of responsibility, everything might be expected to run smoothly under this regime, but the trouble is when the foreigner comes in who does not understand our institutions, who is, perhaps, ignorant, debased, and superstitious. But the foreigner is, it seems to me, the very man who needs this safety valve of the election day. We ourselves could run our own nationality; but here comes this man from the principalities and kingdoms of the old world,—and he has an idea that he is going to be richer, smarter, happier—more on an equality with every other man than ever he was before. He comes here, and what does he find? He finds a ladder, reaching higher into the clouds, perhaps, but the lower rounds are just as near the earth as over there, and he is on the lowest round still. He sees his nextdoor neighbor has more money than he has, is better educated, and commands the respect of the community, as he does not, and he is filled with disappointment, and sometimes with rage. What would he naturally do, with his world antecedents and training, when he is thus aggrieved, as he conceives himself to be? Why, burn your barn—break into your house—steal all he can from you. But what does election day do for him? On that day he is as good as anybody. He goes to the polls side by side with the first man in the land, and he rides in a carriage there—if he is too drunk to walk—and he can vote the first man in the line if he chooses. The richest man in the country must walk behind him and wait for his turn. He drops his ballot and he is cooled off. He soon begins to get hold a little of this idea of responsibility that I am speaking of, and after a while it will come into his head—very slowly, perhaps, for we are all slow to learn these things—that he has got to work himself up and get on a pair with those intelligent and influential people who are so powerful in making laws and customs.

Now, friends, it seems to me if you could disfranchise every foreigner to-day who is not intelligent, or if you could make intelligence the test of voting, you would have ten barns burned where you have one now. I believe if firmly. Being naturally conservative, as I think all women are, a few years ago I really thought that ten, even twenty years’ residence might be required of foreigners before they should be allowed to vote. I said they did not know enough, and 29 so ought to be kept out as long as that. To-day, after years of careful observation and of study of the question, I would not require a day more than the brief term fixed by our present statutes. If disfranchisement meant the annihilation of the trouble I might be glad to get rid of this troublesome question in that way; the task of running this country would then be a far easier one than it is; but it does not mean annihilation. So when gentlemen talk with me, and say we have too many voters already, I reply—

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do not disfranchise these men,—enlighten them, for God has sent them here for a purpose of His own. And I say you to-night, that the ballot in the hands of every human is the only thing that saves us from anarchy to-day, that keeps us alive as a republic,—the ballot in the hands of these ignorant men, and the more ignorant they are the more they need it, and the more need they should have it. And let me say in passing, that reconstruction in the South is hindered to-day for the same reason; responsibility is taken away from a large class of citizens. A disfranchised class is always a restless class; a class that, if it be not as a whole given up to deeds of violence, will at least wink them, when committed by men either in or out of its own ranks. What the South needs to-day is ballots, not bullets.

I leave out of the question the ultimate educating power of the ballot, through I would like to make you an argument upon that alone. But I say give the poor men, ignorant men, the ballot, for purposes of self-defense, and because we could not live in safety in our homes otherwise. New York is poorly governed, we say, today, and getting to be a pretty dangerous place to live in. But what would it be if every foreigner and every ignorant man could not go out on election day and prove that he is as good as anybody? That is human nature, and it is human nature, and plenty of it too, that we have to deal with.

And now, my friends, let me ask you, what are these men sent here for, and who sent them? We have got all Europe, and all Asia is coming; and who sends them? When God put into that good ship Mayflower those two great ribs of oak, *personal liberty* and *personal responsibility* , He knew the precious freight she was to bear, and all the hopes bound up in her, and He pledged Himself by both the great eternities, the past and the future, that ship should weather all storms and come safe to port with all she had on board. And what God has promised He will perform. So I beg of you not to think for a moment of limiting manhood suffrage. You cut your own throats the day you do it.

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And if men cannot live in this country in safe homes unless their neighbor men are enfranchised, can they live without enfranchised women any more? If you cannot live in safety with irresponsible men in your midst, how can you live with irresponsible women? Much more, how can you grow into the stature of perfect men in Christ Jesus our Lord, how can you become perfect legislators, except your mothers are instructed on these great subjects you are called to legislate upon, that they may instruct you in their turn! You do not know anything so well as what your mothers have taught you; but they have not taught you political economy. It is not their fault that they have not, nor yours, perhaps. No man or woman studies a subject profoundly except he or she is called upon to act upon it. What business man studies a business foreign to his own? What woman studies a business foreign to her own? In past ages this woman, in the providence of God we will say, has been shut out from political action, for, so long as the sword ruled and man had to get his liberty by the

sword, so long woman had all she could do to guard the home, for that was her part of the work—and she did it bravely and well, you will say. But now men are out fighting for their liberty, with the gum by the door and the Indians outside. You are fighting for it in halls of legislation, with the spirit of truth, with spiritual weapons, and woman would be disloyal to her womanhood if she did not ask to share these heavy responsibilities with you. And she has really been training herself all these years she has seemed to indifferent; she has neglected her duty in part—I confess it freely; it is not your fault alone, gentlemen, that we are not with you today. If we had been as aware of our duty and privilege, years ago, as we are to-day, if we had known our birthright, we should have stood by your side, welcome coadjutors, long since. So we will take the blame of the past alike; we have all been walking very slowly this path of Christian civilization. But in the greatest conflict of modern times you announced great principles and fought for them on the field, and we stood by them in the home; and we stand by them still there. And when we come to deliberate with you in solemn council as to how these principles shall be carried into legislation, your task will be easier, our opportunity will be larger, and still our hearts will be where they have ever been, in our homes.

31

OPINIONS OF LEADING THINKERS ON THE GENERAL SUBJECT OF HUMAN RIGHTS.

RICHARD HOOKER, 1594.

“Law to bind all, must be assented to by all; and there can be no legal appearance of assent without some degree of representation.”

GRANVILLE SHARP, 1778.

“No tax can be levied without manifest robbery and injustice where legal and constitutional representation is wanting, because the English law abhors the idea of taking the least property from freemen without their free consent.”

LORD SOMERS, ABOUT 1700.

“Amongst all the rights and privileges appertaining unto us, that of having a share in the legislation, and being governed by such laws as we ourselves shall cause, is the most fundamental and essential, as well as the most advantageous and beneficial.”

PRIESTLY, 1772.

“Political liberty, I would say, consists in power which the members of the state reserve to themselves of arriving at the public offices, or at least of having votes in the nomination of those who fill them.”

HERBERT SPENCER.

“However much the giving of political power to women may disagree with our notions of propriety, we conclude that, being required by that first prerequisite to greater happiness, the law of equal freedom, such a concession is unquestionably right and good.”

HENRY THOMAS BUCKLE.

“The turn of thought of women, their habits of mind, their conversation, insensibly extending over the whole surface of society, and frequently penetrating its intimate structure, have, more than all other things put together, tended to raise us from the dust in which we are too prone to grovel.”

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REV. CHARLES KINGSLEY.

“One principal cause of the failure of so many magnificent schemes, social, political, religious, which have followed each other age after age, has been this, that in almost every case they have ignored the rights and the powers of one-half of the human race, namely, women I believe that nothing will go right, that politics will not go right, that society will not go right, that religion will not go right, that nothing human ever will go right, except in so far as woman goes right; and to make woman go right she must be put in her place, and she *must have her rights,* and as to what those rights are I have very definite opinions, which I shall not give up for any arguments which I seem likely to meet with in this present generation.”

BENJAMIN FRANKLIN.

“Every man of this commonalty, except infants, insane persons, and criminals, is of common right and by the laws of God a *freeman,* and entitled to the free enjoyment of liberty. They who have no *voice* nor *vote* in the electing of representatives do not enjoy liberty, but are absolutely enslaved to those who have votes and their representatives; for to be enslaved is to have governors whom other men have set over us, and be subject to laws made by the representatives of others, without having had representatives of our own to give consent on our behalf.”

OTIS'S RIGHTS OF THE COLONIES.

“The very act of taxing exercised over those who are not represented appears to me to be depriving them of one of their most essential rights as freemen, and if continued seems to be, *in effect, an entire disfranchisement of every civil right.* If a man is not his own assessor in person, or by deputy, his liberty is gone, or he is entirely at the mercy of others.”

JAMES MADISON.

“Under every view of the subject it seems indispensable that the mass of the citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them.”

ABRAHAM LINCOLN.

“I go for all sharing the privilege of the government who assist in bearing its burdens, *by no means excluidng women.”*

HON. B. GRATZ BROWN, MISSOURI.

“I venture to affirm that the purity, the refinement, the instinctive reading of character, the elegant culture of the women of our land, if brought to bear on the conduct of political affairs, would do 33 much to elevate them in all their aims, and conform them to higher standards of justice. * * * The Participation of woman in civil affairs is neither a new nor an uncommon experiment.”

HON. GEORGE W. JULIAN, INDIANA.

“I am highly gratified with the late demonstration in the Senate on the question of woman suffrage. Do you not admire the speech of Senator Brown? He takes the ground that I have ever done, that the right of suffrage and representation is a natural right, ad not a privilege as many argue, and even some claiming to be radicals.”

SENATOR ANTHONY, RHODE ISLAND.

“If women are fit to rule in monarchies, it is difficult to say why they are not qualified to vote in a republic.”

HARRIET BEECHER STOWE.

“If the principle on which we founded our government is true, that taxation must not be without representation, and if women hold property and are taxed, it follows that women should be

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represented in the state by their votes." * * * "I think the state can no more afford to dispense with the votes of women in its affairs than the family."

HON. L. F. S. FOSTER, CONNECTICUT.

"If there can properly be taxation without representation, our American Revolution was an unjustifiable rebellion, and our government is founded on fraud and falsehood."— *Letter to John Hooker with regard to the right of tax-paying women to vote in Connecticut.*

ELIZABETH STUART PHELPS.

"If De Tocqueville was right in attributing the "singular prosperity and growing strength of the American people mainly to the superiority of their women,' it is time that the commonwealth availed itself more *directly* of the reserve forces and sources of such superiority." * * * "I earnestly desire to see a more rational basis for the political future of our sex, which is as sure to develop as the dawn to follow the dark. I have never faltered for an hour either in this wish or this assurance."

GEORGE WILLIAM CURTIS.

"Women have quite as much interest in good government as men, and I have never heard or read of any satisfactory reason for excluding them from the ballot box. I have no more doubt of their ameliorating influence upon politics than I have of the influence they exert everywhere else."

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REV. S. J. MAY, SYRACUSE, N. Y.

"The true family is the type of the true state. It is the absence of the feminine from the conduct of the governments of the earth that makes them more or less savage. There are fathers of the state, but no mothers."

REV. HENRY WARD BEECHER.

"We need participation of women in the ballot-box. It is idle to fear that she will meet with disrespect or insults at the polls. Let her walk up firmly and modestly to deposit her vote, and all men will make way for her; and if any one ventures to molest her, the crowd will swallow him up as the whale swallowed Jonah."

BISHOP SIMPSON.

"I believe that the great vices in our large cities will never be conquered until the ballot is put into the hands of the women."

REV. JAMES FREEMAN CLARKE.

"I do not think our politics will be what they ought till women are legislators and voters."

REV. GEORGE W. BOARDMAN, PHILADELPHIA.

"America's salvation lies under God in America's women. It is precisely because I desire to conserve our glorious past that I plant myself on the platform of woman suffrage."

GOVERNOR M'COOK, COLORADO.

"The logic of a progressive civilization leads to woman-suffrage as an inevitable result."

SENATOR HOAR, MASSACHUSETTS.

"If there be anything in politics which would degrade women, it is time for that thing to come to an end. The thing we wish chiefly to change is government, and not women. If there be anything in politics which would tend to degrade or stain the delicacy of the purest and best woman, it is something which ought not to exist, and which the presence of woman would tend to banish."

35

THE FOLLOWING AUTHORITIES RELATE TO THE POLITICAL RIGHTS OF CITIZENS.

CHIEF JUSTICE TANEY.

"The words 'people' of the United States and 'citizens' are synonymous terms, and mean the same thing; they both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of these people and a constituent member of this sovereignty."

CHIEF JUSTICE JAV.

"At the revolution the sovereignty devolved on the people, and they are truly the sovereigns of the country; but they are sovereigns without subjects (unless the African slaves may be so called), and

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have none to govern but themselves. The citizens of America are equal as fellow-citizens and joint tenants of the sovereignty."

ABRAHAM LINCOLN AT GETTYSBURG.

"These died that the government of the people, by the people, for the people, should not perish from the earth."

WEBSTER'S DICTIONARY.

"A citizen is a person, native or naturalized, who has the privilege of voting for public officers, and who is qualified to fill offices in the gift of the people."

BOUVIER'S LAW DICTIONARY.

"A citizen is one who, under the constitution and laws of the United States, has a right to vote for representatives in Congress and other public officers, and who is qualified to fill offices in the gift of the people."

WORCESTER'S DICTIONARY.

"A citizens is an inhabitant of a republic who enjoys the rights of a citizen or freeman, and who has a right to vote for public officers as a citizen of the United States."

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THE DUTCH PUBLICIST, THORBECKE.

"The right of citizenship is the right of voting in the government of the local, provincial, or national community of which one is a member. In this last sense the right of citizenship signifies a participation in the right of voting, in the general government, as member of the state."

WHEATON'S INTERNATIONAL LAW.

"The possession of the *jus suffragii,* , at least, if not also of the *jus honorum,* is the principle which governs at this day in defining citizenship in the countries deriving their jurisprudence from the civil law."

ARISTOTLE.

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"A citizen is one who is a *partner in the legislative and judicial power,* and who shares in the honors of the state."

JUSTICE DANIEL, (U. S. SUPREME COURT).

"There is not, it is believed, to be found, in the theories of writers on government, or in any actual experiment heretofore tried an exposition of the term 'citizen' which has not been understood as conferring the actual possession and enjoyment, or the perfect right of acquisition and enjoyment, of an entire equality of privileges, civil and political."

THOMAS PAINE.

"The right of voting for representatives is the primary right by which other rights are protected. To take away this right is to reduce man to a state of slavery, for slavery consists in being subject to the will of another."

JUSTICE M'KAY (SUPREME COURT OF GEORGIA).

"It is the settled and uniform sense of the word 'citizen', when used in reference to the citizens of the separate states of the United States, and to their rights as such citizens, that it describes a person entitled to every right, *legal and political,* enjoyed by any person in that state, unless there be some express exceptions made by positive law covering the particular persons whose rights are in question."

JUDGE WASHINGTON (U. S. CIRCUIT COURT).

"The inquiry is, what are the privileges and immunities of citizens in the several states? They must all be comprehended under the following general heads." [Here follows a statement of numerous rights, civil and political, closing as follows:] "To which is to be added *the elective franchise,* as regulated and established by the laws or constitution of the state in which it is exercised."— *Corfield* v. *Coryell,* 4 Wash. C. C. R., 380.

37

SUPREME COURT OF KENTUCKY.

"No one can, therefore, in the correct sense of the term, be a citizen of a state who is not entitled, upon the terms prescribed by the institutions of the state, to all the rights and privileges conferred by these institutions upon the highest class of society."

CONSTITUTION OF THE UNITED STATES—FOURTEENTH AMENDMENT.

“All *persons* born or naturalized in the United States, and subject to the jurisdiction thereof, are *citizens* of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.