

**THE RIGHT OF SUFFRAGE OF SHOSICS (NONCITIZENS)  
IN THE UNITED STATES**

Dissertation presented to the faculty of Cornell University  
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## Abstract

Shosics—commonly known as noncitizens—cannot vote in virtually any election of the United States. Outrightly preventing them from participating in all electoral jurisdictions, on account of their citizenship, is unreasonable. As long as Shosics can demonstrate sufficient connections and roots to their place of residence, they should be allowed to participate in specific elections. This theory, called *The Sufficient Connection Theory*, provides a novel understanding of the demos in a democracy. The right of suffrage is a twofold fundamental right. It is a fundamental right *per se* enshrined in various laws and international treaties, and it is also fundamental because it is a manifestation of the right of freedom of expression. States are only allowed to hinder the right of suffrage of Shosics as long as they can prove a narrowly tailored compelling state interest. The state’s arguments to disenfranchise Shosics must be specifically crafted to suit the federal, state, county, city, town, village, or district elections. Each jurisdiction must give its own reasonable, proportional, and necessary justification. Shosics are neither explicitly nor implicitly disenfranchised in almost any state constitution of the United States. Except in Arizona and North Dakota, where the right of suffrage is an exclusive prerogative of American citizens, Shosics should be allowed to vote in all state, county, city, town, village, and district elections of the remaining forty-eight states.

## Biographical Sketch

Arturo Castellanos is a legal scholar specializing in human rights and international law. Castellanos obtained his degree of Master of Laws (LL.M.) from Cornell Law School in 2017, Bachelor of Laws (LL.B.) from *Escuela Libre de Derecho* in 2013, and expects to obtain the degree of Doctor of the Science of Law (J.S.D.) after defending the present dissertation.

Before attending Cornell University, Castellanos worked as a Consultant for the Organization of American States (O.A.S.) in Washington, D.C. Prior to his appointment at the O.A.S., he served for two years as a Consultant at the Mexican Ministry of Foreign Affairs. Castellanos has served in different positions in the public sector (Electoral Institute of Mexico City, Montgomery County Circuit Court, and the Embassy of the United Kingdom of Great Britain and Northern Ireland in Mexico), as well as in the private sector (Grupo Estrategia Política, Santamarina y Steta, and Castellanos y Ramírez).



*Para Paulina.*

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I want to thank Professor Beth Lyon, my personal hero and member of the dissertation committee, for showing me that kindness and humility are the most powerful weapons of a human rights lawyer. Her arsenal of love, empathy, and brilliance are from another planet. I want to be Beth Lyon when I grow up. My path to the J.S.D. started as her research assistant during my first year at Cornell. I would not be where I am today without her. Thanks a million to you and your beautiful family for opening the doors of your home when we most needed family love.

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Thank you to my parents for being extraordinary role models. Their example of love and hard-work are the engines that propelled me to the verge of becoming a Doctor of the Science of Law. *¡Muchas gracias, Pa y Ma!*

I want to especially thank Paulina, my favorite person in the world, for her love, energy, and support during these three years. Living with a doctorate candidate for so long can be tedious and boring (to say the least). Paulina, however, brought light and joy to every single day of this process with her luminous smile. I survived the J.S.D. thanks to her intelligence and the teas that she made for me every night. Discussing my ideas daily with her made this dissertation possible. Thank you for always inspiring me to be a better person. *¡Gracias infinitas, mi amor!*

## **List of Abbreviations**

**ADDDM.-** American Declaration of the Rights and Duties of Man  
**ASPA.-** American Servicemembers Protection Act  
**DACA.-** Deferred Action for Childhood Arrivals  
**DC.-** District of Columbia  
**DHS.-** Department of Homeland Security  
**ECHR.-** European Court of Human Rights  
**IACHR.-** Inter-American Commission of Human Rights  
**IACrtHR.-** Inter-American Court of Human Rights  
**ICC.-** International Criminal Court  
**ICCPR.-** International Covenant on Civil and Political Rights  
**ICE.-** Immigration and Customs Enforcement  
**ICJ.-** International Court of Justice  
**JSD.-** Doctor of the Science of Law  
**LL.M.-** Master of Laws  
**LPR.-** Legal Permanent Resident  
**NARA.-** National Archives and Records Administration  
**NY.-** New York  
**OAS.-** Organization of American States  
**OFR.-** Office of the Federal Register  
**RUD.-** Reservations, Understandings, and Declarations  
**TOEFL.-** Test of English as Foreign Language  
**UDHR.-** Universal Declaration of Human Rights  
**UOCAVA.-** Uniformed and Overseas Citizens Absentee Voting Act  
**US.-** United States  
**VRA.-** Voting Rights Act of 1965

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## **Preface**

When I came to the United States in 2016 to pursue a one-year-long Master of Laws (LL.M.) at Cornell Law School, I never thought that I would stay for more than two years in the country. I have lived four years now in the United States with a non-immigrant visa, and I have plans to stay for at least four more years. Regardless of the amount of time that I spend in the United States, I will never be able to participate in the elections of the district, village, town, city, county, or state where I live (under present legal conditions) because I am not an American citizen. I am a Shosic.

Even though my wife—also a Shosic—and I are active and informed members of the community where we live, we do not have the right to vote or hold office because we are not nationals of this country. Neither of us qualifies for naturalization due to the non-immigrant visas that we have. We can renew our visas as many times as we want, but we will always be non-immigrants. We can spend a lifetime in the United States under a non-immigrant status. Such status disqualifies us from participating in any of the multiple electoral jurisdictions of the United States.

Preventing Shosics from voting and holding office in villages, towns, cities, and counties has created a democratic deficit that negatively impacts the quality of life of Shosics in the country. Outrightly disfranchising Shosics from all electoral jurisdictions seems unreasonable, unnecessary, disproportionate, and, therefore, illegitimate. There might be, however, some elections in which it is reasonable and necessary to exclude Shosics from the polls. Finding out the answer to such questions is what this dissertation is about.



## Introduction

When in Washington, D.C., take the Metro to Gallery PI-Chinatown. Transfer to the yellow line and ride two stations towards Huntington. Get off at Archives-Navy Memorial-Penn Quarter. As soon as you walk out of the Metro station, you will find at your left a monumental building surrounded by seventy-two Corinthian columns that guard the three most relevant documents that define America's democratic spirit—The National Archives Museum. There is a side entrance to the museum in the corner of 9<sup>th</sup> Street and Constitution Avenue. Remove all your electronic devices and metallic objects, take the elevator to the second floor, and walk towards the dimly lit rotunda in front of you. Take a deep breath and brace yourself before realizing that you are in front of three of the most momentous, inspiring, and history-changing documents that western civilization has seen in the last two hundred and forty-four years. Democracy as we know it was crafted and modeled based on the three texts so carefully framed within your reach: The Declaration of Independence, the Constitution of the United States, and the Bill of Rights.

At the left of the rotunda, you will find the Declaration of Independence. Written in 1776, the Declaration of Independence is the United States' birth certificate that announces a complete break from the British monarchy and expresses the principles on which the country is founded. The signers of the declaration—magnificently portrayed in the Faulkner mural above the document—expound that “Governments are instituted among Men, deriving their just powers from the consent of the governed.”<sup>1</sup> In other words, it seems that the Founding Fathers craved for participatory democracy. We now take for granted democracy as a universal value,

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<sup>1</sup> United States. *Declaration of Independence*. 1876.

but in 1776, democracy was just a theoretical and still unexplored form of government.

The idea of democracy originated more than two millennia ago in ancient Greece, where it “took shape and was seriously put into practice (albeit on a limited scale) before it collapsed and was replaced by more authoritarian and asymmetric forms of government. Thereafter, democracy as we know it took a long time to emerge.”<sup>2</sup> Democracy’s gradual—and ultimately triumphant—emergence as a working system of governance consolidated with the Declaration of Independence of the United States.

It takes courage and vision to put into practice an experimental form of government, such as democracy. The experiment quickly paid off and catapulted the United States as the beacon of democracy for the entire world. Two-hundred and forty-four years after the Declaration of Independence was signed, the family of nations still look up to the United States’ model when drafting new constitutions and implementing new democratic processes. Democracy, as envisioned by the American Founding Fathers, rapidly became a universal value.<sup>3</sup>

The American democratic system was successful and replicated, not only because it respected human dignity, but also because its rules were carefully and brilliantly framed in the Constitution of the United States. Written in 1787, the Constitution organized a system of government that—in line with the Declaration of Independence—derived its power from the people. The democratic vocation of the

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<sup>2</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

<sup>3</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

United States is so evident that the first line of its supreme law reads in big, bold letters, “**We the People**.”<sup>4</sup>

The phrase “We the People” proves America’s unmistakable democratic orientation from a linguistic perspective. Democracy is a word derived from the Greek «δημος» (dēmos), which means *people*, and «κρατος» (kratos), that means *power*. The power of the people is so entrenched in the American ethos that many American presidents have famous inspirational quotes related to democracy. President Abraham Lincoln, for instance, declared in his memorable Gettysburg Address in 1863, that “government of the people, by the people, for the people, shall not perish from the earth.”<sup>5</sup> That statement was undeniably based on the democratic spirit and ideals of the Declaration of Independence, Constitution of the United States, and Bill of Rights. Democracy in America is so revered that “all through history, when United States presidents have sought to explain or defend U.S. military interventions in foreign lands, few goals, with the exception of national security, have been advanced with such regularity and frequency as the promotion of democracy.”<sup>6</sup>

The Bill of Rights is the third document—both chronologically and from left to right of the rotunda at the National Archives Museum—that captures the democratic essence of the United States. Adopted in 1789, the Bill of Rights was (and still is) an innovative and effective instrument to protect all the rights and principles derived from the power of the people. Freedom of speech, press, religion, and assembly are some of the prerogatives protected in the Bill of Rights. It would be impossible to imagine a democracy without those fundamental, inalienable rights. Along with the

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<sup>4</sup> United States. *Constitution of the United States of America*. 1787.

<sup>5</sup> Lincoln, Abraham. *Gettysburg Address*. 1863.

<sup>6</sup> James Meernik. *United States Military Intervention and the Promotion of Democracy*. *Journal of Peace Research* 33, no. 4 (1996): 391-402. Accessed February 8, 2020. [www.jstor.org/stable/424565](http://www.jstor.org/stable/424565).

French *Déclaration des Droits de l'Homme et du Citoyen*,<sup>7</sup> published that same year, the Bill of Rights became the culmination of an aspirational democratic model for the rest of the world. For such reasons, the United States is the role model of democracies across the planet.

Those three texts are so beautifully written and convincingly marketed that nobody questions if the United States ever achieved the democracy it aspired to in its foundation. It seems so evident that the United States has one of the most robust democracies that very few question if the powers of the American government are genuinely derived from the consent of the governed.<sup>8</sup> The answer, unfortunately, is no. Even though the governing system in the United States smells like democracy, tastes like democracy, and feels like democracy, it is not a democracy.

Simply put, democracy is to the American governing system as orcas are to whales. We commonly refer to orcas as killer whales, even though they are neither killers nor whales. Orcas are the largest dolphin species.<sup>9</sup> The constant repetition of a fallacy can get stuck in society's collective mind to the point that few people question what seems so evident. Orcas are not whales in the same way that democracy is not the prevailing governing system in the United States.

Democracy is an absolute concept. Absolute concepts are complete and unquantifiable.<sup>10</sup> Democracy is not gradable. Democracy is as full and unmeasurable as life or pregnancy. A person is alive or dead. A woman is pregnant or not pregnant. A country is democratic or not democratic.

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<sup>7</sup> France. *La Déclaration Des Droits De l'Homme Et Du Citoyen*. [Paris]: Présidence de la République. 1789.

<sup>8</sup> Keyssar, Alexander. *The Right to Vote: The Contested History of Democracy in the United States* (p. 1). New York: Perseus Books, LLC, 2000.

<sup>9</sup> National Geographic. *Orcas*. (Available at <https://www.nationalgeographic.com/animals/mammals/o/orca/>; Accessed on January 29, 2020)

<sup>10</sup> Pérez Porto, Julián & Gardey, Ana. *Definición de Absoluto*. Published on 2009 and updated on 2012. (Available at <https://definicion.de/absoluto/>; Accessed on February 8, 2020)

In the United States, the rights to vote and to hold office have been historically limited based on questionable distinctions such as ethnicity, sex, religion, income, literacy, age, residence, moral character, mental illness, payment of taxes, polygamy, and sodomy.<sup>11</sup> Therefore, it is not possible to call the governing system in the United States a democracy. Holding elections at regular intervals does not suffice to refer to a country as democratic.

A country is democratic when “The People” govern and elect their governing authorities. In the United States, only *some people*, not The People, can vote and hold office. Non-citizens, minors, felons, persons experiencing homelessness, and *non compos mentis* are among the many categories of groups currently excluded from the right of suffrage.<sup>12</sup>

In this dissertation, I explore the most common yet least challenged voting restriction among adults in the American electoral system: the disenfranchisement of residents of the United States who are not American citizens. I call this group of people Shosics. Shosics, as I explain in the first chapter, is a semi-acronym for the Latin concept *suffragio et honorum sine civitas* or suffrage and office holding without citizenship.<sup>13</sup>

The United States, which excludes Shosics from the polls, is not a democracy. The United States is an *ethnocracy*. From the Greek «ἔθνος» (ethnos) that means *nation*, and «κράτος» (kratos), that means *power*, the United States is an ethnocratic country because its government and elections are limited to American nationals. I am not employing the term ethnocracy in the same way that other authors use it to describe “a form of government in which a particular ethnic group holds a

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<sup>11</sup> See Appendices 1-50.

<sup>12</sup> See Appendices 1-50

<sup>13</sup> Shosics, as I explain in the first chapter of this dissertation, is a semi-acronym for the Latin concept *suffragio et honorum sine civitas* or suffrage and office holding without citizenship.

disproportionate amount of government power compared to their percentage in the population.”<sup>14</sup> This thesis uses the term ethnocracy in its most basic and etymological meaning. Ethnocracy, for purposes of this dissertation, is the governing system that allocates political power based on nationality.

The United States has not always been an ethnocracy. For most of America’s history, the right to vote has not been an exclusive prerogative for American nationals. Shosics have been allowed to vote in the following thirty-three states of the country:

Georgia (1777-1789 & 1868-1877); Indiana (1851-1921); Illinois (1848-1870); Missouri (1865-1924); Alabama (1867-1901); Arkansas (1874-1920); Texas (1876-1921); Florida (1868-1894); Wisconsin (1848-1912); Minnesota (1857-1896); Oregon (1859-1914); Kansas (1861-1918); Nebraska (1867-1920); Colorado (1876-1902); Montana (1889-1894); North Dakota (1889-2018)<sup>15</sup>; South Dakota (1889-1918); New Hampshire (1776-Present)<sup>16</sup>; South Carolina (1776-1790); Virginia (1776-1851); New Jersey (1776-1844); Delaware (1776-1831); Pennsylvania (1776-1790); Maryland (1776-1809); North Carolina (1776-1857); New York (1777-1821); Massachusetts (1780-1820); Connecticut (1702-1818)<sup>17</sup>; Rhode Island (1767-1842); Vermont (1791-1793); Tennessee (1796-1834); Ohio (1803-1851); and Michigan (1850-1908).

In other words, Shosics were able to vote in two-thirds of the fifty states of the Union for 148 years (1776-1924). That period represents sixty percent of America’s history as an independent nation. It is essential to highlight that as of 2020, there are fourteen municipal corporations in the country concentrated in just two

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<sup>14</sup> Yiftachel, Oren. *Ethnocracy: Land and Identity Politics in Israel/Palestine*. University of Pennsylvania Press. 2006

<sup>15</sup> 2018 is not a typo. Even though foreign nationals were *de facto* excluded from the right of suffrage in North Dakota, the state did not amend its constitution until 2018 to implicitly exclude non-citizens from the right to vote.

<sup>16</sup> The Constitution of New Hampshire grants the right to vote to every inhabitant of the state of eighteen years of age and upwards. It does not mention anything about citizenship.

<sup>17</sup> The state of Connecticut operated under its colonial charter from 1662 until it adopted its first constitution in 1818.

states—Maryland (11)<sup>18</sup> and Massachusetts (3)<sup>19</sup>—that grant the right of suffrage to Shosics in local elections. Additionally, Chicago<sup>20</sup> and San Francisco<sup>21</sup> allow them to vote in school board elections.

### **Object of Study: The Right to Vote of Shosics in the United States**

As stated above, this dissertation focuses on the right to vote and hold office of residents of the United States who are not American citizens, or Shosics, as I prefer calling them. In other words, my research focuses on the people who live in the United States; pay taxes in the United States; are essential to the economic, religious, and cultural activities of the United States; are subject to the same laws as American citizens; are affected by the policies adopted by elected officials; can enlist in the American Armed Forces; can serve as first responders in some places of the United States; have children or spouses who are in many cases American citizens; in many cases have been living in the United States longer than they have ever been anywhere else; and despite all of this, cannot vote or hold office in any of the multiple electoral jurisdictions of the United States because they are not American citizens.

Muting the voice of Shosics through electoral disenfranchisement, based on nationality, is problematic. The fundamental reason for worrying about the democratic exclusion of Shosics is that public authorities often neglect people without a political voice. People who are denied political avenues for voicing their concerns are not as

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<sup>18</sup> Takoma Park, Chevy Chase, Chevy Chase Section Three, Hyattsville, Mount Rainier, Riverdale Park, Barnesville, Garrett Park, Martin's Additions, Glen Echo, and Somerset (Source: The Maryland Municipal League)

<sup>19</sup> Cambridge, Newton, and Amherst.

<sup>20</sup> Chason, Rachel. *Non-citizens can now vote in College Park, Md.* Published at The Washington Post on September 13, 2017. (Available at [https://www.washingtonpost.com/local/md-politics/college-park-decides-to-allow-noncitizens-to-vote-in-local-elections/2017/09/13/2b7adb4a-987b-11e7-87fc-c3f7ee4035c9\\_story.html](https://www.washingtonpost.com/local/md-politics/college-park-decides-to-allow-noncitizens-to-vote-in-local-elections/2017/09/13/2b7adb4a-987b-11e7-87fc-c3f7ee4035c9_story.html); Accessed on November 19, 2019) ]

<sup>21</sup> City and County of San Francisco Department of Elections. *ORDINANCE NO. 128-18 [Municipal Elections Code - Noncitizen Voting in School Board Elections]* (Available at <https://sfgov.legistar.com/View.ashx?M=F&ID=6284985&GUID=446D8290-14DC-45B4-8044-64F176D642CA>; Accessed on November 19, 2019) ]

successful in attracting the attention of mayors, sheriffs, district attorneys, school boards, governors, presidents, legislators, and judges. Thus, people without the right of suffrage may end up with lower levels of quality of life, public services, legal protection, and other resources provided by the State.<sup>22</sup>

This situation—which leads to exclusion and discrimination—is particularly worrying in countries like the United States, which is home to 22.6 million Shosics.<sup>23</sup> The estimated total population of the United States as of July 2019 was 328,239,523.<sup>24</sup> Considering that 77.6% of the whole population is over eighteen years old,<sup>25</sup> and presuming that the average age among Shosics is the same as that of the general population, there are around 17.5 million adult Shosics disenfranchised in the United States. In other words, 7% of the adult population of the United States does not have the right to vote or hold office in their place of residence.

The percentage of disenfranchised Shosics is significantly higher in certain states, compared to the national average, such as in California (13%), Texas (11%), Nevada (10%), New Jersey (10%), New York (10%), and Florida (9%).<sup>26</sup> When we break down those states into congressional districts, the percentage of disenfranchised Shosics critically increases in some cases. In California's 34<sup>th</sup> Congressional District, for instance, three out of ten residents are Shosics (29%). In Texas's 29<sup>th</sup>

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<sup>22</sup> See Beckman, Ludvig. *The Frontiers of Democracy: The right to vote and its limits*. Basingstoke, New York, Palgrave Macmillan, 2009.

<sup>23</sup> Migration Policy Institute. *Frequently Requested Statistics on Immigrants and Immigration in the United States*. Available at <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states> (Accessed on January 10, 2018)

<sup>24</sup> United States Census Bureau. *Nativity and Citizenship Status in the United States*. (Available at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk#>; Accessed on January 20, 2020)

<sup>25</sup> United States Census Bureau. *Quick Facts: Population estimates July 1, 2019* (Available at <https://www.census.gov/quickfacts/fact/table/US/PST045219>)

<sup>26</sup> KFF. *Population Distribution by Citizenship Status*. (Available at <https://www.kff.org/other/state-indicator/distribution-by-citizenship-status/?currentTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>; Accessed on January 20, 2020)



Congressional District, one out of four residents is a Shosic (24.3%). In Florida's 25th Congressional District, 26% of the population are Shosics.<sup>27</sup>

Preventing such a large chunk of the population from the right of suffrage, just because they are not American citizens, created a democratic deficit in the United States that is worthy of study and analysis. Outrightly excluding 17.5 million people from the ballot in all the electoral jurisdictions of the country—district, village, town, city, county, state, and federal elections—seems unreasonable, unnecessary, and, therefore, illegitimate.

Hence, the purpose of my research is to generate a theoretical legal foundation to discuss whether Shosics should be allowed to vote and to hold office in certain electoral jurisdictions of the United States. Two centuries ago, it seemed absurd to discuss the voting rights of women. Today, there might be people who think that enfranchising Shosics is a ridiculous and over-ambitious proposal. Nonetheless, I believe that my dissertation will catalyze a debate that will take place all over the United States sooner rather than later.

This thesis develops a novel Shosic-enfranchisement-reasonability-test that would be applicable in any court and legislature of the United States. If proven successful, such a test would redefine the *demos* of the country. Shosics would be allowed to vote and hold office in specific electoral jurisdictions as long as they can prove sufficient connections and roots to their place of residence. The proposed reasonability-test of Shosic enfranchisement is based on the following equation:

$$r = \Sigma p \geq e \cdot t$$

where  $r$ = Reasonability of Shosic enfranchisement;  $p$ = Connection points (based on the point-chart proposed in the penultimate chapter);  $e$ = Election (constant value of 5);

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<sup>27</sup> Wines, Michael. *How the Supreme Court's Decision on the Census Could Alter American Politics*. Published in the New York Times on April 23, 2019. (Available at <https://www.nytimes.com/2019/04/23/us/noncitizens-census-political-maps.html>)

and  $t$ = Tier of the election (interchangeable value of 1-6 depending on electoral jurisdiction where Shosic intends to vote).<sup>28</sup>

Courts and legislators have a duty to apply such reasonability-tests particularly in electoral jurisdictions where the average quality of life of Shosics is lower than the average quality of life of the citizen population. Such a necessity can be represented arithmetically with the following equation:

$$n = cI > sI$$

where  $n$ = Necessity of Shosic enfranchisement;  $cI$ = Citizens' average quality of life index;  $sI$ = Shosics' average quality of life index.

Before moving forward, it is vital to clarify and narrow the object of study of this thesis. The present dissertation focuses exclusively on the right to vote and hold office in the fifty states of the Union. It does not analyze suffrage qualifications in the United States Territories, Native American Reservations, or the District of Columbia. Even though these jurisdictions are essential to understand the full picture of American political membership, their study would demand at least three thorough dissertations devoted exclusively to each one of them.

### **Research Question: Is the Voting Restriction of Shosics Legitimate?**

The key research question that guides this thesis is whether restricting the right of suffrage of Shosics in all electoral jurisdictions of the United States—federal, state, county, city, town, village, and special district jurisdictions—is legitimate.

To answer that question, this dissertation will guide the reader step by step through elementary concepts until it reaches the more complex problems of Shosic enfranchisement. This thesis starts by proposing the word *Shosic* as a new word to

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<sup>28</sup> See Chapter VI for full explanation.

substitute the current labels used to refer to residents of the United States who are not American citizens: aliens, immigrants, foreign nationals, expatriates, and non-citizens. Shosic is a semi-acronym for the Latin *suffragio et honorum sine civitas*, which means suffrage and office-holding without citizenship. Convinced that language shapes even the most fundamental dimensions of human experience, this thesis argues that the current labels perpetuate the stereotypes, negative connotations, and vulnerability of this group of people. Finding a new, precise, appropriate, and well-rounded name for residents of the United States who are not American citizens was critical from the very beginning of this research.

The second chapter studies the history of suffrage qualifications in the United States. It reviews democratic inclusion and suffrage qualification theories that have historically supported the enfranchisement and disenfranchisement of particular groups of people. After reviewing such doctrines, the chapter analyzes the evolution of the American ideology since European settlers first arrived on the continent. Finally, the chapter provides a summary of the five big waves of enfranchisement since the United States became an independent nation in 1776. This chapter will show that the United States is far from being universally democratic.

The third chapter analyzes the origin and evolution of the two suffrage qualifications that Shosics lack: American citizenship and nationality. Understanding the elements and differences between both concepts will allow us to make a better analysis of the legality of Shosic disenfranchisement. Even though both concepts are frequently used indistinctly, they are very different. Their study will provide valuable insights to determine whether restricting the right of suffrage of Shosics in local elections is legitimate. The third chapter also explains the differences between Shosics and U.S. citizens, American citizens living abroad, and residents of U.S. Territories.

Contrary to what some people might think, granting political rights to Shosics would not downgrade the value of citizenship. American citizenship would continue playing a vital role in defining personal and legal identity.

The fourth chapter compiles all the electoral legislation in the United States regarding suffrage qualifications. The reader might find surprising that Shosics are neither explicitly nor implicitly disenfranchised in almost any electoral jurisdiction of the United States. Except in Arizona and North Dakota, which explicitly limit suffrage for American citizens, Shosics should be allowed to vote in all state, county, city, town, village, and district elections in the remaining forty-eight states. Moreover, to make narrowly tailored arguments about the legality of Shosic disenfranchisement in the United States, it is crucial to analyze all the electoral jurisdictions of the country. Nationality, as we will see, may be a relevant suffrage qualification for federal elections, but not necessarily for local elections. After all, federal elected officials are in charge of the country's foreign and national policy. Local elected officials, however, do not deal with foreign policy. Limiting the right of suffrage of Shosics in local elections seems unreasonable unless proven otherwise.

In the fifth chapter, this dissertation argues that the right to vote is a twofold fundamental right. It is a fundamental right *per se*, and it is also fundamental as an expression of the right of freedom of speech. Even though courts, legislators, and scholars have always referred to the right to vote as a fundamental right,<sup>29</sup> the application and interpretation of the law have not always been consistent and congruent with such classification. Determining whether the right to vote is fundamental or not is essential for this dissertation. If we consider that the right to vote is indeed a fundamental right, the State would have the burden to prove that

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<sup>29</sup> E.g., 52 U.S.C. § 20101 (West Supp. 2014) (providing access for handicapped voters); *National Voter Registration Act*, 52 U.S.C. § 20501(a)(1) (West Supp. 2014); *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

restricting suffrage to Shosics in each electoral jurisdiction serves a compelling, reasonable, necessary, proportional, and legitimate social purpose. The fifth chapter also analyzes whether Shosics can be classified, for legal purposes, as a suspect class. If Shosics are considered a suspect class, the State would have to narrowly tailor its arguments to suit the specific electoral jurisdiction where it excludes Shosics from the polls.

The sixth chapter is the backbone of this dissertation. It contains the main discovery of this research: *outrightly disfranchising Shosics from all the electoral jurisdictions is illegitimate when Shosics can demonstrate sufficient connections and roots to the place where they live*. The chapter will also explain that enfranchising Shosics is necessary when the Shosics' average quality of life index is lower than that of the average of the citizen population of the electoral jurisdiction where they reside. The reader will reach those conclusions after revising the economic, social, and political relevance of Shosics in the United States.

In the seventh chapter, this dissertation will review in detail the possible avenues for enfranchising Shosics in the United States. Advocates, lawyers, and lawmakers seeking to protect the right of suffrage of Shosics can do it through legislative reforms, judicial processes, and advocacy strategies. Such possibilities can be sought in international, federal, state, and municipal jurisdictions.

The potential enfranchisement of Shosics is a controversial issue that raises many objections. If Shosics were allowed to vote and to hold office in the United States, there could be unintended consequences that are worth discussing. In the eighth and final chapter, I will address all the opposing arguments and possible unintended consequences that I have identified about Shosic enfranchisement. Analyzing the

multiple perspectives on the topic is crucial to offer better and narrowly tailored arguments.

## Novel Contributions of this Dissertation

A growing number of authors in the United States and around the world are writing about the rights of Shosics.<sup>30</sup> Many of them have made colossal contributions to the topic of this thesis. My dissertation, however, is novel and relevant for juridical science and legal philosophy for the following fourteen reasons:

- i. This thesis proposes a new theory to determine who constitutes the *demos* in a democracy. This theory, mentioned in the third chapter, is called *The Sufficient Connection Theory*. This theory argues that the *demos* is formed by all members of the community who can prove sufficient connections with their place of

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<sup>30</sup> Ron Hayduk's arguments in support of Resident Noncitizen's enfranchisement have been very helpful in defining my research questions. Stanley Reenshon's firm stance against such rights allowed me to analyze this problem from a different perspective. Ludvig Beckman's philosophical questions about Resident Non-Citizen enfranchisement increased my curiosity about this issue. Jamie Raskin's eloquent defense of Shosic suffrage was an essential foundation of this dissertation. Professor Aziz Rana's rich historical analysis of citizenship rights in the United States became an essential guide for my research. Professor Beth Lyon's fascinating approach to "predatory migration regimes" inspired me to write about the rights of immigrants. Owen Fiss's teachings on the antijudgment of immigrants were eye-opening. Jennifer Gordon's perspective on the enfranchisement of non-citizens in the United States was very encouraging. Alejandra Maymón's analysis on ideological theories in the United States was crucial to understand the requisites of political membership in the country. Christina Rodríguez's comparative study on non-citizen voting was incredibly illustrative of the process by which different constitutional democracies construct their polities. Alexander Keyssar's and Kirk Porter's account of the evolution of suffrage in the United States was very enlightening. Linda Bosniak's analysis of the dilemmas of inclusion and exclusion inherent in the practices and institutions of citizenship in liberal democratic societies sparked new ideas and questions on my research. Leslie Berlin's and Hiroshi Motomura's chronicle of immigration and citizenship in the United States was a fascinating reading to understand the evolution of Shosic enfranchisement in the United States. Claudio López-Guerra's "Critical Suffrage Doctrine" in which he assumes that everyone is insufficiently competent to vote and, therefore, we should all be disenfranchised is very intellectually stimulating. Ruth Ellen Wasem's approach to undocumented immigrants' access to federal benefits and Alison Siskin's perspective on non-citizen's access to health insurance were very helpful to understand the legal and social challenges that this group of people faces. Saeed A.Khan's understanding of global citizenship and his interpretation of Habermas's theory about assimilation helped me to narrow my research and define what this dissertation is not about. Enzo Colombo's view on the development of the concept "citizenship" was very helpful in appreciating the complexity and implications of the word. Peter Levine's conception of civic engagement and its relation to diversity sparked philosophical questions about my research that I will try to address in my dissertation. Alan How's approach to critical theory provided the necessary theoretical foundation for my research. Richard K. Scher's in-depth analysis of the hurdles, difficulties, and impediments of universal suffrage in the United States showed me the challenges that lie ahead of my research. Andrew Tisch's and Mary Skafidas's compilation of immigrant stories confirmed the importance of developing smart migration policies in the United States. Ali Noorani's work on how communities overcome prejudice and meet the challenges of immigration was a refreshing and encouraging reading to suggest novel ideas on how to spark an inclusive and diverse debate about Shosic enfranchisement in the United States. Julissa Arce's interpretation on the label "alien" to refer to non-citizens, encouraged me to find a new label for this group of people.

residence. Regardless of citizenship, any person with enough roots in the place where she lives should be allowed to vote and hold office in specific electoral jurisdictions.

- ii. To support the Sufficient Connection Theory, this dissertation proposes a novel reasonability-equation to determine whether disfranchising Shosics is reasonable or not. As long as Shosics can demonstrate sufficient connections and roots to the place where they live, they should be allowed to vote in certain electoral jurisdictions.
- iii. Unlike most of the current literature, this dissertation addresses the linguistic problems of the labels currently employed to refer to Shosics, such as aliens, immigrants, foreign nationals, expats, and non-citizens.
- iv. This research is the first to make clear distinctions among the multiple electoral jurisdictions where Shosics could participate: district, village, town, city, county, state, and federal elections. Such distinctions are crucial because the interest of the state to disenfranchise Shosics in national elections cannot be the same when disfranchising them from local elections. The State must narrowly tailor its arguments for each jurisdiction.
- v. This thesis presents a novel equation to determine in which jurisdictions Shosic enfranchisement is particularly necessary. Granting the right of suffrage is necessary wherever the average life quality index of Shosics is lower than that of the general population.
- vi. This research is the first to make distinctions between the right to vote and the right to hold office of Shosics. All of the current authors on the topic simply refer to the right to vote and ignore the right to hold office. Even though both rights generally go hand-in-hand, they are very different and deserve separate analyses.

- vii. This dissertation defines the right to vote as a twofold fundamental right. It is fundamental *per se* and as a manifestation of the right of freedom of expression. Its dual nature is essential for the applicable standard of review of courts, which must necessarily be strict scrutiny.
- viii. This thesis presents for the first time all the possible legislative, judicial, and advocacy strategies through which Shosics can gain the right of suffrage in the United States.
- ix. This dissertation is the first document to compile (to my understanding) the full history of suffrage qualifications in the fifty states of the Union since the United States gained its independence in 1776. Such compilation will hopefully save hours of research for future writers on the topic.<sup>31</sup>
- x. This dissertation has a novel interpretation of state constitutions regarding suffrage qualifications. I will argue that all state constitutions, except for those of Arizona and North Dakota, allow Shosics to vote and to hold office because they neither explicitly nor implicitly hinder Shosics from suffrage.
- xi. This thesis introduces a third and novel suffrage justification theory. Besides the traditional *theory of right* and *theory of the good of the state*, this research proposes the *theory of lack of arguments*. According to this theory, a group of people may have the right of suffrage just because there are no sufficient arguments to disenfranchise them.
- xii. This dissertation presents the most comprehensive compilation of duties and responsibilities of elected officials from all the electoral jurisdictions in the country. Such compilation provides valuable insights to determine whether

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<sup>31</sup> See Appendices 1-50



restricting the right of suffrage of Shosics, on account of their citizenship, is reasonable and proportional in local elections or not.

**xiii.** This research presents a novel strategy to indirectly enfranchise Shosics called vicarious voting. Vicarious voting is the action through which a qualified voter votes on behalf of a non-qualified voter without expecting or receiving anything in exchange.

**xiv.** This research is the first to review all the legislation regulating the right to vote and to hold office in the United States. International treaties, federal acts, state constitutions, and municipal charters are carefully analyzed.

### **Methodological Approach: DSRP Systems Thinking**

Professor Derek Cabrera, from Cornell University, discovered a cognitive code called DSRP that underlies all human thinking. His discovery—translated into practice by Laura Cabrera—attempts to democratize<sup>32</sup> systems thinking and tackle wicked problems. DSRP follows four simple rules:

1. **Distinction Rule:** Any idea or thing can be distinguished from the other ideas or things it is with.
2. **Systems Rule:** Any idea or thing can be split into parts or lumped into a whole.
3. **Relationship Rule:** Any idea or thing can relate to other things or ideas.
4. **Perspectives Rule:** Any thing or idea can be the point or the view of a perspective.<sup>33</sup>

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<sup>32</sup> By democratization of systems thinking, Professors Derek and Laura Cabrera mean that their discovery can empower everyone, “not just the enlightened or privileged.” In their opinion, “to save the planet, solve crises, understand complex systems and their wicked problems, we do not need better scientists who think more systemically, we need better citizens who think systemically.” (Cabrera & Cabrera, 2015)

<sup>33</sup> Cabrera, Derek, and Laura Cabrera. *Systems Thinking Made Simple: New Hope for Solving Wicked Problems*. Second edition. [New York]: Plectica Publishing, 2018.

DSRP Theory provides the basis for a method that structures systemic analysis of any phenomena. Methodologically, one adheres to a simple ruleset. DSRP starts with an initial condition, and runs through the primary, secondary, tertiary, and quaternary possibilities until a stopping rule—determined by perspectives—is reached. It is crucial to highlight that DSRP is not a stepwise process but occurs simultaneously and in different orders. The following schematic shows the DSRP Theory in terms of its methodological approach.<sup>34</sup>



Table 1

DSRP was a helpful theory to narrow the scope of my dissertation and lay an effective plan for the research. I applied DSRP throughout my thesis in a variety of ways. For instance, DSRP facilitated the identification of exhaustive *distinctions* in

<sup>34</sup> Cabrera, Derek. *DSRP Theory as a Method*. (Available at <https://www.plectica.com/maps/HKVJ003OA>; Accessed on May 1, 2020)

the American electoral system. As you will see in the next chapters, DSRP was crucial to identify who has been historically qualified to vote in the United States and to distinguish among the different types of Shosics in the country. It was also helpful to make distinctions between the right to vote and the right to hold office. DSRP also allowed me to differentiate among the different electoral jurisdictions where Shosic enfranchisement should be implemented. It allowed me to make distinctions between the right to vote and the rest of the fundamental rights. Identifying suspect classifications in the United States is necessarily carried out through a process of making distinctions.

Once I identified and narrowed the parts of my research subject to analyze, DSRP allowed me to understand the *relationships* that exist among all the elements of the American electoral system. The analysis of these relationships allowed me to visualize the similarities and differences between Shosics and American citizens, American citizens living abroad, and residents of the U.S. Territories. DSRP also helped me to understand the link between Shosics and the communities where they live. The main argument of this dissertation is that as long as Shosics can demonstrate sufficient relationships to their place of residence, they should be enfranchised. Identifying the relationship between the right to vote and the right to freedom of expression is an essential part of this research as well. Furthermore, the relationship between suspect classifications and fundamental rights with the standards of reviews of courts is crucial to understand the applicability of strict scrutiny on Shosic disenfranchisement cases.

After highlighting the relationships regarding Shosic enfranchisement, I was able to appreciate the complexity and evolution of the American electoral *system* as a

whole. The visualization of the system helped me to show how it can be transformed from a Shosic-disfranchising system into a Shosic-inclusive system.

As soon as I defined and narrowed the electoral system of the United States, I was able to analyze the multiple *perspectives* on Shosic enfranchisement. In the penultimate chapter of this dissertation, I take into account the perspectives of authors who are opposed to Shosic enfranchisement. Such perspective exercise allowed me to imagine the unintended consequences of enfranchising Shosics in the country from one day to another without considering all the perspectives on the topic. Taking into account Ali Noorani's warning from his experience as an immigrant advocate, we should not exert the political powers and rights of Shosics without taking into account the perspective of the broader American public.<sup>35</sup>

This dissertation employs DSRP Systems Thinking because it simplifies the understanding of complex topics such as Shosic enfranchisement. The cherry-picked examples provided in the previous paragraphs explain the methodological implementation of DSRP in my thesis. One must understand, however, that the whole research is a DSRP analysis carefully applied to every section of the dissertation.

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<sup>35</sup> Noorani, Ali. *There Goes the Neighborhood: How Communities Overcome Prejudice and Meet the Challenge of American Immigration*. Amherst, New York: Prometheus Books, 2017.

## Chapter I

### Shosic: *Suffragio et Honorum Sine Civitas*

When I started my research on Shosic enfranchisement, I felt uneasy reading and writing the labels used to refer to residents of the United States who are not American citizens: *aliens, immigrants, foreign nationals, expatriates, and noncitizens*. Language, in my opinion, was perpetuating the stereotypes, negative connotations, and vulnerability of this group of people.

Recent discoveries show how “language shapes even the most fundamental dimensions of human experience: space, time, causality, and relationships to others.”<sup>36</sup> As Lera Boroditsky—assistant professor of cognitive psychology at Stanford University—explains, the empirical evidence that she has collected about language and behavior shows that the way we speak influences the way we think, and vice versa. In her opinion, this discovery has “important implications for law, politics, and education.”<sup>37</sup> For this reason, I devote the first chapter of my dissertation to explaining why the labels currently employed to refer to residents of the United States who are not American citizens are problematic. Moreover, I suggest a new word to substitute the outdated labels currently employed.

### Aliens

Before you continue reading, I have something to confess. I am an alien. I am not from another galaxy or solar system. I was born in Mexico. According to American law, however, those of us who are not American citizens or nationals, are

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<sup>36</sup> Boroditsky, Lera. *How Language Shapes Thought*. Scientific American 304, no. 2 (2011): 62-65. <http://www.jstor.org/stable/26002395>

<sup>37</sup> Boroditsky, Lera. *How Language Shapes Thought*. Scientific American 304, no. 2 (2011): 62-65. <http://www.jstor.org/stable/26002395>

aliens.<sup>38</sup> For many of us, the label “alien” is demoralizing. “An alien is someone from another planet. Someone that is not even human.”<sup>39</sup> When one browses on Google Images the word alien, it is almost impossible to find a picture of someone who resembles an earthling human. It is no wonder why many authors, judges, and communities in the United States oppose to alien suffrage. The word “alien” should be considered an inappropriate and even pejorative way to refer to a resident non-citizen. It may have been appropriate decades ago to call someone an alien, but English, as a language, has moved in a direction which makes it misleading and unsuitable to use that label to refer to any person. For such reason, I decided to avoid the word alien to refer to noncitizens.

Furthermore, alien is a noun and an adjective used to describe someone or something which belongs to another place.<sup>40</sup> *Aliens* may have foreign passports, but they belong to the place where they live. A person who has lived in the same town or country for years is not an alien. They may be described as locals with foreign passports, but they belong to the place where they reside. Hence, the word alien is not only inappropriate, it is also imprecise.

## **Immigrants**

Another popular word among authors to refer to resident noncitizens is *immigrants*. The term immigrant is not wrong, but it is not precise either. Every non-citizen is an immigrant, but not every immigrant is a non-citizen. Immigrants who become naturalized American citizens will always be immigrants regardless of their new citizenship status. Naturalized American citizens had to migrate from their countries of origin to the United States to become U.S. citizens. They will always be

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<sup>38</sup> 8 U.S. Code § 1101.Definitions (3)

<sup>39</sup> Arce, Julissa. *My (Underground) American Dream*; First Edition, Hachette, New York, 2016.

<sup>40</sup> Merriam-Webster. *Alien*. (Available at <https://www.merriam-webster.com/dictionary/alien>; Accessed on January 8, 2020)

immigrants. For instance, Albert Einstein was born a German citizen in 1879. He immigrated to the United States in 1933 and became a naturalized American in 1940.<sup>41</sup> Therefore, Albert Einstein was an immigrant and an American citizen at the same time. For such reason, I will not refer to resident non-citizens as immigrants. It would not be precise.

Moreover, the word immigrant defines “a person who comes to a country to take up residence”<sup>42</sup> As we will see in the following chapters, the country of origin should be an irrelevant qualification to grant the right of suffrage to a person in most of the electoral jurisdictions of the United States. Immigrants cannot be reasonably, and justifiably denied the right to vote in local elections. Hence, I will not refer to the subjects of the study as immigrants.

## **Foreign Nationals**

*Foreign nationals* is only an appropriate label when nationality is an essential suffrage qualification. As we will see in the next chapters, there are multiple electoral jurisdictions in the United States. In most elections—such as school district elections, library district elections, village elections, town elections, city elections, and state elections—nationality seems to be an irrelevant voting qualification. Nationality, however, can play a more important role in the federal jurisdiction where national and international policies are adopted. It seems, in principle, more reasonable to hinder the right of suffrage of Shosics when voting for Congress or President of the United States. Considering that this dissertation focuses on all the elections of the United States, I will avoid the label foreign national. It would be inaccurate.

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<sup>41</sup> Immigration to the United States. *Albert Einstein*. (Available at <https://immigrationtounitedstates.org/473-albert-einstein.html>; Accessed on February 14, 2020)

<sup>42</sup> Merriam-Webster. *Immigrant*. (Available at <https://www.merriam-webster.com/dictionary/immigrant>; Accessed on January 8, 2020)

## **Expatriates (Expats)**

*Expatriate* is an imprecise label to write about the right of suffrage of resident non-citizens for two reasons. First, expatriate is a word with a Latin etymology that means *out of the native country*. The suffix «*ex-*» means out, and the root word «*patria*» means native country. As discussed in previous paragraphs, the country of origin should be an irrelevant voting qualification in most of the electoral jurisdictions of the United States. It should not matter if a person holds a foreign passport when voting in local elections.

Second, we usually employ the words expatriate and immigrant as synonyms. Society, however, made crucial distinctions between these two labels to describe completely different types of people. Expats are generally regarded as white, western immigrants who migrate to a new country voluntarily. An immigrant, on the other hand, is understood as a non-white, poor foreigner who migrates out of necessity. The difference between these words is subtle but critical. Browse expat on Google Images, and you will only find pictures of either successful young people dressed to the nines or retired white people enjoying life in sunny destinations. Search immigrant on the same browser, and you will find photographs of non-white persons defending their most basic rights. Hence, I will avoid the label expatriate because it is imprecise, and because we often employ it in a racist and classist way.

## **Noncitizens**

Finally, I will also avoid the popular label *noncitizens* for three reasons: First, the prefix *non-* of the root word *citizen*, perpetuates a negative connotation and creates unnecessary confusion. For almost a century in the United States, only citizens have



been able to vote and hold office in the country.<sup>43</sup> Hence, when we refer to the right to vote and hold office of a “non-citizen”, it seems to be a linguistically absurd proposition. Citizenship and enfranchisement are two concepts so indissolubly ingrained in our brains that referring to noncitizen suffrage sounds as incompatible as dry-water or non-alcoholic tequila.

Second, in logic, it makes sense to label something for what it is not. For example, if we consider the logic statement, *you are either A or B*, the negation of *A* or *B* becomes *not-A* or *not-B*. Nevertheless, using negations in the law, debates, or even daily conversations creates unnecessary complications. When we label a concept for what it is not, we are limiting expressiveness, vocabulary, and comprehension. It makes sense in logic to refer to *not-A*, but it would be confusing to ask someone for the not-men’s restroom instead of asking for the women’s restroom. In the same regard, it is baffling to write about *noncitizens* instead of referring to them as \_\_\_\_\_ (fill in the blank with a new, precise, and correct word).

Third, as discussed in previous paragraphs, citizenship should be an irrelevant suffrage qualification in most of the electoral jurisdictions of the United States. Citizenship should not matter when voting for local authorities. It may be a relevant requisite when voting for federal authorities, but not in any other electoral jurisdiction.

### **Finding a New Label**

The English language has over one million words and grows at a pace of around 1,000 new words per year.<sup>44</sup> Therefore, it is vital to create a pertinent label for the group of people subject to study in this dissertation.

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<sup>43</sup> See Chapter 3 of this dissertation.

<sup>44</sup> Bodle, Andy. *How New Words are Born*; Published on The Guardian on February 4, 2016; Available at <https://www.theguardian.com/media/mind-your-language/2016/feb/04/english-neologisms-new-words> (Accessed on May 12, 2018)

When I was a law student in Mexico, Roman Law was one of my favorite subjects. One of my professors, who at the time worked as a clerk at the Mexican Supreme Court, said that whenever he faced a hard case, he consulted with the Romans. Not his Italian counterparts, but ancient Roman jurists. He believed that the Romans had already answered many of the questions that we are currently debating in courts.

While trying to find or create a new word to refer to non-citizens, I could not stop listening to my professor's voice saying, "consult with the Romans." That voice made sense, mainly because Romans were among the first societies to have something similar to what we call citizenship, and I thought that maybe they could shed some light on my research. Hence, I immersed myself in Roman Law, and even though I did not find there the exact concept I was looking for, the Roman nuances of citizenship helped me to create a precise, appropriate, and well-rounded label for residents of the United States who are not American citizens: *Shosic*.

Let me explain the reasoning behind the word Shosic.

Unlike American laws, which create a binary distinction between citizens and non-citizens, in Ancient Rome, the inhabitants of the Empire were classified into Roman Citizens, Peregrines, and Latins or *Municipes*.



▼ Inhabitants of the Roman Empire
Roman Citizens
Peregrines
Latins/Municipes

Table 2

Broadly speaking, the *Citizens* were Romans by birth or naturalization who were the exclusive subjects of Roman *Ius Civile*. Pursuant to *Ius Civile*, Roman Citizens, possessed all of the two kinds of rights: 1. public rights (*publica iura*) and 2. private rights (*privata iura*). “The principal public rights embraced membership and voting in the popular assemblies (*ius suffragii*), access to political office (*ius honorum*), the right to serve in the army (*ius militiae*), and the right to appeal from a magistrate to the assembly against sentences involving death or the loss of personal freedom or citizenship (*ius provocationis*). The most important private rights encompassed the right to contract a regular marriage (*ius connubii*), the right to acquire and transfer property according to law (*ius commercii*), the right to create a will or inherit under a Roman will (*ius testamentifatio*), and the right to legal recognition in the courts of law.”<sup>45</sup>

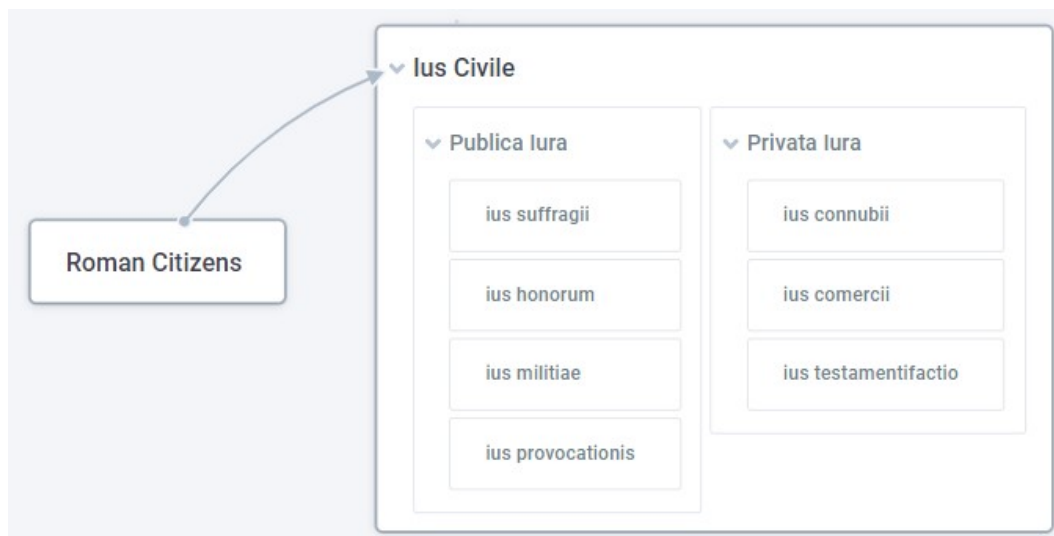


Table 3

The *Peregrines* were foreigners living in Rome who were not subject to Roman *Ius Civile*. Peregrines were subject to *ius gentium*, which was “the body of laws, applicable to non-Roman citizens both in their dealings between themselves and in

<sup>45</sup> Mousourakis, George; *A Legal History of Rome*; p. 22;

those involving Roman citizens.”<sup>46</sup> They did not possess the same rights, duties, and sense of membership that Roman Citizens had.<sup>47</sup>

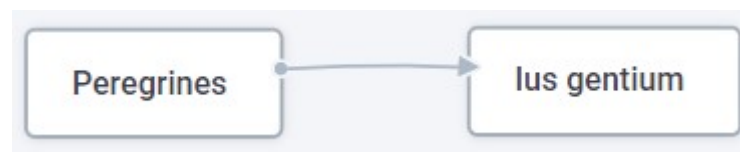


Table 4

The *Latins* (also known as *Municipes*), was an intermediate-term between Citizens and Peregrines.<sup>48</sup> Latins were Non-Romans who possessed some of the same rights and duties as Citizens.<sup>49</sup> Among the different classifications of Latins<sup>50</sup>, the ones that had almost all of the rights from the *Ius Civile*—except for the *ius suffragii* and *ius honorum*—were the *Latini Veteres*.<sup>51</sup> In other words, the *Latini Veteres* were *civitas sine suffragio et honorum*<sup>52</sup>, or citizens without the right to vote or to hold office.



Table 5

<sup>46</sup> Girdvainyte, Lina; *Roman Law, Roman Citizenship, Roman Identity?*; p. 11; Leiden University; 2014; Available at <https://openaccess.leidenuniv.nl/bitstream/handle/1887/29509/MA%20THESIS%20final%20v%20Lina%20Girdvainyte%201254707.pdf?sequence=1> ; (Accessed on July 27, 2018)

<sup>47</sup> Mathisen, Ralph W. *Peregrini, Barbari and Cives Romani: Concepts of Citizenship and the Legal Identity of Barbarians in the Later Roman Empire*; Published on The American Historical Review, Vol. 111, No. 4, (October 2006), p. 1018; Oxford University Press on behalf of The American Historical Association; Available at [http://www.fd.unl.pt/docentes\\_docs/ma/acs\\_MA\\_21421.pdf](http://www.fd.unl.pt/docentes_docs/ma/acs_MA_21421.pdf); (Accessed on May 14, 2018)

<sup>48</sup> Philipson, Coleman; *The International Law and Custom of Ancient Greece and Rome*, Vol. 1; p. 240

<sup>49</sup> Sherwin-White, A. N.; *The Roman Citizenship*; p. 40; Oxford University Press; Oxford, U.K.; Second Edition 1973; First published on 1939.

<sup>50</sup> From the point of view of their origin, Latins were divided into three classes: Latini Veteres, Latini Coloniarii, and the Latini Iunani. See Feig Vishnia, Rachel. *Roman Elections in the Age of Cicero: Society, Government, and Voting*. New York: Routledge, 2012.

<sup>51</sup> The Latini Veteres were the inhabitants of Latio, within the Roman Empire, who were allies of Rome.

<sup>52</sup> SHERWIN-WHITE, A. N.; *The Roman Citizenship*; p. 38; Oxford University Press; Oxford, U.K.; Second Edition 1973; First published on 1939.

If we take a look at the map above, we can see that *Latini Veteres* in Ancient Rome were very similar to resident non-citizens in the United States nowadays. Both enjoy every available right for citizens except for the right to vote and to hold office. That similarity made me think that in the United States, non-citizens should aspire to obtain the *suffragio et honorum sine civitas* or suffrage and office-holding without citizenship. In other words, an enfranchised resident non-citizen in the United States should be named Shosic, which is the semi-acronym for *suffragio et honorum sine civitas*.

Shosic: A new word is born.

*Shosic (noun) [shō -sik]*

1. *A person who has the right to vote and hold office in their place of residence despite not possessing the citizenship of their country of residence.*

### **Delimiting the Concept of Shosics for Purposes of This Thesis**

As stated in the introduction, there are around 17.5 million adult Shosics in the United States who cannot vote. That is almost equivalent to the population of New York.<sup>53</sup> “Many Americans are opposed to the suffrage of Shosics because of the stereotype that Shosics are low wage, uneducated, rural immigrants who do not speak English.”<sup>54</sup> Nevertheless, that is not necessarily the case. There’s a lot of diversity among Shosics. The United States attracts students, professors, entrepreneurs, artists, farmworkers, and a host of talent from all over the world. Some of them came to the

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<sup>53</sup> Statista. *Resident population of the U.S. in 2019, by state (including the District of Columbia)*. (Available at <https://www.statista.com/statistics/183497/population-in-the-federal-states-of-the-us/>; Accessed on February 14, 2020)

<sup>54</sup> Castellanos, Arturo. *Shosics and the Right to Vote*. Cornell Research. Article written by Jackie Swift. Published on November 2018. (Available at <https://research.cornell.edu/news-features/Shosics-and-right-vote>; Accessed on February 14, 2020)

United States because they are world authorities in their respective fields, while others escaped from their countries to save their lives. Some Shosics immigrated to the United States from developed countries while others fled developing economies. Some Shosics are very well-off, while others strive every day to make ends meet. Shosics form a very diverse group of people, and it is important to keep that notion in mind while reading this dissertation.

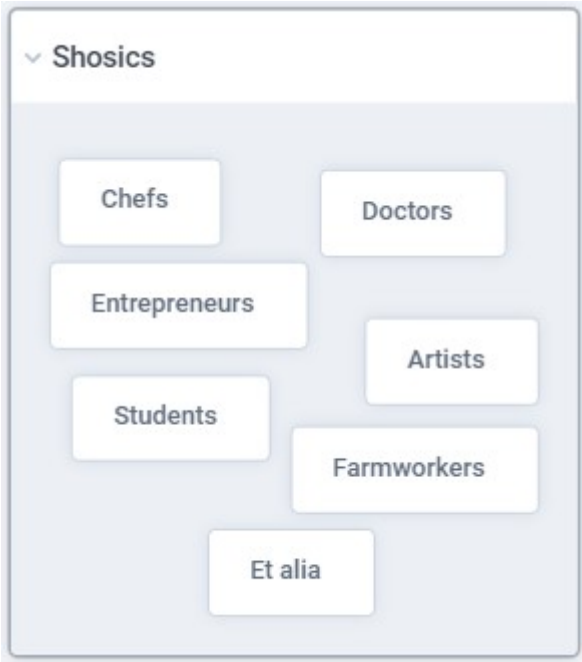


Table 6

Generally speaking, we can classify all these Shosics into two different categories:

- I. Documented Shosics
- II. Undocumented Shosics

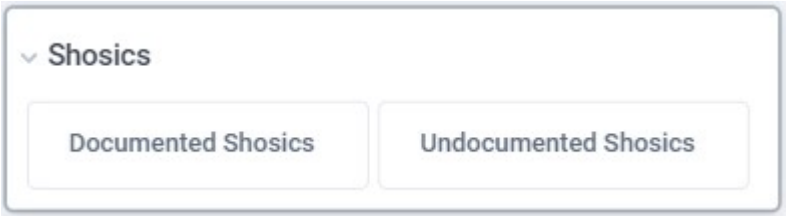


Table 7

Both categories can be subclassified into two different subcategories:

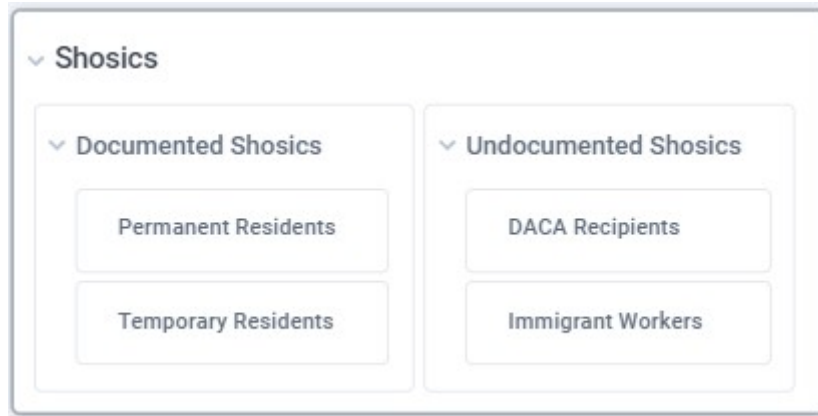


Table 8

## Permanent Residents

Legal Permanent Residents (LPR), also known as *green card holders*, “are immigrants who have been granted lawful permanent residence in the United States but have not yet become U.S. citizens.”<sup>55</sup> “LPRs may live and work permanently anywhere in the United States, own property, and attend schools, colleges, and universities. They may also join the Armed Forces and apply to become U.S. citizens if they meet certain additional eligibility requirements.”<sup>56</sup> “The United States has granted about 10.7 million individuals LPR status in the ten years from 2009 to 2018. Of these, 53 percent were already present in the United States in another status and 47 percent were new arrivals. The largest shares of new LPRs in this period were born in Mexico (14 percent), China (6.9 percent), and India (6.1 percent).”<sup>57</sup>

<sup>55</sup> Baker, Bryan. *Estimates of the Lawful Permanent Resident Population in the United States*: January 2015. U.S. Department of Homeland Security. (Available at [https://www.dhs.gov/sites/default/files/publications/lpr\\_population\\_estimates\\_january\\_2015.pdf](https://www.dhs.gov/sites/default/files/publications/lpr_population_estimates_january_2015.pdf); Accessed on February 14, 2020)

<sup>56</sup> Baugh, Ryan. *U.S. Lawful Permanent Residents: 2018*. U.S. Department of Homeland Security. Published on October 2019. (Available at [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/lawful\\_permanent\\_residents\\_2018.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/lawful_permanent_residents_2018.pdf); Accessed on February 14, 2020)

<sup>57</sup> Baugh, Ryan. *U.S. Lawful Permanent Residents: 2018*. U.S. Department of Homeland Security. Published on October 2019. (Available at [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/lawful\\_permanent\\_residents\\_2018.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/lawful_permanent_residents_2018.pdf); Accessed on February 14, 2020)

## Temporary Residents

Temporary residents, also known as nonimmigrant residents, are foreign nationals admitted into the United States for specific, temporary purposes. As will be explained in the penultimate chapter of this dissertation, the term “temporary” is misleading. “Temporary” Shosics can spend a lifetime in the United States with their “temporary” status. “Examples of such temporary residents include work, study, participation in an exchange program, representing a foreign government or international organization, and accompanying a principal nonimmigrant as an immediate family member or, in some cases, as a member of the principal nonimmigrant’s staff.”<sup>58</sup> “About 2.3 million nonimmigrant workers, students, exchange visitors, and diplomats and other representatives resided in the United States in 2016, up from about 2.0 million in 2015. More than 60 percent of temporary residents in 2016 were citizens of Asian countries (mostly India and China), and about 15 percent each were from Europe and North America (mostly Mexico and Canada). Nearly 50 percent were temporary workers, nearly 40 percent were students, 11 percent were exchange visitors, and the remaining four percent were diplomats and other representatives.”<sup>59</sup>

## Undocumented Shosics

The numbers of undocumented [Shosics] “vary according to the methodology used, and there’s also a lag in the estimates because it takes time for accurate data to become available. The last estimate released by the Office of Immigration Statistics at DHS came in December 2018: As of January 1, 2015, there were 11.96 million

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<sup>58</sup> Baker, Bryan. *Nonimmigrants Residing in the United States: Fiscal Year 2016*. U.S. Department of Homeland Security. Published on March 2018. (Available at [https://www.dhs.gov/sites/default/files/publications/Nonimmigrant\\_Population%20Estimates\\_2016\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/Nonimmigrant_Population%20Estimates_2016_0.pdf); Accessed on February 14, 2020)

<sup>59</sup> Baker, Bryan. *Nonimmigrants Residing in the United States: Fiscal Year 2016*. U.S. Department of Homeland Security. Published on March 2018. (Available at [https://www.dhs.gov/sites/default/files/publications/Nonimmigrant\\_Population%20Estimates\\_2016\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/Nonimmigrant_Population%20Estimates_2016_0.pdf); Accessed on February 14, 2020)



undocumented immigrants in the U.S. The most recent Pew Research estimate puts the total number of unauthorized immigrants at 10.5 million in 2017. Overall, this represents a minority of the foreign-born population, which in 2017 numbered 44.5 million—45% of whom are naturalized citizens, and 27% of whom are lawful permanent residents.”<sup>60</sup>

## DACA

Among the undocumented immigrants, there are 660,880 DACA recipients active as of June 2019.<sup>61</sup> DACA is the acronym for Deferred Action for Childhood Arrivals, a program created by the U.S. Department of Homeland Security (DHS) during the Obama administration that grants temporary permission to stay in the United States to certain undocumented youth who came to the United States as children.<sup>62</sup> “Two states account for 45% of the DACA population: California (188,420) and Texas (100,090). Vermont ranks the lowest with 20 recipients.”<sup>63</sup>

The commonality among permanent residents, temporary residents, and DACA recipients is that they are all vetted by the government of the United States. Therefore, for purposes of this dissertation, the term Shosic will be employed to refer to the Shosics whose residence in the country has been sanctioned—in one way or another—by the U.S. government. Even though undocumented workers undoubtedly have sufficient connections and roots in the United States, this dissertation adopted such a narrow categorization of Shosics in an attempt to find common ground with

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<sup>60</sup> Kamarck, Elaine & Stenglein, Christine. *How many undocumented immigrants are in the United States and who are they?*. Published on November 12, 2019. Brookings Institution. (Available at <https://www.brookings.edu/policy2020/votervital/how-many-undocumented-immigrants-are-in-the-united-states-and-who-are-they/>; Accessed on February 14, 2020)

<sup>61</sup> USA Facts. *How many DACA recipients are there in the United States?* (Available at <https://usafacts.org/articles/how-many-daca-recipients-are-there-united-states/>; Accessed on February 14, 2020)

<sup>62</sup> U.S. Department of Homeland Security. *Deferred Action for Childhood Arrivals (DACA)*. (Available at <https://www.dhs.gov/deferred-action-childhood-arrivals-daca>; Accessed on February 14, 2020)

<sup>63</sup> USA Facts. *How many DACA recipients are there in the United States?* (Available at <https://usafacts.org/articles/how-many-daca-recipients-are-there-united-states/>; Accessed on February 14, 2020)

those opposed to Shosic suffrage.<sup>64</sup> Therefore, whenever this thesis refers to Shosics, it means permanent residents, temporary residents, and DACA recipients.



Table 9

<sup>64</sup> This narrow categorization of Shosics does not imply that undocumented workers should not be allowed to vote at all. From the legal and philosophical perspective suggested in this dissertation, it is possible to argue that all Shosics who can demonstrate sufficient connections and roots to their place of residence should be, in theory, allowed to vote and hold office.

## Chapter II

### Suffrage Qualifications in the United States

Democracy—historically branded as one of America’s strongest pillars—is the rule of the people. One fundamental question, however, is who constitutes *the people* in the United States. “This is no small problem. Before one can judge that a democracy is fair, or adequately responds to citizens’ interests, one needs to know who counts and who does not.”<sup>65</sup> In this chapter, we will discover what groups of people have historically constituted the *demos* of the United States to verify if the country is indeed democratic. Such a review will allow us to determine if reintroducing Shosic enfranchisement in the United States would be in line with the history, ideology, and culture of the nation.

The requirements to vote and to hold office in this country are fluid and continually changing. Since settlers arrived in America, the qualifications of the electorate have evolved to adapt to the economic, social, political, and demographic development of the country. The history of suffrage in the United States is clear evidence that voting qualifications are neither perpetual nor uniform. Far from being carved in stone, they frequently shift left or right to broaden or narrow the *demos*. As Kirk H. Porter argues, “each generation seeks to add a new qualification or restriction and base the right to vote on some new ground.”<sup>66</sup>

On average, state legislatures reform their constitutions every thirty-four years.<sup>67</sup> Furthermore, the Constitution of the United States is amended on average every

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<sup>65</sup> Goodin, Robert.E., 2007, *Enfranchising All Affected Interests, and Its Alternatives*. P. 40. Philosophy and Public Affairs, 35.

<sup>66</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 6) Chicago: University of Chicago Press, 1918

<sup>67</sup> See Appendix 51.

forty-seven years to protect the right of suffrage of specific groups of people.<sup>68</sup> The last constitutional amendment regarding suffrage was almost forty-nine years ago.<sup>69</sup>

This chapter will first review the suffrage qualification theories that have historically supported the enfranchisement and disenfranchisement of particular groups of people in the country. Then, this chapter will study the democratic inclusion theories that explain what groups should constitute *The People*. After reviewing such doctrines, this chapter will present the evolution of the American ideology since European settlers first arrived on the continent. Finally, this chapter will provide a summary of the five big waves of enfranchisement since the United States became an independent nation in 1776.

### **Suffrage Justification Theories**

The right to vote and to hold office in the United States have been limited through history based on questionable distinctions such as ethnicity, sex, religion, income, literacy, age, residence, moral character, mental illness, payment of taxes, polygamy, and sodomy.<sup>70</sup> On the contrary, white, Protestant, Anglo-Saxon men, have always voted in the country. From a philosophical perspective, these voting restrictions and qualifications have always been supported by one of the following two theories:

**1. Theory of Right.-** According to the Theory of Rights, certain persons are inherently qualified to vote and to hold office. For instance, using the Theory of Right, it has been said that specific groups of people have the right to vote because they are

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<sup>68</sup> The Amendments to the Constitution of the United States that protects specific groups of people from being disenfranchised are the First Amendment, Fifteenth Amendment, Nineteenth Amendment, Twenty-Fourth Amendment, and Twenty-Sixth Amendment.

<sup>69</sup> In 1971 the country adopted the Twenty-Sixth Amendment, which forbids legislatures to restrict the right to vote of persons who are at least eighteen years old on account of age.

<sup>70</sup> See Appendices 1-50.

white, or Christians, or because they pay taxes, or simply because they own property.<sup>71</sup>

**2. Theory of the Good of the State.**- According to this theory, the right to vote and to hold office can be denied to specific groups of people as long as it serves the best interests of the State. For instance, under this theory, voters have been excluded from the polls for not being Christians, for being illiterate, for lacking good moral character, or for being *non compos mentis*.<sup>72</sup>

Besides these two commonly accepted theories, I believe there is a third suffrage justification theory that I decided to call the *Theory of Lack of Arguments*. This theory gained strength in the second half of the Twentieth century with the evolution of human rights doctrines across the world. Labeling the right of suffrage as a human right made it more difficult for States to deny it.

**3. Theory of Lack of Arguments.**- This theory argues that everyone has the right to vote and hold office unless there are sufficient and legitimate arguments to exclude them from the elections. It does not matter if a group is perceived as inherently qualified to vote or if their enfranchisement is not directly beneficial for the State. Sometimes, a group of people may have the right of suffrage just because there are no sufficient arguments to disenfranchise them.

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<sup>71</sup> Porter, Kirk H. A History of Suffrage in the United States. (P. 5) Chicago: University of Chicago Press, 1918.

<sup>72</sup> Porter, Kirk H. A History of Suffrage in the United States. (P. 7) Chicago: University of Chicago Press, 1918.

<div> <div> </div> <div>Suffrage Justification Theories</div> </div>
<div> <div> Theory of Right </div> <div>           Certain persons are inherently qualified to vote and hold office. Some traits can automatically enfranchise a person.         </div> </div>
<div> <div> Theory of the Good of the State </div> <div>           The franchise can only be granted or denied to certain groups of people as long as it serves the best interests of the State.         </div> </div>
<div> <div> Theory of Lack of Arguments </div> <div>           The franchise cannot be denied to certain groups of people unless there are sufficient and legitimate arguments to exclude them from the polls.         </div> </div>

Table 10

## Democratic Inclusion Theories

Besides the suffrage justification theories, there are other philosophical theories that attempt to answer the question of who constitutes the *demos* in a democracy. “One might be inclined to say that everyone living under a particular government’s jurisdiction is part of the *the people* and is thus entitled to a vote.”<sup>73</sup> Most countries, however, including the United States, exclude large groups of people from the *demos*. To determine who should constitute *the people*, there are various competing theories. This dissertation presents, first, the most popular and widely accepted theory at the moment, the All Affected Interests Theory. Then, it proposes a novel approach, *The Sufficient Connection Theory*.

<sup>73</sup> López-Guerra, Claudio. *Democracy and Disenfranchisement: the Morality of Electoral Exclusions*. P. 1. First Edition. Oxford, United Kingdom: Oxford University Press, 2014.

## **All Affected Interests Theory**

According to the philosophical All Affected Interests Theory, everyone who is affected by the decisions of a government should have a right to participate in that government.<sup>74</sup> Nonetheless, this principle introduces many questions, particularly about the meaning of “affected.” Recent writings propose three distinct interpretations of the All Affected Interests Theory to solve that question: a) The Affected and Stakeholding Theory, b) The Causally Affected Theory, and c) The Coercion Theory.

### **a) Affected and Stakeholding Theory**

According to the Affected and Stakeholding Theory, “to be affected by the government is to have a stake that is affected, and to have a stake is to put something at risk. An ordinary meaning of what it means to put something at risk is to have made a financial investment. Thus, the people bearing the burdens of taxes are the ones really affected. The battle cry, *No taxation without representation*, that resounded at the time of the American Revolution assumed that an economic stake is a sufficient condition for political rights. The Affected and Stakeholding Theory holds that an economic stake is a necessary condition for political rights and, consequently, forms the basis for a different premise, namely that there should be no representation without taxation.”<sup>75</sup>

### **b) Causally Affected Theory**

According to the Causally Affected Theory, “anyone causally affected by the policies pursued by a government should be granted democratic rights. Laws and public policies can modify the conditions of life of millions of people. Taxes raised or

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<sup>74</sup> Dahl, Robert A., *Democracy and its Critics*. New Haven : Yale University Press, 1989.

<sup>75</sup> Beckman, Ludvig, *The Frontiers of Democracy: The right to vote and its limits*. P. 97. Basingstoke ; New York : Palgrave Macmillan, 2009.

lowered, services provided or eliminated, regulations introduced, or abolished exemplify the variety of ways in which political decisions affect people. Given the scale and significance of government activity, it can hardly be denied that political decisions frequently ignite chains of causes that spill over the borders of nation-states.”<sup>76</sup> In reflecting on this fact, Robert Dahl has gone as far as noting that “South Americans should have a say in U.S. elections, given the fact that its foreign policy is bound to have enormous consequences for them.”<sup>77</sup>

### c) **The Coercion Theory**

Contemporary literature indicates a third potential interpretation of the All Affected Theory that emphasizes the legal sense of affected. The *Coercion Theory* holds that “anyone subject to coercion from a political body ought to have a say.”<sup>78</sup> A person is coerced if she is subject to a legal system regulating some features of her behavior or status. The democratic people is, hence, one that is subject to collectively binding rules and subordinated to government.<sup>79</sup> This theory, however, has been challenged because it may be over-inclusive. The *Coercion Theory*, some argue, “would require that tourists or even enemy combatants be granted a right to vote, as they are also subject to a state’s coercive power.”<sup>80</sup>

### **The Sufficient Connection Theory**

This dissertation suggests a new theory to determine who constitutes *The People* of the United States. I call it *The Sufficient Connections Theory*. This novel theory

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<sup>76</sup> Beckman, Ludvig, *The Frontiers of Democracy: The Right to Vote and its Limits*, P. 101. Basingstoke ; New York : Palgrave Macmillan, 2009.

<sup>77</sup> Dahl, Robert A., *Democracy and its Critics*. New Haven : Yale University Press, 1989.

<sup>78</sup> López-Guerra, Claudio. *Democracy and Disenfranchisement: the Morality of Electoral Exclusions*. P. 4. First Edition. Oxford, United Kingdom: Oxford University Press, 2014.

<sup>79</sup> Beckman, Ludvig, *The Frontiers of Democracy: The right to vote and its limits*, P. 103. Basingstoke ; New York : Palgrave Macmillan, 2009.

<sup>80</sup> Song, S., 2009, *Democracy and Noncitizen Voting Rights?*, P. 13. Citizenship Studies. 2009.



argues that the *demos* is composed by all members of the community who can prove sufficient connections with their place of residence. Regardless of citizenship, any person with enough roots in the place where she lives should be allowed to vote in specific electoral jurisdictions. This theory solves the over-inclusiveness problems of the All Affected Interests Theory. Instead of granting the right of suffrage to anyone affected by the government, the Sufficient Connection Theory suggests enfranchising only those with enough roots in their place of residence. This theory is supported by a reasonability-equation explained in the sixth chapter.

### **Settler Ideology and Political Membership**

Terry Eagleton, an expert on ideological studies, defines *ideology* as the “ideas which help to legitimate a dominant political power.”<sup>81</sup> Understanding the dominant settler ideology is essential to study the evolution of suffrage qualifications in the United States. American history started with an exceptionalist settler ideology that still permeates the requirements to vote in the fifty states of the Union as of 2020.

As Aziz Rana explains in his book *The Two Faces of American Freedom*,<sup>82</sup> when settlers traveled from England to the new world in the seventeenth century, they had three primary purposes: Habitation, plantation, and conversion of heathens to Christianity.<sup>83</sup> As soon as they arrived, they claimed supremacy over indigenous peoples, who were considered savages because they were not Christians and lacked sedentary agriculture. The catastrophic consequence of such interpretation is that savages were regarded by many influential jurists and intellectuals of the time, such as

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<sup>81</sup> Eagleton, Terry. *Ideology: an Introduction*. New and updated ed. London: Verso, 2007.

<sup>82</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 57) Cambridge: Harvard University Press, 2010.

<sup>83</sup> Jacob I. *Virginia Company Royal Charter*. April 10, 1606. In *The Annals of America, 1493-1976*, Bicentennial edition, Chicago, Encyclopaedia Britannica, 1976.

Sir Edward Coke, as *perpetui inimici*, or perpetual enemies.<sup>84</sup> If the conversion of Indian tribes failed—they argued—it was legitimate to engage in permanent war with them.<sup>85</sup> Hence, for most of the XVII century, a man was granted political membership as long as he professed the Protestant faith, had economic independence, and shared an Anglo-Saxon ethnicity.<sup>86</sup>

### **1. Professed Protestant Faith**

Only Protestants enjoyed full political membership. Even though Catholics were Christians, they were deemed unfree and, therefore, not political members. Settlers argued that Catholics were incapable of the independence necessary for autonomous political reflection because they blindly followed the will of the Pope. Therefore, Catholics were excluded from suffrage in Virginia, New York, Maryland, Rhode Island, and South Carolina.<sup>87</sup>

### **2. Had Economic Independence**

Those who did not have property ownership were considered to lack freedom from want. For settlers, property ownership provided the basis for political sovereignty, with landed elites often determining the rights and activities of local inhabitants. This interpretation, founded on John Locke's Second Treatise of Government, justified colonial conquest on agricultural grounds. He made a distinction between savage Indians, who left America as "wild woods of uncultivated

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<sup>84</sup> In words of Terry Eagleton, "dominant powers legitimate themselves by promoting beliefs and values congenial to it; naturalizing and universalizing such beliefs so as to render them self-evident and apparently inevitable; denigrating ideas which might challenge it; excluding rival forms of thought, perhaps by some unspoken but systematic logic; and obscuring social reality in ways convenient." [Eagleton, Terry. *Ideology: an Introduction*. New and updated ed. London: Verso, 2007.]

<sup>85</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 32) Cambridge: Harvard University Press, 2010.

<sup>86</sup> Maymón, Alejandra. *Análisis discursivo de las estrategias de enmascaramiento ideológico de la democracia liberal*. P. 233. Universidad La Salle Mexico. 2018.

<sup>87</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 57) Cambridge: Harvard University Press, 2010.

waste,” and civilized settlers who, through industry and labor, transformed nature into a valuable property.<sup>88</sup>

### 3. Shared Anglo-Saxon ethnicity

Settlers, in general, saw their ancestry as foundational for their status as dominant subjects. While a native could become civilized and Christian through sedentary agriculture and religious conversion, the absence of any link to Britain’s ancestral past would always make his complete inclusion impossible.<sup>89</sup>

### Ideological Expansion of the Settler Empire

By the first half of the XVIII Century, the perception of settlers as a chosen people was well rooted in their minds. This perception, fostered by Puritan clergy, depicted settlers as Israelites and America as the “new promised land, reserved by God for His new chosen people for a new heaven and a new earth.”<sup>90</sup> Such ideology—encapsulated years later in the Manifest Destiny—justified the vision of expanding the settlement empire throughout the continent.<sup>91</sup> In other words, settlers depicted colonial expansion as a world-historical event in the service of God.<sup>92</sup>

Settlers needed to attract laborers to work the land and to protect the colonies against the Indians to achieve such divine expansion. This need for a larger population presented a predicament for the Anglo-Saxon settlers who wanted to bring more people like them from England. The problem was that England was in the midst of the Industrial Revolution, and it was unable to supply by itself the necessary number of

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<sup>88</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 34) Cambridge: Harvard University Press, 2010.

<sup>89</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 59) Cambridge: Harvard University Press, 2010.

<sup>90</sup> Berman, Morris. *Las raíces del fracaso americano*. (p. 24) México. Sexto Piso, 2012.

<sup>91</sup> Dominant ideologies, as Terry Eagleton explains, “rationalize disreputable social motives that prove useful in promoting the unjust interests of a dominant power.” See Eagleton, Terry. *Ideology: an Introduction*. New and updated ed. London: Verso, 2007.]

<sup>92</sup> Maymón, Alejandra. *Análisis discursivo de las estrategias de enmascaramiento ideológico de la democracia liberal*. P. 234. Universidad La Salle Mexico. 2018.

workers and soldiers.<sup>93</sup> Hence, Anglo settlers acceded to foster white immigration from other European communities to solve that predicament. They developed several policies to attract immigrants, such as easy naturalization processes and granting the right to vote and to hold office for aliens as long as they were Christian. Those efforts led to a substantial increase in the non-English population by the mid-eighteenth century.<sup>94</sup> Such demographic transformation led to a relaxation of the political membership qualifications. As long as a man<sup>95</sup> was free, white, Christian (including Catholics), and economically independent, he had the right of suffrage.

### **Suffrage in the Early Years of the United States as an Independent Nation**

The dominant settler ideology did not disappear with the independence of the United States, and it still permeates contemporary suffrage qualifications in the country. Before fast-forwarding to present times, 1776 is an appropriate year from which to start an analysis of the developments of suffrage because it marks the beginning of the United States as an independent country with a history of its own. The ideology at this point in history was that only those who had an interest in the colony should exercise the right of suffrage. The common denominator in the original thirteen states, as the universal and most important voting requirement, was land ownership. “The right to vote was claimed in very much the same way that one person would claim a right to vote as a stockholder in a corporation. Property in the colonies was considered to be a block of stock in the corporation and entitled the holder to vote.”<sup>96</sup> Property holding, however, became insufficient to exercise the right to

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<sup>93</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 56) Cambridge: Harvard University Press, 2010.

<sup>94</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 60) Cambridge: Harvard University Press, 2010.

<sup>95</sup> Women and children were understood as groups with natural incapacities that warranted paternal authority and rendered them unfit for self-rule.

<sup>96</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 3) Chicago: University of Chicago Press, 1918.

suffrage. The population had grown so much that the states imposed new voting restrictions based on residence, religion, ethnicity, and age.<sup>97</sup>

Seven of the thirteen original states maintained a landed-property qualification in which no man could vote unless he owned real estate: Rhode Island, Georgia, North Carolina, New Hampshire, New York, Virginia, and New Jersey.<sup>98</sup>

<div> <div> Rhode Island </div> </div>		
<div> <div>Suffrage Qualifications</div> <div>Real estate valued at forty pounds or which yielded an annual rent of forty shillings.</div> </div>	<div> <div>Alternative</div> <div>N/A</div> </div>	<div> <div>Groups Explicitly Excluded</div> <div>Catholics</div> </div>
<div> <div>Georgia</div> </div>		
<div> <div>Suffrage Qualifications</div> <div> <div>Fifty acres of land</div> <div>Residence in the province for at least six months previous to the election</div> </div> </div>	<div> <div>Alternative</div> <div>N/A</div> </div>	<div> <div>Groups Explicitly Excluded</div> <div>N/A</div> </div>
<div> <div>North Carolina</div> </div>		
<div> <div>Suffrage Qualifications</div> <div> <div>Fifty acres of land</div> <div>Residence in the province for at least six months previous to the election</div> </div> </div>	<div> <div>Alternative</div> <div>N/A</div> </div>	<div> <div>Groups Explicitly Excluded</div> <div>N/A</div> </div>

<sup>97</sup> McKinley, Albert E. 1870-1936. *The Suffrage Franchise in the Thirteen English Colonies in America*. United States: For the University, 1905.

<sup>98</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 4) Chicago: University of Chicago Press, 1918.



South Carolina		
Suffrage Qualifications	Alternative	Groups Explicitly Excluded
One hundred acres of unsettled land on which he paid taxes	Settled plantation	Non-Protestants
	Town house and a lot worth sixty pounds on which he paid taxes	
	Pay taxes amounting to ten shillings per year	

Table 12

The remaining five colonies—Massachusetts, Connecticut, Maryland, Delaware, and Pennsylvania—allowed the substitution of personal property for real estate.<sup>100</sup>

Massachusetts		
Suffrage Qualifications	Alternative	Groups Explicitly Excluded
Real estate yielding an annual income of forty shillings	Personal property worth forty pounds	N/A

Connecticut		
Suffrage Qualifications	Alternative	Groups Explicitly Excluded
Real estate yielding an annual income of forty shillings	Personal property worth forty pounds	N/A

Maryland		
Suffrage Qualifications	Alternative	Groups Explicitly Excluded
Fifty acres of land	Personal property worth forty pounds	Catholics

<sup>100</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 9) Chicago: University of Chicago Press, 1918.

<div> <div>▼ Delaware</div> <div> <div> <div>▼ Suffrage Qualifications</div> <div> <div>Fifty acres of land with twelve acres cleared and improved</div> <div>Residence of two years in the province.</div> </div> </div> <div> <div>▼ Alternative</div> <div>Personal property worth forty pounds and residence of two years in the province</div> </div> <div> <div>▼ Groups Explicitly Excluded</div> <div>N/A</div> </div> </div> </div>		
<div> <div>▼ Pennsylvania</div> <div> <div> <div>▼ Suffrage Qualifications</div> <div>Fifty acres of land</div> </div> <div> <div>▼ Alternative</div> <div>Personal property worth fifty pounds</div> </div> <div> <div>▼ Groups Explicitly Excluded</div> <div>N/A</div> </div> </div> </div>		

Table 13

As we can see, the early years of American democracy were more oligarchic than democratic.<sup>101</sup> In Platonic terms, the American Government was a “regime founded on a property assessment in which the rich ruled and the poor had no part.”<sup>102</sup> It did not matter who was better qualified to vote or hold office. The right of suffrage was simply based on a property qualification. If Plato had lived during the American Revolutionary War, he might have questioned the American governing system in the following terms:

“How would it be, if the captain of a ship were appointed on a property qualification, and a poor man could never get a command, though he might know much more about seamanship? The voyage would be likely to end in disaster.”<sup>103</sup>

<sup>101</sup> The early years of the American suffrage qualifications resembled those of Ancient Rome, where only men whose possessions were assessed above 400,000 sesterces could vote and compete for the various positions of power. See Feig Vishnia, Rachel. *Roman Elections in the Age of Cicero: Society, Government, and Voting*. (124) New York: Routledge, 2012.

<sup>102</sup> Sikkenga, J. *Plato's Examination of the Oligarchic Soul in Book Viii Of The "Republic"*. History of Political Thought 23, no. 3 (2002). P. 381.

<sup>103</sup> Plato. *Republic*. Chapter XXX. P. 275. Edited by C. J. Emlyn-Jones and William. Preddy. Cambridge, MA: Harvard University Press, 2013.



## Five Waves of Enfranchisement in the United States

There are countless books and papers about the history of suffrage in the United States. This dissertation will not explore in detail all the historical episodes that shaped the American vote in 244 years of history. This thesis will briefly mention the five enfranchisement waves that granted suffrage to large portions of the population. Alexander Keyssar—leading scholar on suffrage history in the United States—identifies in his famous book, *The Right to Vote*, five waves of enfranchisement in the history of the country. Keyssar argues that “at the nation’s founding, the franchise was sharply restricted, but thereafter one group of citizens after another acquired the right to vote. Most propertyless white men were enfranchised during the first half of the nineteenth century; then came African Americans; then women; the African Americans again; and finally, eighteen-year-olds.”<sup>104</sup> At the end of this thesis, in the appendices section, the reader can find the most thorough compilation of suffrage qualifications in the fifty states of the Union since the United States gained its independence in 1776. Such compilation will hopefully save hours of research for future writers on the topic.<sup>105</sup>

### A. Enfranchising the Propertyless

The end of the eighteenth century saw the end of the old settler principle “that suffrage should only go with ownership of real estate.”<sup>106</sup> “Between the end of the American Revolution and the beginning of the Civil War, the economic and class lines that had so clearly circumscribed the electorate in the eighteenth century became

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<sup>104</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. XVIII. New York: Basic Books, 2000.

<sup>105</sup> See Appendices 1-50.

<sup>106</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 11) Chicago: University of Chicago Press, 1918.

blurred, even indistinct.”<sup>107</sup> New states as they entered the Union, “seemed to fit into the general scheme of voting requirements without disturbing the gradual, normal expansion of suffrage. The constitutions of incoming states squared up with the new constitutions of the old states.”<sup>108</sup> The landed property as a precondition to voting changed to taxpaying and residence requirements among the first states of the Union.

## **B. Enfranchisement of African Americans**

The Civil War, fought between the Confederate States and the Union over the issue of slavery, forced a national debate on the question of black voting rights.<sup>109</sup> In the conclusion of the war, in 1865, “only five states, all in New England (Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island), permitted blacks to vote on the same basis as white; a sixth, New York, enfranchised African Americans who met a property requirement.”<sup>110</sup> It was not until March 30, 1870, that the United States—through the adoption of the Fifteenth Amendment—granted the right to vote to all male African Americans in the country. The Fifteenth Amendment is straightforward, merely forbidding any state to deny suffrage on account of color, race, or previous condition of servitude.

## **C. Women’s Enfranchisement**

The women’s suffrage movement in the United States formally initiated in 1848, with a convention held in Seneca Falls, New York. “For the first time in an organized public setting, women found their voices and directed their attention to the injustices that for centuries had defined and circumscribed their lives. Here, a group of women

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<sup>107</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. 29. New York: Basic Books, 2000.

<sup>108</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 14) Chicago: University of Chicago Press, 1918.

<sup>109</sup> Cimbala, Paul A. *The Civil War*. Westport, Conn.: Greenwood Press, 2008.

<sup>110</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. 88. New York: Basic Books, 2000.

insisted that they were men's equal"<sup>111</sup> and demanded the right of suffrage. Today, no one questions the right of American women to vote and hold office. In 1848, however, these were very revolutionary demands. The Seneca Falls Convention was crucial for the women suffrage movement because it led, thirty years later, to the introduction of a constitutional amendment in Congress protecting women's full suffrage. The Amendment spent forty-two years in the freezer waiting for its ratification until its adoption on August 18, 1920.<sup>112</sup> Surprisingly, even by 1918, only fourteen states allowed full women's suffrage in the country (Arizona, California, Colorado, Idaho, Kansas, Montana, New York, Nevada, Oregon, Utah, Washington, and Wyoming.)<sup>113</sup>

#### **D. Enfranchisement of African Americans (Elimination of poll taxes and literacy tests)**

As the U.S. Constitution strengthened its protection of more groups of people from disenfranchisement, the state legislatures came up with "creative" ways of excluding minorities from the polls. As of 1940, there were more than fifty reasons to disqualify American citizens from voting.<sup>114</sup> Such restrictions, which included poll taxes and literacy tests, were created to disenfranchise African Americans without openly violating any constitutional provision. Poll taxes, on the one hand, "began in the 1890s as a legal way to keep African Americans from voting in southern states. Eligible voters were required to pay their poll tax before they could cast a ballot. A grandfather clause, however, excused poor whites from payment if they had an ancestor who voted

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<sup>111</sup> McMillen, Sally. *Seneca Falls and the Origins of the Women's Rights Movement*. P. 87. Cary: Oxford University Press USA - OSO, 1999. Accessed February 26, 2020. ProQuest Ebook Central.

<sup>112</sup> See Buhle, Paul, Mari Jo Buhle, and Elizabeth Cady Stanton, eds. *The Concise History of Woman Suffrage: Selections from the Classic Work of Stanton, Anthony, Gage, and Harper*. Urbana: University of Illinois Press, 1978.

<sup>113</sup> Women's Suffrage, 1918 United States. Santa Barbara: Maps.com, 1999. Accessed February 26, 2020. ProQuest Ebook Central.

<sup>114</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. 226. New York: Basic Books, 2000.

before the Civil War, but there were no exemptions for African Americans.”<sup>115</sup> To stop the dishonest imposition of poll taxes, the United States adopted in 1964 the Twenty-Fourth Amendment to the Constitution, which explicitly prohibits them.<sup>116</sup>

Literacy tests, on the other hand, took advantage of the low literacy rates among African Americans. In that regard, various states required voters to read and write passages of the Constitution in English before they could be registered as electors. To prevent such deceitful voting requirements, the U.S. Congress passed the Voting Rights Act (VRA) of 1965, which banned literacy tests as a prerequisite to register to vote.<sup>117</sup> “Not surprisingly, six southern states (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia) challenged the core provisions of the VRA, arguing that they exceed the powers of Congress and encroach on an area reserved to the states by the Constitution.”<sup>118</sup> The Supreme Court, however, refused that challenge in 1966 in *South Carolina v. Katzenbach*, concluding that the disputed features of the VRA “are a valid means for carrying out the commands of the Fifteenth Amendment.”<sup>119</sup>

## E. Enfranchisement of Eighteen-Year-Olds

While the debate over granting the vote to eighteen-year-old citizens was long-standing, “it gained impetus in the 1950s and 1960s—particularly in the wake of the Korean and Vietnam Wars. The peacetime draft under the Selective Service Act

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<sup>115</sup> National Museum of American History. *Poll Taxes*. (Available at <https://americanhistory.si.edu/democracy-exhibition/vote-voice/keeping-vote/state-rules-federal-rules/poll-taxes>; Accessed on February 26, 2020.)

<sup>116</sup> National Museum of American History. *Poll Taxes*. (Available at <https://americanhistory.si.edu/democracy-exhibition/vote-voice/keeping-vote/state-rules-federal-rules/poll-taxes>; Accessed on February 26, 2020.)

<sup>117</sup> U.S. Department of Justice. *Section 4 of the Voting Rights Act*. (Available at <https://www.justice.gov/crt/section-4-voting-rights-act>; Accessed on February 26, 2020)

<sup>118</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. 216. New York: Basic Books, 2000.

<sup>119</sup> *South Carolina v. Katzenbach*, 383 U.S. 301 (1966)

inducted, for the most part, males right out of high school.”<sup>120</sup> The argument was that, while these young men were obligated to serve in the military and were considered mature enough to participate in warfare, they still did not have the right of suffrage.

To address the issue, Congress passed an amendment to the VRA in 1970 mandating the lowering of the voting age to eighteen in federal, state, and local elections. The amendment was challenged almost immediately. The Supreme Court in *Oregon v. Mitchell*<sup>121</sup> held that Congress was within its rights—under the Equal Protection Clause of the Fourteenth Amendment—in lowering the age to eighteen years in federal elections, but not in local and state elections.<sup>122</sup>

One year later, Congress proposed an amendment to the Constitution to solve such discrepancy making the voting age of eighteen a uniform standard in federal, state, and local elections. In a record time of slightly more than three months, the Twenty-Sixth Amendment was adopted on June 30, 1971.<sup>123</sup>

### **Pending Enfranchisement**

Shosics, minors, felons, persons experiencing homelessness, and *non compos mentis* are among the many categories of groups still hindered from the right of suffrage in the United States.<sup>124</sup> There is a growing literature dealing with the exclusion of these groups from the polls.<sup>125</sup> All these categories deserve thorough research, which would be impossible to present in this dissertation. As explained in the

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<sup>120</sup> Hylton, Raymond Pierre. 2019. *Twenty-Sixth Amendment*. Salem Press Encyclopedia.

<sup>121</sup> *Oregon v. Mitchell*, 400 U.S. 112 (1970)

<sup>122</sup> Keyssar, Alexander. *The Right to Vote: the Contested History of Democracy in the United States*. P. 216. New York: Basic Books, 2000.

<sup>123</sup> Peltason, J. W. *Understanding the Constitution*. New York: Holt, Rinehart and Winston, 1985.

<sup>124</sup> See Appendices 1-50.

<sup>125</sup> See e.g., Holloway, Pippa. *Living in Infamy: Felon Disenfranchisement and the History of American Citizenship*. Oxford: Oxford University Press, 2014; Beckman, Ludvig, *The Frontiers of Democracy: The right to vote and its limits*, Basingstoke ; New York : Palgrave Macmillan, 2009.

introduction, this thesis focuses exclusively on voting rights of Shosics, who cannot vote in the United States on account of their citizenship.

## **Chapter III**

### **Citizenship and Nationality in the United States**

Shosics do not have the right of suffrage in virtually any electoral jurisdiction of the United States because they are not American citizens. Even though the right to vote does not spring from American citizenship,<sup>126</sup> Shosics are disenfranchised all over the country for lacking that specific qualification. Before analyzing the pertinence and legality of enfranchising or disenfranchising a group of people based on nationality and citizenship, it is essential to understand what do nationality and citizenship mean. The distinction seems obvious, but these concepts are surprisingly confusing. Understanding the elements and differences of both concepts will allow us to make more solid arguments about the reasonability, necessity, and proportionality of Shosic enfranchisement.

This chapter starts by exploring the history and evolution of the concepts of citizenship and nationality in the United States. Then, it will briefly review how a person can become an American citizen. Finally, this chapter will highlight the differences between Shosics and American citizens residing in the United States, American citizens living abroad, and residents of the U.S. Territories.

#### **Evolution of Citizenship and Nationality**

The concept of citizenship "first arose in towns and city-states of ancient Greece, where it generally applied to property owners but not to women, slaves, or the poorer

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<sup>126</sup> *Pope v. Williams*, 193 U.S. 621 (1904)

members of the community.”<sup>127</sup> In other words, one could be an Athenian without being a citizen. “A good deal of evidence from the classical age suggests that Athenians did consider their citizenship something very valuable.”<sup>128</sup> Aristotle, in his emblematic *Politics*, provided one of the first definitions of a citizen. The citizen, in Aristotle’s words, is a person who “participates in the administration of justice and the offices of government.”<sup>129</sup> Aristotle’s definition of the citizen was as relevant 2,300 years ago as it is today. During Ancient Greek times, the word citizen was “understood in different senses.”<sup>130</sup> It was as common then, as it is today, to confuse citizenship and nationality. Citizenship involved “partaking in deliberation and decision”<sup>131</sup> in the city, while nationality was just a “virtue of residence in one place.”<sup>132</sup>

Nowadays, citizenship and nationality are two intertwined concepts that are commonly used indistinctly in the United States.<sup>133</sup> The two terms, however, are very different. Both concepts derive from Latin words, but their meaning is not even similar. «*Civitas*», on the one hand, means *city*.<sup>134</sup> «*Nasci*», on the other, means *born in*.<sup>135</sup> For a long time in early American history, the difference between these words was evident. According to various dictionaries of the early XIX century— including Webster’s—a citizen was defined “as someone entitled to vote and to hold office.”<sup>136</sup>

<sup>127</sup> Manville, Philip Brook. *The Origins of Citizenship in Ancient Athens*. Princeton, New Jersey: Princeton University Press, 1990. Accessed February 26, 2020.

<sup>128</sup> Manville, Philip Brook. *Introduction: What was Athenian Citizenship? In The Origins of Citizenship in Ancient Athens*, 3-34. PRINCETON, NEW JERSEY: Princeton University Press, 1990. Accessed February 26, 2020.

<sup>129</sup> Aristotle. *Politics. Book III*. Chapter 1. P. 2. (Translated by Immanuel Bekker in 1877; Longmans; London)

<sup>130</sup> Aristotle. *Politics. Book III*. Chapter 1. P. 1. (Translated by Immanuel Bekker in 1877; Longmans; London)

<sup>131</sup> Aristotle. *Politics. Book III*. Chapter 1. P. 12. (Translated by Immanuel Bekker in 1877; Longmans; London)

<sup>132</sup> Aristotle. *Politics. Book III*. Chapter 1. P. 1. (Translated by Immanuel Bekker in 1877; Longmans; London)

<sup>133</sup> There are many other countries who clearly differentiate between citizenship and nationality. In Mexico, for instance, Mexican citizenship is granted exclusively to Mexican nationals who are at least eighteen years old and have an honest way of living. (Mexican Constitution; Article 34)

<sup>134</sup> Online Etymology Dictionary. *Citizen (n.)*. (Available at <https://www.etymonline.com/word/citizen>; Accessed on February 14, 2020).

<sup>135</sup> Online Etymology Dictionary. *Nation (n.)* (Available at <https://www.etymonline.com/word/nation>; Accessed on February 14, 2020)

<sup>136</sup> Keyssar, Alexander. *The Right to Vote: The Contested History of Democracy in the United States* (p. 180). New York: Perseus Books, LLC, 2000.



That definition resembled Aristotle's notion of citizenship. Nationality, on the other hand, was a trait that meant belonging to a country.

For most of America's history, the right to vote has not been an exclusive prerogative for American nationals. Shosics have been allowed to vote in the following thirty-three states of the Union:

Georgia (1777-1789 & 1868-1877); Indiana (1851-1921); Illinois (1848-1870); Missouri (1865-1924); Alabama (1867-1901); Arkansas (1874-1920); Texas (1876-1921); Florida (1868-1894); Wisconsin (1848-1912); Minnesota (1857-1896); Oregon (1859-1914); Kansas (1861-1918); Nebraska (1867-1920); Colorado (1876-1902); Montana (1889-1894); North Dakota (1889-2018)<sup>137</sup>; South Dakota (1889-1918); New Hampshire (1776-Present)<sup>138</sup>; South Carolina (1776-1790); Virginia (1776-1851); New Jersey (1776-1844); Delaware (1776-1831); Pennsylvania (1776-1790); Maryland (1776-1809); North Carolina (1776-1857); New York (1777-1821); Massachusetts (1780-1820); Connecticut (1702-1818)<sup>139</sup>; Rhode Island (1767-1842); Vermont (1791-1793); Tennessee (1796-1834); Ohio (1803-1851); and Michigan (1850-1908).<sup>140</sup>

In other words, Shosics were able to vote in two-thirds of the fifty states of the Union for 148 years (1776-1924). That period represents sixty percent of America's history as an independent nation. Shosic enfranchisement was possible because the United States, for a long time, incentivized European immigration to the country. One of the hooks to attract European immigrants was to grant them the right of suffrage. Hence, these immigrants had full social and political membership. This novel kind of

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<sup>137</sup> 2018 is not a typo. Even though foreign nationals were *de facto* excluded from the right of suffrage in North Dakota, the state did not amend its constitution until 2018 to implicitly exclude non-citizens from the right to vote.

<sup>138</sup> The Constitution of New Hampshire grants the right to vote to every inhabitant of the state of eighteen years of age and upwards. It does not mention anything about citizenship.

<sup>139</sup> The state of Connecticut operated under its colonial charter from 1662 until it adopted its first constitution in 1818.

<sup>140</sup> See Appendices 1-50

political membership—called *free citizenship* by Aziz Rana<sup>141</sup> or *intending citizenship* by Hiroshi Motomura<sup>142</sup>—enjoyed full political participation through suffrage. *Free citizenship*, however, was not available for all immigrants. It was granted exclusively to white European immigrants who declared their intention to eventually becoming American citizens. As Aziz Rana explains,

“[A] European *alien* could often live as a *free citizen* in the United States even before naturalization, while subject groups such as nonslave blacks may have been formally defined as citizens but were legally denied the basic conditions for self-rule. In essence, free citizenship was extended on the basis of ethnicity to co-participants in a settler project of expansion, while colonized groups—regardless of their legal status as citizens—were organized through long-standing modes of imperial subjectship.”<sup>143</sup>

Among the many economic and political privileges that *intending citizens* possessed, Hiroshi Motomura argue, was the right to vote, diplomatic protection from the U.S. government, and complete rights to land ownership.<sup>144</sup>

The distinction between *free citizens* and U.S. nationals divided the opinions of the country during the XIX century. On the one hand, Midwestern states such as Michigan, Indiana, Wisconsin, Illinois, and Minnesota wanted to attract as many *free citizens* as possible to work the vast uncultivated tracts of land awaiting exploitation. “The economic interests of the undeveloped country demanded the presence of

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<sup>141</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 115) Cambridge: Harvard University Press, 2010.

<sup>142</sup> Motomura and Hiroshi. *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (p. 8). US: Oxford University Press, 2006;2007;.

<sup>143</sup> Rana, Aziz. *The Two Faces of American Freedom*. (p. 115) Cambridge: Harvard University Press, 2010.

<sup>144</sup> Motomura and Hiroshi. *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (p. 9). US: Oxford University Press, 2006;2007;.

foreign laborers, and to offer them the elective franchise very soon after their arrival seemed to be an effective way of attracting them.”<sup>145</sup>

On the other hand, some American citizens of northeastern states disliked the idea of sharing the right of suffrage with foreign nationals.<sup>146</sup> The opposition to foreigners exercising the right of suffrage—Kirk Porter argues—reached its highest point in 1847 with the formation of the Native-American Party, commonly known as the Know-Nothing Party.<sup>147</sup> Patriotism and anti-Catholic prejudice sparked the ideology of the party. The Know-Nothings “wanted only native Americans to participate in the government and were particularly bitter against Irish Catholics.”<sup>148</sup> The Know-Nothing movement lost traction during the Civil War, and the dissolution of the party left *free-citizen* suffrage practically went unnoticed until the XX century.

The first time that the United States government legally defined who were American citizens was in 1866 through the Civil Rights Act of that year.<sup>149</sup> The most relevant provision of the Act reads:

“All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit

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<sup>145</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 182) Chicago: University of Chicago Press, 1918.

<sup>146</sup> Keyssar, Alexander. *The Right to Vote: The Contested History of Democracy in the United States* (p. 51). New York: Perseus Books, LLC, 2000.

<sup>147</sup> “They were called Know-Nothings because when questioned it was their habit to answer *I know nothing*.” Porter, Kirk H. *A History of Suffrage in the United States*. (P. 115) Chicago: University of Chicago Press, 1918.

<sup>148</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 115) Chicago: University of Chicago Press, 1918.

<sup>149</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 182) Chicago: University of Chicago Press, 1918.

of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.”<sup>150</sup>

Two years later, in 1868, the United States ratified the Fourteenth Amendment to the U.S. Constitution, which also defined citizenship. The Fourteenth Amendment reads as follows:

“Section 1.

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 laws.”

Both the Civil Rights Act of 1866 and the Fourteenth Amendment gave emphatic expression to the nature of citizenship. “They meant in plain language that [all nationals] were citizens without taking oaths or passing literacy tests. They actually were citizens by virtue of being born.”<sup>151</sup>

These legal definitions did not immediately hinder *free citizens*’ right of suffrage. *Free citizens* were allowed to vote in the United States until 1924 when Missouri repealed the last law allowing non-citizen voting.<sup>152</sup> As a consequence of that

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<sup>150</sup> Civil Rights Act of 1866. [S.I.]: Great Neck Publishing, 2017.

<sup>151</sup> Porter, Kirk H. *A History of Suffrage in the United States*. (P. 182) Chicago: University of Chicago Press, 1918.

<sup>152</sup> Motomura and Hiroshi. *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (p. 9). US: Oxford University Press, 2006;2007;.

restriction, the once clear difference between nationals and citizens became blurry. Nowadays, citizens and nationals are frequently used indistinctly. There are still, however, subtle but relevant differences between these two concepts: As a general rule, every American citizen is a U.S. national, but not every U.S. national is an American citizen.<sup>153</sup> For instance, American Samoans and residents of Swains Islands are U.S. nationals, but not American citizens.<sup>154</sup>

The differences between citizenship and nationality are so blurry that even the legal texts and primary dictionaries of the United States seem confused. They appear to define *citizen* with the definition of *national* and *national* with the definition of *citizen*.<sup>155</sup> (See figure below) Such lexical mix-up creates the first obstacle to Shosic enfranchisement.

Citizen & National Definitions	
Legal Definitions	Merriam-Webster Definitions
<p><b>Citizen</b></p> <p>"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"</p>	<p><b>Citizen</b></p> <p>1: an inhabitant of a city or town 2: a member of a state</p>
<p><b>National</b></p> <p>"An individual who owes his sole allegiance to the United States, including all U.S. citizens, and including some individuals who are not U.S. citizens."</p>	<p><b>National</b></p> <p>1: one that owes allegiance to or is under the protection of a nation without regard to the more formal status of citizen or subject</p>

Table 14

<sup>153</sup> 8 U.S.C. § 1401

<sup>154</sup> 8 U.S. Code § 1101. (a) (29)

<sup>155</sup> **I. Sources of legal definitions:**

A) Citizen.- Fourteenth Amendment to the U.S. Constitution

B) National.- IRS. Immigration Terms and Definitions Involving Aliens (Available at <https://www.irs.gov/individuals/international-taxpayers/immigration-terms-and-definitions-involving-aliens>; Accessed on December 5, 2019)

**II. Sources of popular definitions:**

A) Citizen.- Merriam-Webster Dictionary (Available at <https://www.merriam-webster.com/dictionary/citizen>; Accessed on December 5, 2019)

B) National.- Merriam-Webster Dictionary (Available at <https://www.merriam-webster.com/dictionary/national>; Accessed on December 5, 2019)

## Citizenship as a Suffrage Qualification

Contrary to what some people may think, according to the Supreme Court, the right to vote in the United States does not spring from American citizenship.<sup>156</sup> Nevertheless, since 1924 no state legislature has granted the right to vote to Shosics. The reason why Shosics cannot vote in most of the electoral jurisdictions of the United States is that they are not American citizens. Therefore, before making any conclusions about the pertinence and legality of restricting suffrage based on nationality or citizenship, it is essential to understand how a person becomes an American citizen. Understanding that process will provide valuable insights to make robust arguments about the reasonability, necessity, and proportionality of denying the right to vote to Shosics based on nationality.

## Becoming an American Citizen

In the United States, there are only two ways to become an American citizen: by birth or by naturalization. American citizenship by birth only sprouts through one of two legal principles: *jus soli*<sup>157</sup> or *jus sanguinis*<sup>158</sup>.

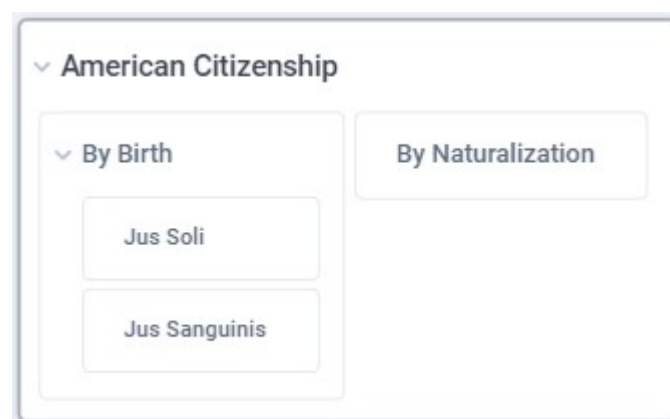


Table 15

<sup>156</sup> *Pope v. Williams*, 193 U.S. 621 (1904)

<sup>157</sup> Fourteenth Amendment to the U.S. Constitution

<sup>158</sup> Collins, Kristin A. *Illegitimate borders: jus sanguinis citizenship and the legal construction of family, race, and nation*. Yale Law Journal, May 2014, 2134+. Gale Academic Onefile (accessed December 4, 2019)

*Jus soli*, from the Latin etymology «*jus*» (law) «*soli*» (of soil), is the birthright to nationality or citizenship acquired by being born within the borders of a country.<sup>159</sup> In the United States, the Fourteenth Amendment to the Constitution of the United States enshrines *jus soli*.<sup>160</sup> Hence, any person who is born in the United States is automatically an American citizen, regardless of the nationality or citizenship of their parents.<sup>161</sup>

*Jus sanguinis*, from the Latin etymology «*jus*» (law) «*sanguinis*» (of blood), is the birthright to the same nationality or citizenship of the parents regardless of the place of birth. In the United States, the *jus sanguinis* of children born to American parents outside the United States is governed by a complex set of statutes. When the parents of the newborn are married, the child immediately adopts the nationality of either parent. When the parents are unmarried, however, the laws “encumber citizenship transmission between the father and his child, while providing nearly automatic citizenship transmission between an American mother and her child. In three constitutional challenges to the gender-based regulation of parent-child citizenship transmission (*Miller v. Albright*<sup>162</sup>, *Nguyen v. INS*<sup>163</sup>, and *Flores-Villar v. United States*<sup>164</sup>), the Supreme Court upheld these distinctions while laboring to explain why Congress has drawn such sharp lines between the nonmarital children of American mothers and fathers.”<sup>165</sup> This obsolete and gender-biased regulation follows the longstanding common law doctrine of *partus sequitur ventrem*, or literally,

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<sup>159</sup> Slama, Serge. *Jus Soli, Jus Sanguinis, Integral and Complementary Principles of the Republican Tradition* "Pouvoirs - Revue Française d'études Constitutionnelles Et Politiques 2017/01, no. 160 (2017): 19-34.

<sup>160</sup> Menzel, Annie. *Birthright Citizenship and the Racial Contract: The United States' Jus Soli Rule Against the Global Regime of Citizenship*. Du Bois Review 10, no. 1 (Spring, 2013): 29-58.

<sup>161</sup> IRS; *Immigration Terms and Definitions Involving Aliens* (Available at <https://www.irs.gov/individuals/international-taxpayers/immigration-terms-and-definitions-involving-aliens>; Last updated on August 26, 2019; Accessed on December 4, 2019)

<sup>162</sup> *Miller v. Albright*, 523 U.S. 420 (1998)

<sup>163</sup> *Nguyen v. INS*, 533 U.S. 53 (2001)

<sup>164</sup> *Flores-Villar v. United States*, 564 U.S. 210 (2011)

<sup>165</sup> Collins, Kristin A. *Illegitimate Borders: Jus sanguinis citizenship and the legal construction of family, race, and nation*. Yale Law Journal, May 2014. Gale Academic Onefile (Accessed on December 4, 2019).

offspring follows womb.<sup>166</sup> Such doctrine originally dealt with the status of children born from enslaved mothers,<sup>167</sup> but it is now used as an excuse to deny U.S. citizenship to the children of unmarried male Americans living abroad.

Naturalization, on the other hand, is how a person who is not born an American citizen, voluntarily becomes a U.S. citizen. As a general rule, any applicant seeking naturalization in the United States must prove that she has been a permanent resident in the United States with a Green Card for at least five years, be able to read, write, and speak basic English, have a basic understanding of American civics, and be of good moral character.<sup>168</sup>

### **Differences Between Shosics and American Citizens**

Contrary to what some people might think, granting political rights to Shosics would not downgrade the value of citizenship. American citizenship would continue playing a vital role in defining personal and legal identity. It would not only continue being a factor in how Americans perceive themselves, but it also would continue entailing legal rights and duties that are available exclusively to American citizens. This dissertation presents the following non-exhaustive list of eleven differences between Shosics and American Citizens:

1. Only American citizens are eligible to obtain an American passport with all the privileges that come with it. According to the Global Passport Power Rank 2020, the American passport is tied in third place among the most powerful passports in the world for its total visa-free score. American citizens can visit 118 countries

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<sup>166</sup> Morgan, Jennifer L. *Partus sequitur ventrem: Law, Race, and Reproduction in Colonial Slavery*" *Small Axe* 22, no. 1 (2018): 1-17.

<sup>167</sup> Kennedy, Vasantha Lynn. *Partus Sequitur Ventrem: Narratives of Childbirth and Motherhood in the Antebellum South*. ProQuest Dissertations Publishing, 2004.

<sup>168</sup> USCIS. *Naturalization Information* (Available at [https://www.uscis.gov/citizenship/educators/naturalization-information#eligibility\\_reqmts](https://www.uscis.gov/citizenship/educators/naturalization-information#eligibility_reqmts); Accessed on February 10, 2020)



without any visa requirement, and 53 countries where they can get a visa on arrival.<sup>169</sup>

2. American citizens are the only ones who can get consular protection from the United States in case of detention in a foreign country under the Vienna Convention on Consular Relations of 1963, to which the United States is a State party.<sup>170</sup> The soft and hard power of the United States all over the world is significantly valuable when an American citizen is arrested abroad. Very few countries in the world have diplomatic protection as powerful as the American. American passport holders enjoy diplomatic presence all over the world. As of 2020, the United States ranks as the second country with the most embassies (168), consulates (88), and permanent missions (9) on the planet after China.<sup>171</sup>
3. Even though the United States is not a state party to the Rome Statute of the International Criminal Court (ICC), the ICC may exercise its jurisdiction over an American citizen if the conduct in question occurs in a State that has accepted the jurisdiction of the court.<sup>172</sup> The United States Congress, however, passed in 2002 the American Servicemembers' Protection Act (ASPA), which authorizes the U.S. president to use "all means necessary and appropriate to bring about the release of any U.S. or allied personnel being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court." Congress feared that the ICC could be used to harass and detain American soldiers on foreign soil for purely

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<sup>169</sup> Passport Index; *Global Passport Power Rank 2020*; Available at <https://www.passportindex.org/byRank.php> (Accessed on February 11, 2020)

<sup>170</sup> Art. 36 of the Vienna Convention on Consular Relations (1963); Available at [http://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](http://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf)

<sup>171</sup> Lowy Institute; *Global Diplomacy Index: 2019 Country Ranking*; Available at [https://globaldiplomacyindex.lowyinstitute.org/country\\_rank.html](https://globaldiplomacyindex.lowyinstitute.org/country_rank.html) (Accessed on February 11, 2020)

<sup>172</sup> Deen-Racsmany, Zsuzsanna. *The Nationality of the Offender and the Jurisdiction of the International Criminal Court*. The American Journal of International Law 95, no. 3 (2001): 606-23. Accessed February 11, 2020. doi:10.2307/2668495.

political reasons.<sup>173</sup> Furthermore, the U.S. government, through its National Security Advisor, John Bolton, warned the ICC in 2018 that if they dared to prosecute American citizens, they would “use any means necessary to protect [their] citizens and those of [their] allies from unjust prosecution by this illegitimate court.”<sup>174</sup> Therefore, only American citizens count on fervent protection of their government. I guess that the ICC would never dare to prosecute American citizens.

4. In the landmark case *Hamdi v. Rumsfeld*, the Supreme Court held that U.S. citizens may be designated as enemy combatants, but due process rights still apply to any U.S. citizens in detention. They also have the right to a hearing on enemy combatant status before a neutral tribunal.<sup>175</sup> This right does not apply to Shosics.
5. The United States can assert jurisdiction over the acts of American citizens anywhere in the world. This doctrine is called Nationality Principle.<sup>176</sup> “Several American courts have employed this doctrine, but have typically qualified it by requiring that the act must have produced deleterious effects in the United States.”<sup>177</sup>
6. The United States can assert jurisdiction over the acts committed against American citizens anywhere in the world. This doctrine is called Passive

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<sup>173</sup> Bava, Julian & Ireland, Kiel. *The American Servicemembers’ Protection Act: Pathways to, and Constraints on, U.S. Cooperation with the International Criminal Court*. Stanford Law School Publications. Published on June 1, 2016. (Available at <https://law.stanford.edu/publications/the-american-servicemembers-protection-act-pathways-to-and-constraints-on-u-s-cooperation-with-the-international-criminal-court/>; Accessed on February 11, 2020)

<sup>174</sup> Full text of John Bolton's speech to the Federalist Society; September 10, 2018. Available at <https://www.aljazeera.com/news/2018/09/full-text-john-bolton-speech-federalist-society-180910172828633.html> (Accessed on September 11, 2018)

<sup>175</sup> *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004)

<sup>176</sup> See *United States v. Bowman*, 260 U.S. 94, 98 (1922); *Blackmer v United States*, 284 U.S. 421 (1932)

<sup>177</sup> Staal, Robert. *International Conflict of Laws: The Protective Principle in Extraterritorial Criminal Jurisdiction*, 15 U. Miami L. Rev. 428 (1961) Available at: <http://repository.law.miami.edu/umlr/vol15/iss4/10> (Accessed on February 11, 2020)

Personality Principle. “The passive personality principle is based on the duty of a state to protect its nationals abroad.”<sup>178</sup>

7. The right to apply for federal employment requiring U.S. citizenship is a prerogative evidently reserved for American citizens.<sup>179</sup>
8. As a general rule, American citizens cannot face deportation from the United States, unlike Shosics. The U.S. Immigration and Customs Enforcement (ICE) “cannot assert its civil immigration enforcement authority to arrest and detain a U.S. citizen.”<sup>180</sup>
9. Only American citizens, eighteen-years-old and above, have the exclusive right and duty to serve in federal courts on a jury.<sup>181</sup> Even if the prosecuted is a Shosic, Shosics are not allowed to serve as jurors. This situation is problematic because Shosics do not have the right to be judged by their peers.
10. Only American citizens—held the Supreme Court in the landmark *Slaughter-House Cases*—have “free access to American seaports through which all operations of foreign commerce are conducted.”<sup>182</sup>
11. Under Rule 41 of the Olympic Charter, only American athletes can compete representing the United States.<sup>183</sup> Even if Shosics have lived most of their life in the United States, they are not allowed to represent the United States.

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<sup>178</sup> McCarthy, John G. *The Passive Personality Principle and Its Use in Combatting International Terrorism*. Fordham International Law Journal. Volume 13, Issue 3, Article 3, 1989. (Available at <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1242&context=ilj&sei-redir=1>; Accessed on February 11, 2020)

<sup>179</sup> U.S. Citizens And Immigration Services (USCIS); *Citizenship Rights and Responsibilities*; Available at <https://www.uscis.gov/citizenship/learners/citizenship-rights-and-responsibilities> (Accessed on May 18, 2018)

<sup>180</sup> Coll, Steve. *When ICE tries to Deport Americans, Who Defends Them?* The New Yorker. March 21, 2018. (Available at <https://www.newyorker.com/news/daily-comment/when-ice-tries-to-deport-americans-who-defends-them>; Accessed on February 11, 2020)

<sup>181</sup> United States Courts. *Jury Service*. (Available at <https://www.uscourts.gov/services-forms/jury-service>; Accessed on February 11, 2020)

<sup>182</sup> *Slaughter-House Cases*, 83 U.S. 36 (1872)

<sup>183</sup> International Olympic Committee; *Olympic Charter*; in force as from August 2, 2015; Rule 41; Available at [https://stillmed.olympic.org/Documents/olympic\\_charter\\_en.pdf](https://stillmed.olympic.org/Documents/olympic_charter_en.pdf) (Accessed on May 18, 2018)

## Differences Between Shosics and American Citizens Living Abroad

American citizenship is so powerful and valuable in the United States that citizens who live abroad have more political rights than the Shosics who live in the country. “The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), enacted by Congress in 1986, requires that the states and territories allow certain groups of citizens to register and vote absentee in elections for Federal offices. The [American] citizens covered by UOCAVA include members of the United States Uniformed Services and merchant marine; their family members; and United States citizens [in general] residing outside the United States. In addition, most states and territories have their own laws allowing citizens covered by UOCAVA to register and vote absentee in state and local elections as well.”<sup>184</sup>

Even though Shosics live in the United States, pay taxes in the United States, are essential to the economic, religious, and cultural activities of the United States, are subject to the same laws as American citizens, and are directly affected by the policies adopted by elected officials—unlike citizens living abroad—they do not have the right to vote in their place of residence. In the course of this research, I have met American citizens by birth who were just born in the United States but who have always lived abroad and have no real connections to the United States, except for a passport. Surprisingly, these people are registered voters in the United States and have more political rights than Shosics who have deeper roots in this country.

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<sup>184</sup> U.S. Department of Justice. *The Uniformed and Overseas Citizens Absentee Voting Act*. (Available at <https://www.justice.gov/crt/uniformed-and-overseas-citizens-absentee-voting-act>; Accessed on February 11, 2020)

## Differences Between Shosics and Residents of the U.S. Territories

It is very common to hear, whenever I talk about the object of study of this thesis, that Shosics are as disenfranchised as American residents of the U.S. Territories. The difference between both groups, however, is colossal. “The United States governs five island political communities in the Pacific and Caribbean: the Territory of American Samoa, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Territory of the United States Virgin Islands. The United States considers all five communities to be unincorporated territories' and the Federal Government exercises full plenary power over them. Territorial residents are United States citizens and are governed by almost all of the laws applicable to citizens of the states. Despite their citizenship, however, territorial residents are unable to participate in presidential elections and do not have full and effective voting representation in Congress.”<sup>185</sup>

Even though the right of suffrage is limited for residents of the American territories, there are monumental differences with the political rights of Shosics. Unlike Shosics, residents of the American territories can vote and run for office in their local elections. They can vote for Governors, state legislators, mayors, and for all local elective positions. They can also participate in local plebiscites and in elections of non-voting delegates of the United States House of Representatives.

Granting the right to vote and hold office to Shosics, at least in local elections, is the purpose of this dissertation. If Shosics could vote in the places where they live, just like the residents of the U.S. Territories, their fundamental right to vote would be protected. As we will review in the next chapters, there are multiple electoral

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<sup>185</sup> Cottle, L. Amber. *Silent Citizens: United States Territorial Residents and the Right to Vote in Presidential Elections*. University of Chicago Legal Forum. Volume 1995. Issue 1. Article 11. (Available at <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1186&context=uclf>; Accessed on February 11, 2020)

jurisdictions in the United States. It makes no sense to deny the right of suffrage based on a citizenship qualification in local elections. Citizenship may be a relevant requirement to vote in federal elections because the President and Congressmen are in charge of the national and foreign policy of the country. Citizenship and nationality, however, are irrelevant qualifications when voting in library district elections, school board elections, village elections, town elections, city elections, county elections, and state elections.

## Chapter IV

### The Right of Suffrage of Shosics in All Electoral Jurisdictions

The United States is a federal republic<sup>186</sup> administratively divided into a capital district and fifty states.<sup>187</sup> The states are, in turn, administratively subdivided into municipal corporations, which can adopt the form of counties—also known as boroughs or parishes,<sup>188</sup>—cities, towns, and villages.<sup>189</sup> Municipal corporations are subsequently divided into school districts, fire districts, and library districts. All these jurisdictions hold periodic popular elections to vote for the elective officials of their respective governing bodies.

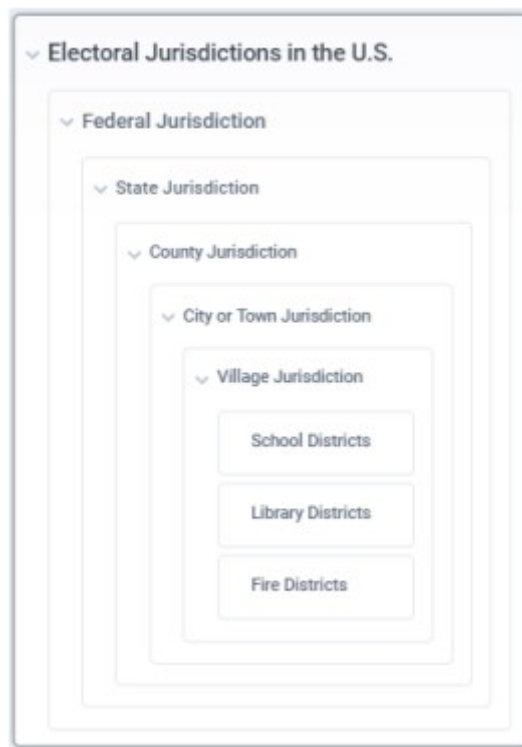


Table 16

<sup>186</sup> Tocqueville, Alexis de. *Democracy in America*. P.194. Edited by Eduardo. Nolla and James T. Schleifer. English ed. Indianapolis: Liberty Fund, 2012.

<sup>187</sup> For the reasons stated in the introduction, this dissertation focuses exclusively on the suffrage qualifications of the fifty states. It will not review elections in the District of Columbia, Indian reservations and Territories of the United States.

<sup>188</sup> Counties are called boroughs in Alaska and parishes in Louisiana.

<sup>189</sup> Nelson, Kimberly L. *Structure of American Municipal Government*. Washington, D.C.: International City/County Management Association, 2002.

Most authors and judges incorrectly assume that Shosics are excluded from the polls in all the aforementioned jurisdictions because they lack American citizenship. One of the most important facts that the reader must take from this chapter is that neither the Constitution of the United States nor any state constitution—except for Arizona and North Dakota—restrict the right of suffrage of Shosics. Shosics are only explicitly prohibited from voting for the President of the United States and Members of Congress, but they can and should participate in almost all the district, village, town, city, county, and state elections in the United States. Due to a wrong interpretation of state constitutions, Shosics are currently prevented from exercising their right of suffrage in almost all the country. As of 2020, Shosics can only exercise their right to vote in five cities, seven towns, two villages, and two school districts across the country.

To analyze whether Shosics are truly disenfranchised on account of their citizenship, this chapter will review the applicable legislation for each jurisdiction regarding suffrage qualifications. Such review will follow a Hans-Kelsen-Pure-Theory-of-Law structure.<sup>190</sup> In other words, this chapter will follow a hierarchical-oriented analysis to study all levels of electoral norms in the American legal system. It will start at the top of the pyramid with the U.S. Constitution, followed by a review of state constitutions, federal legislation, and municipal charters. Besides reviewing suffrage qualifications in all the electoral jurisdictions in the United States, this chapter will analyze voting requirements in three distinctive categories of elections: participatory budgeting processes, primary elections, and condominium board elections. Much of the analysis that follows may seem elementary, but “sometimes, when you reach the higher branches of a subject,

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<sup>190</sup> Kelsen, Hans, Anders Wedberg, and Wolfgang Herbert Kraus. *General Theory of Law and State*. Cambridge, Mass.: Harvard University Press, 1945.



(as you, the reader, will have done), you can begin to forget what the roots look like.”<sup>191</sup>

## **Constitution of the United States**

The Constitution of the United States is “the supreme law of the land.”<sup>192</sup> In other words, there is nothing higher than the Constitution in the hierarchical legal pyramid of the country.<sup>193</sup> As Alexander Hamilton explains in Federalist 78, “no legislative act contrary to the Constitution, can be valid.”<sup>194</sup> Hence, the first place to look for electoral regulation in the country is the Constitution of the United States, which simply sets two rules regarding suffrage qualifications:

1) State legislatures have the duty to determine the voting qualifications of the electorate,<sup>195</sup> and

2) The U.S. Constitution explicitly forbids state legislatures from restricting the right of suffrage on account of religion,<sup>196</sup> ethnicity,<sup>197</sup> sex,<sup>198</sup> payment of taxes,<sup>199</sup> and age.<sup>200</sup>

## **Power of State Legislatures to Set the Voting Qualifications**

Pursuant to the U.S. Constitution, state legislatures have the power to determine who is qualified to vote in the country.<sup>201</sup> They can enfranchise as many groups of

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<sup>191</sup> Sir John Laws. *The Rule of Law: The Presumption of Liberty and Justice*, Judicial Review, 22:4, 365-373, (2017) (Available at <https://www.tandfonline.com/doi/abs/10.1080/10854681.2017.1407068?scroll=top&needAccess=true&journalCode=rjdr20>; Accessed on February 14, 2019)

<sup>192</sup> U.S. Constitution (Article VI; Clause 2)

<sup>193</sup> Hall, KrisAnne. *The Supremacy Clause: The Constitution Is Supreme*. Tenth Amendment Center. Published on December 1, 2017. (Available at <https://tenthamentendmentcenter.com/2017/12/01/the-supremacy-clause-the-constitution-is-supreme/>; Accessed on February 11, 2020)

<sup>194</sup> Hamilton, Alexander, John Jay, and James Madison. *The Federalist Papers*. Bensenville: Lushena Books, 2014.

<sup>195</sup> U.S. Constitution. Article I, Section 2, Clause 1.

<sup>196</sup> First Amendment to the U.S. Constitution

<sup>197</sup> Fifteenth Amendment to the U.S. Constitution

<sup>198</sup> Nineteenth Amendment to the U.S. Constitution.

<sup>199</sup> Twenty-Fourth Amendment to the U.S. Constitution.

<sup>200</sup> Twenty-Sixth Amendment to the U.S. Constitution.

<sup>201</sup> U.S. Constitution. Article I, Section 2, Clause 1.

people as they wish, including Shosics. No constitutional restraints hinder them from expanding the electorate as much as they want. Their only obligation is to respect the right of suffrage of the groups explicitly protected in the Constitution. The sky is the limit to broaden the *demos* and the U.S. Constitution marks the limits to narrow it. For instance, under the Twenty-Sixth Amendment, no state can deny the right of suffrage to a person who is eighteen years old on account of age. State legislatures, however, can broaden the electorate by enfranchising persons who are below eighteen years of age.

### **States' Constitutions**

Considering that the supreme law of the land delegates the power to state legislatures to set the voting qualifications of the electorate, it is essential to review state constitutions. To the untrained legal eye, state constitutions seem to grant the right of suffrage exclusively to citizens. Most state constitutions, however, fail to explicitly or implicitly deny the right to vote to Shosics. There is a longstanding common law principle that reads, *for citizens everything which is not forbidden is allowed*.<sup>202</sup> Translating such principle into suffrage qualifications, it means that *if voting is not forbidden for Shosics, then it is allowed*. Take for instance the Constitution of New York, which is illustrative of how most state constitutions are written. As we can observe in the following paragraphs, the Constitution of New York does not deny suffrage to Shosics neither explicitly nor implicitly:

#### **“ARTICLE II**

#### **SUFFRAGE**

[Qualifications of voters]

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<sup>202</sup> Sir John Laws. *The Rule of Law: The Presumption of Liberty and Justice*, Judicial Review, 22:4, 365-373, (2017) (Available at <https://www.tandfonline.com/doi/abs/10.1080/10854681.2017.1407068?scroll=top&needAccess=true&journalCode=rjdr20>; Accessed on December 8, 2019)

Section 1. Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.”

“[Persons excluded from the right of suffrage]

§3. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his or her vote, shall swear or affirm before such officers that he or she has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.”

From the text above, it is evident that citizens have the right to vote, but not as an exclusive prerogative. There is no reference at all denying the right of suffrage of Shosics. The legislator could have *explicitly* or *implicitly* restricted suffrage to Shosics, but she decided not to do it. If the legislator had wished to exclude Shosics from the polls *explicitly* or *implicitly* she could have drafted Section 1 of Article II in any of the following four different ways:

a. The legislator could have changed the beginning of Section I of Article II that reads “*Every citizen*” to “*Only citizens*” to read as follows:

[Qualifications of voters]

Section 1. [**Only citizens**] shall be entitled to vote at every election...

b. The legislator could have included in Section 1 of Article II a final sentence clarifying the express desire to deny the right of suffrage to Shosics. Such paragraph would read as follows:

Section 1. Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election. [**It is declared to be the purpose of this section to deny the right of suffrage to Shosics.**]

c. The legislator could have included a specific mention of Shosics in Section 3 of Article II, which lists the “persons excluded from the right of suffrage.” Such section would read as follows:

“[Persons excluded from the right of suffrage]

§3. No [Shosic or] person who shall...

d. If the legislator would have wanted to exclude Shosics *implicitly* in Article II of the Constitution of New York, she could have explicitly listed the persons qualified for suffrage. She could have drafted a section of the article as follows:

**[Qualifications of voters]**

**Section 1. The right of suffrage is limited to American citizens who are residents of this state, and of the county, city, or village for thirty days next preceding an election and who are eighteen years of age or over.**

### **Relevance of Language in the Law**

Language is to lawyers what soccer balls are to footballers. Language is our instrument of work. Legal texts, particularly constitutions, must be as precise as possible to avoid interpretative dilemmas. In the case of Shosic enfranchisement in states’ constitutions, it is crystal clear that the constitutions do not restrict the right to vote of Shosics. The intention of the legislator is both irrelevant and unknown. What matters is the text of the constitutional provision.

Judges and authors have incorrectly read and mistakenly understood the language of the laws. They wrongfully assume that state constitutions explicitly exclude Shosics from suffrage. If we consider that “language is both the start and finish of the

interpretative process”<sup>203</sup>—as Justice Antonin Scalia suggested—it is evident that no exclusion exists at all for Shosics in state constitutions.

Let us ponder, for example, the following hypothetical: “In New York, every woman is allowed to vote.” Even if such utterance does not explicitly say so, surely any reasonable person will infer that men are also allowed to vote in New York. In that same sense, it is logical to conclude that if a state constitution reads “In New York, every citizen is allowed to vote,” any reasonable person would infer that Shosics are also allowed to vote in New York.<sup>204</sup>

This linguistic loophole is very relevant because “surprisingly, every state constitution, except for Arizona and North Dakota, does not explicitly require citizenship to vote. Each of these state constitutions say nearly the same thing: ‘Every citizen shall be an elector.’ This inclusive language tells us who can vote, but not who cannot vote.”<sup>205</sup> Such loophole is so relevant that in 2020, three states—Colorado, Alabama, and Florida<sup>206</sup>—will vote on initiatives suggesting to amend the constitutional language that currently grants the right to vote to every citizen. The proposed new language to replace *every citizen is only a citizen*.<sup>207</sup>

## Federal Legislation

Federal legislation explicitly hinders Shosics from voting in federal elections. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Section 611,

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<sup>203</sup> Scalia, Antonin, and Bryan A. Garner. *Reading Law: the Interpretation of Legal Texts*. St. Paul, MN: Thomson/West, 2012.

<sup>204</sup> To learn more about the varieties of implication in the legal language see Marmor, Andrei. *The Language of Law*. First edition. Oxford, United Kingdom: Oxford University Press, 2014.

<sup>205</sup> Loudon, John. *It's time voting be constitutionally limited to U.S. citizens*. Op-Ed published at the Sun Sentinel on July 17, 2019. (Available at <https://www.sun-sentinel.com/opinion/commentary/fl-op-com-loudon-citizenship-to-vote-20190717-5bkoc6fyebedxgvs13ko7sbnne-story.html>; Accessed on January 24, 2020)

<sup>206</sup> Ballotpedia. *Citizen Voters, Inc.* (Available at [https://ballotpedia.org/Citizen\\_Voters,\\_Inc.](https://ballotpedia.org/Citizen_Voters,_Inc.); Accessed on January 24, 2020)

<sup>207</sup> Florida Amendment 1, *Citizen Requirement for Voting Initiative (2020)* (Available at [https://ballotpedia.org/Florida\\_Amendment\\_1,\\_Citizen\\_Requirement\\_for\\_Voting\\_Initiative\\_\(2020\)](https://ballotpedia.org/Florida_Amendment_1,_Citizen_Requirement_for_Voting_Initiative_(2020)); Accessed on January 24, 2020)

makes it unlawful for Shosics, under penalty of prison, to vote in federal elections for President, senators, and representatives. Such provision reads as follows:

“§ 611. Voting by *aliens*

“(a) It shall be unlawful for any *alien* to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner...—

...

“(2) *aliens* are authorized to vote for such other purpose under a State constitution or statute or a local ordinance;

...

“(b) Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.”<sup>208</sup>

Even though Section 611 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 closes the door to Shosic enfranchisement in federal elections,<sup>209</sup> it leaves an explicit window open for Shosics to vote in the state, county, city, town, village, school district, fire district, and library district elections. It might be reasonable to restrict the right of suffrage to Shosics in these elections because the President and members of Congress deal with national and international policy. Citizenship, as a suffrage qualification, may be relevant in these elections. To review the duties of the President, Senators, and Representatives of Congress see Appendix 52.

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<sup>208</sup> Illegal Immigration Reform and Immigrant Responsibility Act of 1996. P.L. 104-208. Washington, D.C., U.S. G.P.O.

<sup>209</sup> One may wonder if Section 611 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is even constitutional. Considering that the U.S. Constitution delegates the power to state legislatures to set the voting qualifications of the electorate, this legislation seems unconstitutional.

## Municipal Charters

We now know that state legislatures determine suffrage qualifications in the country for federal and state elections, but we still have to find out who sets suffrage qualifications in municipal corporations. To answer that question, it is essential to understand the nature, origin, and evolution of the—unfortunately understudied—municipal corporations in the United States.<sup>210</sup>

As mentioned above, a municipal corporation is the generic term for counties, cities, towns, and villages.<sup>211</sup> The powers, responsibilities, operation, and structure of municipal corporations vary with the laws and customs of each state.<sup>212</sup> As a general rule, municipal corporations have only the powers that the state legislature expressly delegates to them in their enabling legislation. This general principle is named *Dillon's Rule* after Judge Forest Dillon, Chief Justice of the Iowa Supreme Court, who expounded the municipal powers in a relevant court decision in 1868.<sup>213</sup> According to Dillon's Rule,

“A municipal corporation possesses and can exercise the following power and no others: First, Those granted in express words; second, those necessarily or fairly implied in, or incident to, the power expressly granted; third, those essential to the declared objects and purpose of the corporation— not simply convenient but indispensable; fourth, any fair doubt as to the existence of a power

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<sup>210</sup> Municipal corporations are so understudied, that David Berman call them “the dark continent of American government”. See Berman, David R., ed. *County Governments in an Era of Change*. Westport, Conn.: Greenwood Press, 1993.

<sup>211</sup> Nelson, Kimberly L. *Structure of American Municipal Government*. Washington, D.C.: International City/County Management Association, 2002.

<sup>212</sup> Berman, David R., ed. *County Governments in an Era of Change*. P. 12. Westport, Conn.: Greenwood Press, 1993.

<sup>213</sup> Coppa, Frank J. *County Government: a Guide to Efficient and Accountable Government*. P. 7. Westport, Conn.: Praeger, 2000.



is resolved by the courts against the corporation —against the existence of power.”<sup>214</sup>

The U.S. Supreme Court upheld Dillon's Rule in 1903 (*Atkin v. Kansas*<sup>215</sup>), in 1907 (*Hunter v. City of Pittsburgh*<sup>216</sup>) and again in 1923 (*City of Trenton v. New Jersey*<sup>217</sup>).

## Counties

As of 2020, there are no counties in the United States where Shosics are explicitly allowed to vote. Counties are the broadest type of municipal corporations that encompass cities, towns, villages, and districts. They are units of local self-government<sup>218</sup> in charge of a wide variety of vital government services<sup>219</sup> such as justice and public safety,<sup>220</sup> transportation and infrastructure,<sup>221</sup> community health,<sup>222</sup> human services,<sup>223</sup> and county management.<sup>224</sup>

American county government traces its family tree back nearly 1,000 years to the old English shire. Shires were governmental units created in the ninth century by the

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<sup>214</sup> *Merriam v. Moody's Executors*, 25 Iowa 163 (1868).

<sup>215</sup> *Atkin v. Kansas*, 191 U.S. 207 (1903)

<sup>216</sup> *Hunter v. Pittsburgh*, 207 U.S. 161 (1907)

<sup>217</sup> *Trenton v. New Jersey*, 262 U.S. 182 (1923)

<sup>218</sup> Berman, David R., ed. *County Governments in an Era of Change*. P. 12. Westport, Conn.: Greenwood Press, 1993

<sup>219</sup> National Association of Counties. *Counties Matter: Stronger Counties, Stronger America* (Available at <https://www.naco.org/resources/featured/counties-matter>; Accessed on November 18, 2019)

<sup>220</sup> Services include sheriff departments, county police departments, county courts, jails and correctional facilities, juvenile detention and justice centers, emergency management personnel, district attorneys, public defenders, and coroners.

<sup>221</sup> Services include roads, bridges, airports, public transportation, construction of public facilities, utilities like gas and electricity, solid waste recycling and management, water and sewage, and telecommunications.

<sup>222</sup> Services include hospitals, health clinics, substance abuse treatment, indigent healthcare, immunizations, health code inspections, and nursing homes.

<sup>223</sup> Services include financial assistance, violence prevention, food and nutrition services, early childhood development, workforce training and development, veteran services, senior services and elder care, homelessness and housing support, and services for individuals with disabilities.

<sup>224</sup> Services include record keeping, tax assessment and collection, elections and polling places, parks and recreation, arts programs, and community development.

kingdom of England to serve as local administrative arms of the crown.<sup>225</sup> The governmental structure of the shire in England consisted of a Shire Court—which had judicial and legislative powers—and an Earl, a Sheriff, and a Bishop—who shared the executive power of the shire.<sup>226</sup>

- A. The Shire Court was comprised of twelve landholders who assembled periodically to enact ordinances and to pass judgment on criminal and civil complaints brought by citizens.
- B. The Earl—usually a large landholder appointed by the King—presided the shire and was in charge of the military personnel stationed there.
- C. The Shire-Reeve, or Sheriff, served as the steward of the royal estates, the tax collector, and president of the shire court in non-ecclesiastical matters.
- D. The Bishop served as president of the shire court in church-related issues.<sup>227</sup>

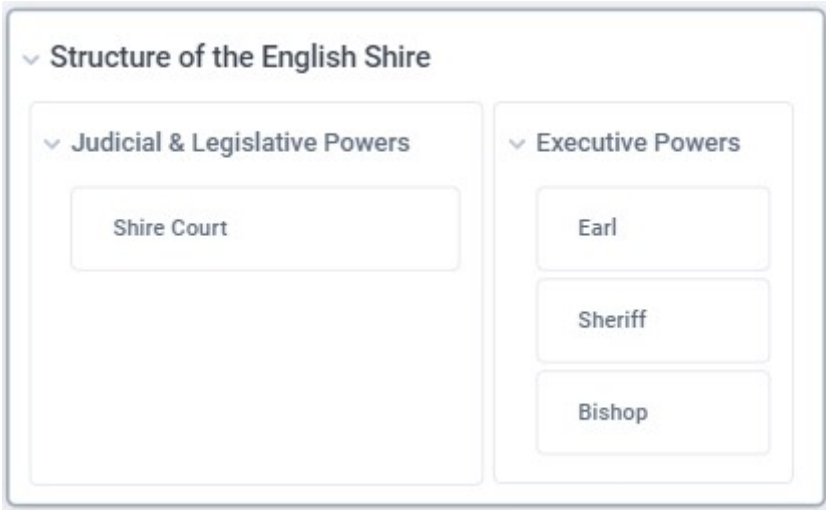


Table 17

Counties in America first appeared in 1634 when the General Assembly of the Commonwealth of Virginia divided the colony into eight shires, later renamed

<sup>225</sup> Sherman, Daniel John. *County Government*. Dictionary of American History . Encyclopedia.com. November 13, 2019. (Available at <https://www.encyclopedia.com/history/dictionaries-thesauruses-pictures-and-press-releases/county-government>; Accessed on November 18, 2019)

<sup>226</sup> Martin, Lawrence L. *American County Government: An Historical Perspective*; P. 1. Berman, David R., ed. County Governments in an Era of Change. Westport, Conn.: Greenwood Press, 1993

<sup>227</sup> Martin, Lawrence L. *American County Government: An Historical Perspective*; P. 1. Berman, David R., ed. County Governments in an Era of Change. Westport, Conn.: Greenwood Press, 1993

counties.<sup>228</sup> The other colonies established county governments shortly after Virginia. After American independence, counties transitioned to administrative arms of the states rather than the crown.<sup>229</sup>

In 1845 the Supreme Court of the United States, in an opinion delivered by Justice Roger Brooke Taney, defined counties for the first time in the following words:

“Counties are nothing more than portions in to which the state is already divided for the exercise of powers of government.”

(*Maryland v. Baltimore and Ohio Railroad*, 1845)<sup>230</sup>

The counties’ structure, powers, and responsibilities are enshrined in either charters or optional forms:

I. Charters are constitutions approved by the residents of the county. Under a charter, counties have broad grants of discretionary authority to alter the functions and services they provide; change their organizational structure; add, delete, and change personnel; and to levy and raise taxes without seeking additional grants of discretionary authority from state legislatures, within the parameters of its state constitution and statutes.<sup>231</sup>

II. Under Optional Forms, counties are permitted some discretionary authority in selecting the form of county government they believe best suits their needs but

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<sup>228</sup> Rubin, Louis D. *Virginia: a Bicentennial History*. P. 5. New York: Norton, 1977.

<sup>229</sup> Sherman, Daniel John. *County Government*. *Dictionary of American History*. Encyclopedia.com. November 13, 2019. (Available at <https://www.encyclopedia.com/history/dictionaries-thesauruses-pictures-and-press-releases/county-government>; Accessed on November 18, 2019)

<sup>230</sup> *Maryland v. Baltimore & Ohio Railroad Company*, 44 U.S. 534 (1845)

<sup>231</sup> Martin, Lawrence L. *American County Government: An Historical Perspective*; P. 12. Berman, David R., ed. *County Governments in an Era of Change*. Westport, Conn.: Greenwood Press, 1993

remain restricted in the areas of structural, personnel, and discretionary fiscal authority.<sup>232</sup>

As of 2020, there are 3,069 counties in the United States that are run by 37,984 county elected officials.<sup>233</sup> County elected officials are also known as *row officers* because of their appearances in long rows of the ballot.<sup>234</sup> The most popular form of county government in the United States is the County-Commission form. Under this kind of county government, electors vote for the row-officer positions of county judge, sheriff, county coroner, county prosecutor, county attorney, county clerk, recorder or register of deeds, court clerk, surrogate or public administrator, county treasurer, auditor, assessor, tax collector, surveyor, engineer, superintendent, and county legislator.<sup>235</sup> It does not seem reasonable to exclude Shosics from these elections. Citizenship seems an irrelevant suffrage qualification when voting for the row officers of the county. To review the duties of row officers see Appendix 54.

## Cities

Cities are administrative units of the state created to provide tailored services for their residents. Citizens who live in a city also live within a county. “Although cities have the home rule power to revise their charters and adopt new ones, this authority is not unlimited. It must be exercised in accordance with the State Constitution and the Legislature’s grant of local law powers. Cities have the right to take all measures and do all acts by local law, which would include adopting and amending charters that are

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<sup>232</sup> Martin, Lawrence L. *American County Government: An Historical Perspective*; P. 12. Berman, David R., ed. *County Governments in an Era of Change*. Westport, Conn.: Greenwood Press, 1993

<sup>233</sup> National Association of Counties. *Counties Matter: Stronger Counties, Stronger America* (Available at <https://www.naco.org/resources/featured/counties-matter>; Accessed on November 18, 2019)

<sup>234</sup> Coppa, Frank J. *County Government: a Guide to Efficient and Accountable Government*. P. 9. Westport, Conn.: Praeger, 2000.

<sup>235</sup> Coppa, Frank J. *County Government: a Guide to Efficient and Accountable Government*. P. 11. Westport, Conn.: Praeger, 2000.

not inconsistent with the State Constitution, and are not inconsistent with any general law of the state.”<sup>236</sup>

“Generally, city charters address the basic organizational actions of the city, including the name, boundaries, powers, fiscal year, type of legislative body, and other administrative processes. Cities have the authority to provide a variety of local government services directly to its residents, including water and waste-water infrastructure, public safety services, economic development, social services, and many other general purpose activities of the government.”<sup>237</sup>

There are only five cities in two states of the country that explicitly allow Shosics to vote. Three are in Maryland—Takoma Park<sup>238</sup>, Hyattsville, and Mount Rainier<sup>239</sup>—and the remaining two in Massachusetts—Cambridge<sup>240</sup> and Newton.<sup>241</sup> The qualifications of voters in these cities are determined in their respective charters.<sup>242</sup>

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<sup>236</sup> NYS Division of Local Government Services. *What do Local Governments Do?* (Available at <https://www.dos.ny.gov/lg/localgovs.html>; Accessed on November 20, 2019)

<sup>237</sup> NYS Division of Local Government Services. *What do Local Governments Do?* (Available at <https://www.dos.ny.gov/lg/localgovs.html>; Accessed on November 20, 2019)

<sup>238</sup> The City of Takoma Park, Maryland, deserves an honorific mention in this dissertation because, in February of 1992, it became the first town of the country to restore Shosic suffrage in the United States in sixty-six years. Jamie Raskin, a law professor at American University in those years, spearheaded such historical achievement. His famous paper, “Legal Aliens, Local Citizens: The Historical, Constitutional, and Theoretical Meanings of Alien Suffrage,” is an essential foundation of this dissertation.

<sup>239</sup> Kousser, J. Morgan. *Democracy for all: Restoring Immigrant Voting Rights in the United States* by Ron Hayduk. *Political Science Quarterly* 121, no. 4 (2006): 724-726.

<sup>240</sup> Immigrant Advocacy Group of Cambridge. *Municipal Immigrant Voting Rights* (Available at <https://cambridgeimmigrantadvocates.wordpress.com/2017/02/02/municipal-immigrant-voting-rights/>; Accessed on December 9, 2019)

<sup>241</sup> City of Newton’s Board of Aldermen (Available at <http://suffrage-universel.be/us/usvoalmanewton.htm>; Accessed on December 9, 2019)

<sup>242</sup> The qualifications of voters in Takoma Park—for instance—are determined in Article VI, Section 601, of its Municipal Charter, which reads as follows:

“ARTICLE VI

REGISTRATION, NOMINATIONS, AND ELECTIONS

Section 601 Qualifications of Voters

(a) Every person who (1) is a resident of the City of Takoma Park, (2) is at least sixteen (16) years of age or will be sixteen (16) years of age on or before the date of the next City election, (3) has resided within the corporate limits of the City for 21 days immediately preceding the City election, (4) does not claim voting residence or the right to vote in another jurisdiction, and (5) is registered to vote in accordance with the provisions of this charter, is a qualified voter of the City except as provided in subsection (b) of this section. Every qualified voter of the City is entitled to vote in all City elections, to participate in the nominating meeting, and to sign nominating, referendum, recall and other petitions authorized by this charter.”

Besides the five cities in Maryland and Massachusetts, “more than a dozen cities have considered restoring immigrant voting rights, including Los Angeles, New York City, Washington D.C., Portland, and Burlington,”<sup>243</sup> but all initiatives have failed. It does not seem reasonable to exclude Shosics from city elections. Citizenship seems an irrelevant suffrage qualification when voting for city elective officials because they deal with local responsibilities. To review the duties of city elected officials see Appendix 55.

## Towns

In the United States, towns were the first units of local government formed in the northern colonies.<sup>244</sup> Towns, like cities, are created to provide specific services directly to their residents. Every resident “that does not live in a city lives in both a town and a county.”<sup>245</sup> Every town has its code or charter that determines the organization, powers, and suffrage qualifications. As of 2020, in six towns of Maryland—Chevy Chase, Riverdale Park, Barnesville, Garrett Park, Glen Echo, and Somerset<sup>246</sup>—and one of Massachusetts—Amherst<sup>247</sup>—Shosics are explicitly granted the right of suffrage. Denying the right to vote to Shosics in town elections, based on

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<sup>243</sup> Hayduk, Ronald. *Immigrant Voting* (Available at <https://ronhayduk.com/immigrant-voting/>; Accessed on November 22, 2019)

<sup>244</sup> Martin, Lawrence L. *American County Government: An Historical Perspective*; P. 4. Berman, David R., ed. *County Governments in an Era of Change*. Westport, Conn.: Greenwood Press, 1993

<sup>245</sup> NYS Division of Local Government Services. *What do Local Governments Do?* (Available at <https://www.dos.ny.gov/lg/localgovs.html>; Accessed on November 20, 2019)

<sup>246</sup> Suffrage qualifications of voters in Chevy Chase, for instance, are determined in Article IV; Section 401 of its Charter, which reads as follows:

“ARTICLE IV

Registration, Nomination and Elections

Section 401. Qualifications of Voters.

Every person who: (1) is a citizen of the United States, (2) is at least eighteen (18) years of age, (3) has resided within the corporate limits of the Town for thirty days next preceding any Town election, and (4) is registered in accordance with the provisions of this charter, is a qualified voter of the Town. Every qualified voter of the Town is entitled to vote at all Town elections.”

<sup>247</sup> Town of Amherst. *Amherst Home Rule Charter*; (Available at <https://www.amherstma.gov/DocumentCenter/View/41987/Amherst-Home-Rule-Charter>; Accessed on December 9, 2019)

the lack of American citizenship, seems unreasonable. To review the duties of town elected official see Appendix 56.

## **Villages**

Villages are administrative divisions of the state. They are created “to ensure that each area of the state, even the most rural, would be served by the local government.”<sup>248</sup> “Villages must exist within a town. Every citizen that lives in a village lives in three different municipalities: a village, a town, and a county. Villages are also the only form of general purpose local governments that truly exist at the discretion of its residents. Villages can be created or dissolved by local initiative, a structure that enables residents of villages to respond to the need to provide specific services in areas with a high density of population.”<sup>249</sup>

There are only two villages in the United States, both in Maryland—Chevy Chase Section Three and Martin’s Addition<sup>250</sup>—that allow Shosics to vote in their local elections. Every village has its code or charter that determines the organization, powers, and suffrage qualifications. Citizenship seems an irrelevant suffrage qualification in village elections. To review the duties of village elected officials see Appendix 57.

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<sup>248</sup> Coppa, Frank J. *County Government: a Guide to Efficient and Accountable Government*. P. 4. Westport, Conn.: Praeger, 2000.

<sup>249</sup> NYS Division of Local Government Services. *What do Local Governments Do?* (Available at <https://www.dos.ny.gov/lg/localgovs.html>; Accessed on November 20, 2019)

<sup>250</sup> The Village of Martin’s Addition’s Charter, for instance, enshrines the suffrage qualifications in Article III, Section 301:

“ARTICLE III  
DEFINITIONS  
Section 301.

"Qualified Voter" is any person who owns property or any resident of Martin's Additions who is eighteen (18) years of age or over."

## Districts

In addition to the municipal corporations, there are districts “with independently elected boards that provide specific functions within their borders. These include school districts, fire districts, and library districts. All of these governments have an elected board that can impose taxes and issue debt directly or through another local government. School districts are, of course, the most visible and largest kind of districts—spending nearly as much as counties, cities, towns, and villages combined. The boundaries of school districts as well as other types of districts frequently cross town, village, city, and even county boundaries, adding a great deal of complexity to local administration and local intergovernmental relationships.”<sup>251</sup>

## School Districts

A school district is “a unit for the administration of a public-school system often comprising several towns within a state.”<sup>252</sup> “Americans have long dissociated school districts from other units of government. Since schools directly affect the lives of many families, the residents are not indifferent to election outcomes or community school practices.”<sup>253</sup> Some states’ constitutions have historically required fewer qualifications to participate in school district elections. For instance, women were allowed to vote in school elections in many states before they were fully enfranchised. Kirk Porter, in his famous book *a History of Suffrage in the United States*, interpreted the women’s partial suffrage in school districts as follows:

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<sup>251</sup> New York. *21st Century Local Government*. P. 11. [Albany, N.Y.]: Commission on Local Government Efficiency & Competitiveness, 2008.

<sup>252</sup> Merriam-Webster Dictionary. *School District* (Available at <https://www.merriam-webster.com/dictionary/school%20district>; Accessed on November 19, 2019)

<sup>253</sup> Polinard, Jerry L. *Electoral Structure and Urban Policy: the Impact on Mexican American Communities*. P. 95. Armonk, NY: M.E. Sharpe, 1994.



“Of course there is no reason why women should vote on school matters any more than on other matters. But strangely enough, school affairs have been considered part of *women’s sphere*. Education has always been considered an effeminate piece of business in this country, and the entire school system has been dominated by feminine influence outside and in. Now the newer states saw fit to turn school problems over to woman suffrage as being appropriate questions for women to handle.”<sup>254</sup>

There are only two school districts in the United States—Chicago and San Francisco—that allow noncitizens to vote in their elections.<sup>255</sup> On the one hand, Chicago allowed Shosics who have kids in school to vote in school board elections since 1989.<sup>256</sup> San Francisco, on the other, voted in 2016 to reform the Municipal Elections Code to enfranchise Shosics.<sup>257</sup> School districts across the country have different responsibilities and duties depending on the state where they are (See Appendix 58). Disfranchising Shosics from school board elections seems unreasonable.

<sup>254</sup> Porter, Kirk H. *A History of Suffrage in the United States*. P. 244. Chicago: University of Chicago Press, 1918.

<sup>255</sup> Chason, Rachel. *Non-citizens can now vote in College Park, Md.* Published at The Washington Post on September 13, 2017. (Available at [https://www.washingtonpost.com/local/md-politics/college-park-decides-to-allow-noncitizens-to-vote-in-local-elections/2017/09/13/2b7adb4a-987b-11e7-87fc-c3f7ee4035c9\\_story.html](https://www.washingtonpost.com/local/md-politics/college-park-decides-to-allow-noncitizens-to-vote-in-local-elections/2017/09/13/2b7adb4a-987b-11e7-87fc-c3f7ee4035c9_story.html); Accessed on November 19, 2019)

<sup>256</sup> Kini, Tara. *Sharing the Vote: Noncitizen Voting Rights in Local School Board Elections*. California Law Review 93, no. 1 (2005): 271-321.

<sup>257</sup> The Municipal Elections Code of San Francisco, for instance, reads as follows:

“SEC. 1002. VOTER REGISTRATION FOR SCHOOL BOARD ELECTIONS.

(a) Voter Registration Affidavit. The Department shall create a voter registration affidavit, which shall be the exclusive means by which a non-United States citizen may register to vote in School Board Elections.

(b) Contents. The voter registration affidavit shall... require the individual to attest under penalty of perjury that:

(1) the individual is not a United States citizen,

(2) the individual is a San Francisco resident, and intends to remain a San Francisco resident until the next School Board Election,

(3) the individual is the parent, legal guardian, or caregiver of a child who, at the time of the next School Board Election, will be under age 19 and resides in the San Francisco Unified School District...”[ San Francisco School Board of Elections. ORDINANCE NO. 128-18 [Municipal Elections Code - Noncitizen Voting in School Board Elections], May 9, 2018 (Available at <https://sfgov.legistar.com/View.ashx?M=F&ID=6284985&GUID=446D8290-14DC-45B4-8044-64F176D642CA>; Accessed on December 9, 2019)]

## Library Districts

There is not enough literature on library districts in the United States to know for sure if Shosics are generally allowed or not to vote in these jurisdictional elections. In New York, for instance, they are not.<sup>258</sup> Further investigation of this topic is essential to fill in the gaps of this electoral jurisdiction, but it does not seem reasonable to deny the right to vote of Shosics in library district elections based on their citizenship. To review the duties of library district trustees see Appendix 60.

## Fire Districts

Fire districts are government units that provide fire protection in areas of towns outside villages with powers to incur indebtedness and require the levy of taxes.<sup>259</sup> “A fire district is almost a completely autonomous political entity; it has its own elected governing body, its own administrative officers, and it must observe its own expenditure limitations. However, it is dependent upon the parent town or towns for its initial creation and extension.”<sup>260</sup> Further investigation of this topic is essential as well. There is no sufficient literature regarding fire district suffrage qualifications to determine if Shosics are allowed to vote or not. Nevertheless, at first glance it seems

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<sup>258</sup> “Section 259

Library taxes

In the case of a school district, the appropriation for library purposes shall be submitted to the voters of the district as proposed by the library board of trustees...”

“Section 260

Trustees

2. The trustees of public libraries authorized to be established... in school districts... shall be elected by the legal voters in the same manner as trustees are elected in the school district which established said library...” [The Laws Of New York Consolidated Laws Education Title 1: General Provisions Article 1 Short Title And Definitions (§§Article 5: University Of The State Of New YorkPart 2: Libraries; Section 260; Paragraph 2]

<sup>259</sup> NYS Division of Local Government Services. *Local Government Handbook*, P. 96. 7<sup>th</sup> edition, Published on November 16, 2018.

<sup>260</sup> NYS Division of Local Government Services. *Local Government Handbook*, P. 97. 7<sup>th</sup> edition, Published on November 16, 2018.

unreasonable to deny Shosics the right to vote in fire district elections. To review the duties of fire district trustees see Appendix 59.

## **Participatory Budgeting**

Participatory budgeting is an “electoral process in which community members, rather than elected officials, decide how to allocate public funds.”<sup>261</sup> Participatory budgeting “allows citizens to play a key role in identifying, discussing, and prioritizing public spending projects, and gives them a voice in how taxpayer dollars are spent. Over a dozen cities around the United States, such as Chicago, New York, Boston, Cambridge, Vallejo, and Greensboro, already have had success in participatory budgeting processes to help determine local budgeting priorities”.<sup>262</sup> Even though these processes vary in design and functioning, they all allow community members to “decide on specific projects and investment priorities, which are then implemented by local governments and monitored by the same participants.”<sup>263</sup>

The goal of participatory budgeting processes—since it was implemented for the first time around thirty years ago in Porto Alegre, Brazil—has always been to generate “democratic openness and strong demands for a more equitable distribution of public resources.”<sup>264</sup> Hence, there are no reasons, in principle, to exclude Shosics from this kind of direct democratic processes. The allocation of public funds is as relevant for Shosics as it is for American citizens. These are processes that involve the

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<sup>261</sup> Su, Celina. *Managed Participation: City Agencies and Micropolitics in Participatory Budgeting*. P. 1. Sagepub Journal, Volume: 47, Issue published: August 1, 2018.

<sup>262</sup> Town of Amherst, MA. Participatory Budgeting Commission. November 14, 2019 (Available at <https://www.amherstma.gov/ArchiveCenter/ViewFile/Item/11574>; Accessed on November 21, 2019)

<sup>263</sup> Baiocchi, G., & Lerner, J. (2007). *Could Participatory Budgeting Work in the United States?* The Good Society P. 8.

<sup>264</sup> Rocha Franco, Sérgio H. and Wendell Ficher Teixeira Assis. *Participatory Budgeting and Transformative Development in Brazil*. P. 95. Geoforum 103, (2019)

local community, not the nation. A zip code, not a passport, is the only voting qualification that should matter for participatory budgeting processes.

Participatory budgeting can occur at any jurisdictional level. Unfortunately, there still are no accurate databases on the number of Participatory Budgeting processes in the United States. It is challenging to know if Shosics are allowed to participate in these democratic processes. The most reliable (but still incomplete) report on participatory budgeting in the country is the one from Participatory Budgeting Project. According to this nonprofit organization, 2019 was the year with the highest number of participatory budgeting processes in the United States with 102. That is a substantial increase from the 46 participatory budgeting processes registered in 2015.<sup>265</sup> Tracking the official voting qualifications for participatory budgeting is as challenging as tracking where these democratic processes are taking place. Generally, the qualifications to participate in participatory budgeting are set in municipal charters.<sup>266</sup> It does not seem reasonable to exclude Shosics from this type of elections because their citizenship is completely irrelevant for the democratic process.

## Primary Elections

A primary election is an “election to select candidates to run for public office.”<sup>267</sup>

In the United States, “primary elections are the most common means by which

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<sup>265</sup> Participatory Budgeting Process. *PB Process Map* (Available at <https://www.participatorybudgeting.org/case-studies/>; Accessed on December 9, 2019)

<sup>266</sup> Towns like Amherst, Massachusetts, for instance, allow all residents—regardless of their nationality—to vote in participatory budgeting processes and be members of their Participatory Budgeting Commission. The provision of the Amherst Home Rule Charter that allows residents to participate in participatory budgeting processes reads as follows:

“SECTION 10.11: CREATION OF PARTICIPATORY BUDGETING COMMISSION

Within six months of the assumption of office by the Town Council, the Town Council shall create a Participatory Budgeting Commission for the purpose of proposing a measure to adopt participatory budgeting or other similar method of resident participation in the budgeting process in Amherst. The commission shall consist of 7 members: one shall be the Finance Director or designee, one shall be a Town Council member, two shall be residents appointed by the Town Council, and three shall be residents appointed by the Town Manager. The Commission shall propose a measure to the Town Council by December 1, 2020. The Town Council shall act by voting upon the proposed measure with or without amendments within ninety days of receipt.”

<sup>267</sup> The Editors of Encyclopaedia Britannica. *Primary Election*. (Accessed on November 21, 2019)

political parties select their general election candidates.”<sup>268</sup> There can be primary elections in all the federal, state, and local jurisdictions.

In the United States, “primaries may be open, closed, or modified. In an open primary, any registered voter may participate but must select in which party's primary he or she will vote; in other words, a voter could not participate in both the Democratic and Republican primary contests. Closed primaries are restricted to voters registered as members of the political party holding the election. In recent election cycles, states were divided about equally between open or closed primaries. In a few states, one or both parties held modified closed primaries that were open, for example, to independents or voters who expressed no party preference during voter registration.”<sup>269</sup> This section will address the following two legislative jurisdictions: federal legislation and state legislation.

### **Federal Legislation on Primary Elections**

There seem to be no legal restrictions to exclude Shosics from voting in primary elections at any level. The prohibition contained in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to participate in federal elections does not extend to primary elections. Even though Shosics cannot vote for the President, Vice-President, and Members of Congress of the United States, they are allowed to vote in the selection of the party’s candidates for these positions. The difference is subtle but critical.

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<sup>268</sup> Gerber, Alan S., Gregory A. Huber, Daniel R. Biggers, and David J. Hendry. *Why Don't People Vote in U.S. Primary Elections? Assessing Theoretical Explanations for Reduced Participation*. Electoral Studies 45, (2017): 119-129.

<sup>269</sup> Tarr, David R. and Bob Benenson. *Primary Types*. In *Elections A to Z*, edited by David R. Tarr and Bob Benenson 4th ed., 486-489, CQ Press: American Government A to Z Series. Washington, DC: CQ Press, 2012.

## State Legislation on Primary Elections

In the United States, “for the past century and a half, the two parties of governance have been the Democratic and Republican parties, who, though occasionally challenged, have never been dislodged from their commanding roles as the institutional actors through which meaningful partisan competition takes place in the country.”<sup>270</sup> Up until 1944, the political parties decided the suffrage qualifications to vote in their respective primaries. In that year, however, the Supreme Court, in an opinion written by Justice Stanley F. Reed, held in *Smith v. Allwright* that states could not delegate the authority to regulate primaries to political parties. “States must make voting in their primary elections equally accessible to voters of all races, even if they do not manage the election process themselves.”<sup>271</sup> Hence, any rule that discriminates against primary voters on account of their race or color violates the Fourteenth Amendment, which grants equal protection of the law.

Even though the Supreme Court in *Smith v. Allwright* ratified the obligation of states to regulate primary elections, that is not a blank check for states to determine who can vote in a parties’ primary elections. In 2000, the Supreme Court—in an opinion delivered by Justice Antonin Scalia—argued that states were not allowed to freely shift from closed primaries, in which only political party’s members can vote on its nominees, to a blanket primary, in which each voter’s ballot lists every candidate regardless of party affiliation. Justice Scalia argued that such transition violated the parties’ freedom of association. (*California Democratic Party v. Jones*)<sup>272</sup>

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<sup>270</sup> Issacharoff, Samuel. *Private Parties with Public Purposes: Political Parties, Associational Freedoms, and Partisan Competition*. Columbia Law Review 101, no. 2 (2001): 274-313.

<sup>271</sup> *Smith v. Allwright*, 321 US 649 (1944)

<sup>272</sup> *California Democratic Party v. Jones*. 530 US 567 (2000)

Following the holdings of *Smith v. Allwright* and *California Democratic Party v. Jones*, it is possible to make a twofold conclusion:

1. States must allow all qualified voters to participate in the primary elections of the parties as long as they are members of such parties.
2. States cannot require parties to admit Shosics to their polls in primary elections.

It is important to know that even though states cannot impose certain types of voters on party primaries, that prohibition does not operate on the reverse. Political parties can request the state to enfranchise a specific group of voters for their respective primary elections. For instance, some members of the California Democratic Party introduced a bill to permit “persons who are not United States citizens, including lawful permanent residents and persons who are or were in deferred action status under the federal Deferred Action for Childhood Arrivals (DACA) policy, to be candidates for, and members of, a county central committee of the Democratic Party of California.”<sup>273</sup> If such legislation is adopted, it would be a breakthrough for Democratic Shosics in California to be allowed to become committee members.<sup>274</sup>

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<sup>273</sup> SB-288 Democratic Party of California: Peace and Freedom Party of California: county central committees (Available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB288](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB288); Accessed on December 12, 2019)

<sup>274</sup> Lardieri, Alexa. *California Bill Would Allow Noncitizens to Participate in Democratic Party*. Published in U.S. News on June 27, 2019. (Available at <https://www.usnews.com/news/politics/articles/2019-06-27/california-bill-would-allow-noncitizens-to-participate-in-democratic-party>; Accessed on December 12, 2019)

## Condominium Elections

The smallest—but not least important—jurisdiction in which a person can vote in the United States is the condominium election. It is important to analyze condominium elections in this thesis because condominiums are jurisdictions where Shosics live, pay maintenance fees, and interact with their neighbors. A condominium is a microcosm of the multiple electoral jurisdictions that exist in the United States. Restricting suffrage in condominium elections seems as irrational as restricting suffrage in school board, village, town, city, and county elections.

A condominium is a “multiple-unit dwelling in which there is separate and distinct ownership of individual units and joint ownership of common areas. For example, in an apartment house, the individual owners would each own their own apartments while all the owners of the separate apartments would together own the parts of the building common to all of them, such as the entrances, laundry rooms, elevators, and hallways.”<sup>275</sup>

There is no reason to believe that Shosics can be excluded from voting or running for a position in the condominium board. The condominium voting and board-member qualifications, however, are set in the condominium bylaws. “The condominium bylaws are a self-governing document for the association.”<sup>276</sup> The bylaws—which are generally drafted by the developers of the condominium or the original purchasers of the individual units—ordinarily establish procedures for electing the officers or board members of the condominium association. They may

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<sup>275</sup> Batten, Donna. *Condominiums and Cooperatives*. In *Gale Encyclopedia of American Law*, 3rd ed., P. 77. Vol. 3. Detroit, MI: Gale, 2010.

<sup>276</sup> Ianucci, Lisa. *Changing the rules: Altering Bylaws in Co-Ops and Condos*; Published at The Cooperator New York. June, 2005 (Accessed on November 24, 2019)



also specify the qualifications, rights, powers, and duties of the condominium association.<sup>277</sup>

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<sup>277</sup> Batten, Donna. *Bylaws*. In Gale Encyclopedia of American Law, 3rd ed., 209. Vol. 2. Detroit, MI: Gale, 2010.

## Chapter V

### The Right of Suffrage is a Fundamental Right

The right of suffrage is an essential right in the history of the United States. This country was founded under the democratic ideal that the Government should exist only with the consent of the governed.<sup>278</sup> The Founding Fathers envisioned a participatory democracy where the people of the United States should have the fundamental right to vote for public officials. The right to vote is a twofold fundamental right: It is a fundamental right *per se* enshrined in various laws and international treaties that explicitly protect it, and it is also fundamental as a manifestation of the right of freedom of expression. Therefore, outrightly disfranchising Shosics from all the electoral jurisdictions in the country violates their human rights.

This chapter will first introduce the right to vote as a fundamental right *per se*. Then, it will analyze the standards of review applicable in court for fundamental rights. The chapter will then move to review why the right to vote is a manifestation of freedom of expression. Afterward, it will explain why Shosics are a suspect class. These analyses will allow the reader to conclude that courts in the United States must interpret any restriction to the right of suffrage of Shosics through a strict scrutiny lens.

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<sup>278</sup> United States. *Declaration of Independence*. 1876.

## Fundamental Rights

Even though courts, legislators, and scholars always refer to the right to vote as fundamental,<sup>279</sup> the legal interpretation has not always been consistent with such classification. The right to vote is a fundamental right—the Supreme Court has argued—because “it is preservative of all rights.”<sup>280</sup> Fundamental rights are a group of rights that “have been recognized by the Supreme Court as requiring a high degree of protection from government encroachment. These rights are specifically identified in the Constitution, or are found under due process.”<sup>281</sup>

“The rights that the Constitution's framers wanted to protect from government abuse were referred to in the Declaration of Independence as unalienable rights. They were also called *natural rights*, and to James Madison, they were the great rights of mankind.”<sup>282</sup> The entire Bill of Rights arose to protect the rights that the original citizens believed were naturally theirs, including freedom of religion, freedom of speech, press, petition, assembly, due process of law, and equality before the law.

There are many examples of fundamental rights not explicitly listed in the Constitution of the United States. Among those, the Supreme Court identified the right of marriage,<sup>283</sup> privacy,<sup>284</sup> interstate travel,<sup>285</sup> procreation,<sup>286</sup> and the right to vote.<sup>287</sup>

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<sup>279</sup> E.g., 52 U.S.C. § 20101 (West Supp. 2014) (providing access for handicapped voters); National Voter Registration Act, 52 U.S.C. § 20501(a)(1) (West Supp. 2014); *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>280</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>281</sup> Legal Information Institute. *Fundamental Right*. Cornell Law School (Available at [https://www.law.cornell.edu/wex/fundamental\\_right](https://www.law.cornell.edu/wex/fundamental_right); Accessed on February 12, 2020)

<sup>282</sup> ACLU. *The Bill of Rights: A Brief History*. (Available at <https://www.aclu.org/other/bill-rights-brief-history>; Accessed on February 12, 2020)

<sup>283</sup> See *Loving v. Virginia* 388 U.S. 1 (1967); *United States v. Windsor*, 570 U.S. 744 (2013); *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015)

<sup>284</sup> See *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); *Roe v. Wade*, 410 U.S. 113 (1973); *Lawrence v. Texas*, 539 U.S. 558 (2003).

<sup>285</sup> See *Shapiro v. Thompson*, 394 U.S. 618 (1969)

<sup>286</sup> See *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942)

<sup>287</sup> See *Harper v. Virginia Bd. of Elections*, 383 U.S. 663 (1966)



States.<sup>288</sup> Article 25 of the ICCPR grants the right “to vote and to be elected at genuine periodic elections.”<sup>289</sup>

Even though the United States has an international obligation to comply with the ICCPR,<sup>290</sup> its government declared in the Reservations, Understandings, and Declarations (RUD) section of the treaty “that the provisions of the Covenant are not self-executing”<sup>291</sup> in the United States. Such declaration means that the ICCPR is not valid as domestic law in the country. The distinction between self-executing and non-self-executing treaties has its origins in Chief Justice Marshall’s opinion in *Foster v. Neilson*.<sup>292</sup> In that case, the Court decided that treaties are only valid as domestic law: 1) If Congress passes legislation confirming the treaty, or 2) If the treaty itself conveys an intention that it be self-executing and is ratified on these terms.<sup>293</sup>

Considering that state legislatures have the constitutional responsibility to set the voting requirements, it is essential to know if non-self-executing international treaties can impose obligations on them. The short answer is that they are not. The Supreme Court, in an opinion delivered by Chief Justice Roberts in *Medellin v. Texas*,<sup>294</sup> concluded that “the terms of a non-self executing treaty can become domestic law only in the same ways as any other domestic law—through passage of legislation by

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<sup>288</sup> United Nations; *Treaty Collection: International Covenant on Civil and Political Rights, Status of Ratification* (Available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg\\_no=IV-4&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg_no=IV-4&chapter=4&clang=en); Accessed on December 11, 2019)

<sup>289</sup> United Nations; *International Covenant on Civil and Political Rights*. Article 25; Clause 2.

<sup>290</sup> ACLU. FAQ: THE COVENANT ON CIVIL & POLITICAL RIGHTS (ICCPR) (Available at <https://www.aclu.org/other/faq-covenant-civil-political-rights-iccpr>; Last Updated: April 2019; Accessed on December 11, 2019)

<sup>291</sup> United Nations. *ICCPR Declarations and Reservations* [United States of America, Declaration 1]

<sup>292</sup> *Foster v. Neilson* [27 U.S. (2 Pet.) 253 (1829)]

<sup>293</sup> Dunoff, Jeffrey L.; Ratner, Steven R., Wippman, David, *International Law Norms, Actors, Process: A Problem Oriented Approach*; ; 3rd ed.; Aspen Publishers; New York; 2010. P. 278.

<sup>294</sup> *Medellin v. Texas*, 552 U.S. 491 (2008)

both Houses of Congress, combined with either the President's signature or a congressional override of a Presidential veto."<sup>295</sup>

## International Declarations

Besides ICCPR, there are two international declarations of human rights that the United States signed, that declare the right of suffrage as an "inalienable right of all members of the human family."<sup>296</sup> 1) The Universal Declaration of Human Rights (UDHR)<sup>297</sup>; and 2) The American Declaration of the Rights and Duties of Man (ADRDM).<sup>298</sup> These declarations, as opposed to international treaties, are not binding *per se* in the international arena. Nevertheless, the United States must comply with these declarations because they are tantamount to international custom,<sup>299</sup> which is a source of international law under Article 38 of the Statute of the International Court of Justice.<sup>300</sup>

The United States—as a state party to ICCPR and signatory of the UDHR and ADRDM—has the international obligation to respect and protect the right to vote of

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<sup>295</sup> *Medellin v. Texas* was decided in light of the ICJ resolution of the Avena Case where Mexico filed suit against the United States alleging violations of the Vienna Convention on Consular Relations in the cases of 54 Mexican nationals who had been sentenced to death in state criminal proceedings without being advised of their consular rights. The ICJ ruled in favor of Mexico and ordered the United States to "permit review and reconsider" the cases of these Mexican nationals. Nevertheless, the Supreme Court of the United States ruled in *Medellin v. Texas* that the Optional Protocol of the Vienna Convention, which grants jurisdiction to the ICJ, is a non-self executing treaty. Hence, it concluded that the ICJ resolution of the Avena Case was not binding on U.S. Courts. [See *Mexico v. United States of America*; International Court of Justice (2004)]

<sup>296</sup> United Nations General Assembly. *Universal Declaration of Human Rights (Preamble)*. Washington, D.C.: Department of State, United States of America, 1949.

<sup>297</sup> "Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures." [United Nations General Assembly. *Universal Declaration of Human Rights (Preamble)*. Washington, D.C.: Department of State, United States of America, 1949.]

<sup>298</sup> "Article XX. [Right to vote and to participate in government] Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free." [International American Conference. *American Declaration of the Rights and Duties of Man*. [Rev.]. Washington: Pan American Union, 1957.]

<sup>299</sup> Henkin, Louis. *Human Rights*. 2Nd ed. New York, NY: Thomson Reuters/Foundation Press, 2009.

<sup>300</sup> Statute of the International Court of Justice. [S.I.]: Great Neck Publishing, 2017.

its subjects. According to these international obligations, it can only restrict the right to vote if such restriction is reasonable. Therefore, this dissertation will analyze if denying the right of suffrage of Shosics is reasonably justified or not.

## Standards of Review for Fundamental Rights

The relevance of fundamental rights for judicial purposes is that “laws encroaching on a fundamental right generally must pass strict scrutiny to be upheld as constitutional.”<sup>301</sup> Levels of scrutiny come in two varieties: strict scrutiny and rational basis review. Strict scrutiny is a form of judicial review that courts use to determine the constitutionality of specific laws whenever they:

- a. Restrict fundamental rights; or
- b. Affect a suspect classification of people.<sup>302</sup>

To pass strict scrutiny, the legislature must have adopted the law to further a “narrowly tailored compelling state interest.”<sup>303</sup> A “compelling-state-interest-test” refers to a method of determining the constitutional validity of a law. Under this test, the government’s interest is balanced against the individual’s constitutional right to be free of law.<sup>304</sup> Many have called the strict scrutiny standard of review an “ends and means” inquiry.<sup>305</sup> “The Court makes a normative judgment about the ends: Is the

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<sup>301</sup> Legal Information Institute. *Fundamental Right*. Cornell Law School (Available at [https://www.law.cornell.edu/wex/fundamental\\_right](https://www.law.cornell.edu/wex/fundamental_right); Accessed on February 12, 2020)

<sup>302</sup> Legal Information Institute. *Strict Scrutiny*. Cornell Law School (Available at [https://www.law.cornell.edu/wex/strict\\_scrutiny](https://www.law.cornell.edu/wex/strict_scrutiny); Accessed on February 12, 2020)

<sup>303</sup> See *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 655 (1990); *Boos v. Barry*, 485 U.S. 312, 334 (1988) (plurality); see also *Burson v. Freeman*, 504 U.S. 191, 198 (1992) (plurality); *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 573 (1987); *Cornelius v. NAACP Legal Defense and Educ. Fund, Inc.*, 473 U.S. 788, 800 (1985); *United States v. Grace*, 461 U.S. 171, 177 (1983); *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983).

<sup>304</sup> Steiner, Ronald. *Compelling State Interest*. Published at The First Amendment Encyclopedia. (Available at <https://www.mtsu.edu/first-amendment/article/31/compelling-state-interest>; Accessed on February 11, 2020)

<sup>305</sup> See *Sable Communications v. FCC*, 492 U.S. 115, 126 (1989); *Lillian BeVier, Campaign Finance Reform: Special Arguments, Intractable Dilemmas*, 94 Colum. L. Rev. 1258, 1278 (1994)

state interest important enough to justify a restriction? And the Court makes a primarily empirical judgment about the means. If the means do not further the interest, are too broad, are too narrow, or are unnecessarily burdensome, then the government can and should serve the end through a better-drafted law.”<sup>306</sup>

Before the mid-twentieth century, “courts gave great deference to acts passed or issued by the legislative and executive branches. In time, the patent unworkability of this pretense led justices, including Harlan Fiske Stone, to articulate an overt double (and later triple) standard for constitutional reviews: Most governmental regulation, including most economic regulation, would be presumed constitutional, but—as Stone explained in his famous footnote four in *United States v. Carolene Products Company* (1944)—regulation aimed at fundamental rights, the operation of the political process, and disadvantaged minorities must be viewed with more scrutiny and subjected to stricter review.”<sup>307</sup>

The levels of scrutiny determine how courts prioritize competing interests of individual and governmental claimants. Strict scrutiny is the highest standard of review, which courts use to evaluate the constitutionality of governmental discrimination.<sup>308</sup> The difference between strict scrutiny and relaxed standards of review is colossal.<sup>309</sup> Through a strict scrutiny standard of review, only used exceptionally, any law restricting or burdening a fundamental right is viewed skeptically.<sup>310</sup> “The state has the burden of proof, and the Court will uphold the law

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<sup>306</sup> Volokh, Eugene, *Freedom of Speech, Permissible Tailoring and Transcending Strict Scrutiny*, 144 U. Pennsylvania L. Rev. 2417 (1997).

<sup>307</sup> Steiner, Ronald. *Compelling State Interest*. Published at The First Amendment Encyclopedia. (Available at <https://www.mtsu.edu/first-amendment/article/31/compelling-state-interest>; Accessed on February 11, 2020)

<sup>308</sup> Pellvot, Susannah W. *Beyond Suspect Classifications*. University of Pennsylvania Journal of Constitutional Law. Volume 16. Article 3. (Available at <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1519&context=jcl>; Accessed on February 12, 2020)

<sup>309</sup> This higher level of scrutiny, now called “strict scrutiny”, was applied to strike down an inmate forced sterilization law in *Skinner v. Oklahoma* (1942) and in Justice Black’s infamous opinion in *Korematsu v. U.S.* (1944) in which Japanese internment was upheld despite being subject to heightened scrutiny.

<sup>310</sup> Roy G. Jr. Speece; David Yokum, *Scrutinizing Strict Scrutiny*, Vermont Law Review 40, no. 2 (Winter 2015): 285-352



only if the state can prove that the law advances an actual “compelling interest” and does so by the least restrictive means possible.”<sup>311</sup>

On the contrary, the relaxed standard of review, also known as rational basis, is applied by default unless the Supreme Court doctrine calls for a higher standard.<sup>312</sup> Rational basis is a meager standard of judicial review,<sup>313</sup> that “places the burden of proof on the law’s challenger, not the state; the law is subjected to cursory review and is presumed valid if supported by any conceivable purpose. The question of whether there are less restrictive means of achieving the state’s purpose is irrelevant.”<sup>314</sup> Unsurprisingly, plaintiffs overwhelmingly lose under this standard.<sup>315</sup>

Standards of Review	
<div>Strict Scrutiny</div> <div>Exceptional standard of review</div> <div>The state has the burden of proof</div> <div>Restrictive laws are presumed invalid, unless the state proves that the restrictive law advances an actual compelling interest and does so by the least restrictive means possible.</div>	<div>Rational Basis</div> <div>Default standard of review</div> <div>The challenger has the burden of proof</div> <div>Restrictive laws are presumed valid if supported by any conceivable purpose. The question whether there are less restrictive means of achieving the state’s purpose is irrelevant.</div>

Table 19

### Voting is a Twofold Fundamental Right

The right to vote is undoubtedly important in the United States, but such importance does not always equate to being a fundamental right. If the right to vote

<sup>311</sup> Armand Derfner & J. Gerald Hebert , *Voting Is Speech*, 34 Yale L. & Pol’y Rev. 471 (2016).  
<sup>312</sup> See *Lyng v. Castillo*, 477 U.S. 635 (1986)  
<sup>313</sup> *United States v. Carolene Products Company*, 304 U.S. 144 (1938)  
<sup>314</sup> Armand Derfner & J. Gerald Hebert , *Voting Is Speech*, 34 Yale L. & Pol’y Rev. 471 (2016).  
<sup>315</sup> Pellvogt, Susannah W. *Beyond Suspect Classifications*. University of Pennsylvania Journal of Constitutional Law. Volume 16. Article 3. (Available at <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1519&context=jcl>; Accessed on February 12, 2020)

were truly fundamental, courts would always subject any law restricting or burdening the right to vote to the highest level of scrutiny. Courts, however, intermittently analyze suffrage restrictions through relaxed standards of review in some cases and strict scrutiny standards in others.<sup>316</sup>

Referring to the right to vote as a fundamental right *per se* is not enough to get the privileges that fundamental rights get in court. Unfortunately, the term “fundamental rights” is mistakenly used to refer to all kinds of important rights. Such linguistic abuse has watered down the validity and power of fundamental rights before courts. All rights are important, but only fundamental rights are universal, inalienable, indivisible, interdependent, and interrelated.<sup>317</sup> Not all rights belong in the basket of fundamental rights. The right to vote, however, is a right of the highest nature recognized, guaranteed, and protected by most nations of the world.<sup>318</sup> The term fundamental right is not hollow when talking about the right of suffrage. We must defend the right to vote as one of the most treasured human rights. Any restriction or burden on the right to vote should be subject to strict scrutiny. Courts in the United States, however, do not seem to regard voting as one of the highest expressions of human dignity. Not even demanding the protection of the constitution under the Equal Protection Clause has sufficed to invariably get strict scrutiny standards of review from the courts when dealing with voting rights.

Such inconsistency occurs because courts have not yet analyzed the right of suffrage under the cloak of freedom of expression. Freedom of speech is the

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<sup>316</sup> E.g., 52 U.S.C. § 20101 (West Supp. 2014) (providing access for handicapped voters); National Voter Registration Act, 52 U.S.C. § 20501(a)(1) (West Supp. 2014); *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>317</sup> United Nations Office of the High Commissioner. *Human Rights*. (Available at <https://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>; Accessed on January 17, 2020)

<sup>318</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

quintessential fundamental right in the United States. Enshrined in the First Amendment to the Constitution of the United States, freedom of expression is perhaps the most protected and well-known right in the country. Hence, if voting is a speech act—as argued in the following paragraphs—any restriction or burden on the right to vote would always necessarily be subject to a strict scrutiny standard of review. The logical alternative left to try before courts is to dress up the right to vote into its natural outfit of Freedom of Expression and demand the permanent protection of such relevant right through a strict scrutiny standard of review.<sup>319</sup>

### **Voting Is a Speech Act**

Voting is a form of expression. Linguistic, etymological, and legal definitions of *voting* are all consistent in defining the act of voting as the *expression* of preference among two or more options. The most common definition of the vote, from Merriam-Webster Dictionary, is “a formal *expression* of opinion or will in response to a proposed decision.”<sup>320</sup> Such definition is consistent with its Latin etymological origin, «*vovere*», which means to vow. To vow, means to *express* a solemn promise.<sup>321</sup>

In line with the linguistic interpretation of the word vote, American jurisprudence, as well as international treaties and declarations, legally define the right to vote as an act of expression. The Supreme Court of the United States, for instance, noted in *Norman v. Reed* that voting gives “opportunities of all voters to *express* their own

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<sup>319</sup> *Dunn v. Blumstein*, 405 U.S. 330 (1972)

<sup>320</sup> Merriam-Webster. *Vote* (Available at <https://www.merriam-webster.com/dictionary/vote>; Accessed on January 17, 2020)

<sup>321</sup> Merriam-Webster. *Vow* (Available at <https://www.merriam-webster.com/dictionary/vow>; Accessed on February 21, 2020)

political preferences.”<sup>322</sup> Furthermore, the Supreme Court “has characterized the fundamental right to vote in terms of *voice*.”<sup>323</sup> For example, in *Wesberry v. Sanders*, it expounded that “No right is more precious in a free country than that of having a *voice* in the election of those who make the laws.”<sup>324</sup> In *Reynolds v. Sims*, the Court highlighted that “[E]ach citizen [must] have an equally effective *voice* in the election of members of his state legislature.”<sup>325</sup> Voice, as we all know, is a word commonly defined as an *expression* of words.<sup>326</sup>

Moreover, in the international legal sphere, article 21 of the Universal Declaration of Human Rights defines the act of voting as the *expression* of the will of the people.<sup>327</sup> Likewise, article 25 of the International Covenant on Civil and Political Rights, defines voting as the free *expression* of the will of the electors.<sup>328</sup>

Whenever a group of people votes, it collectively *expresses* its *voice*. When electors choose between  $\Phi$  or  $\Omega$ , their votes manifest an endorsement or rejection of  $\Phi$  and  $\Omega$ . Even when a person decides not to vote or to cancel their ballot, they are expressing neutrality or rejection of the candidates.

There should be no doubt that voting is a form of expression. If we accept such premise to be correct and valid, and we recognize that freedom of expression is a

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<sup>322</sup> *Norman v. Reed*, 502 U.S. 279, 288 (1992).

<sup>323</sup> Armand Derfner & J. Gerald Hebert, *Voting Is Speech*, 34 Yale L. & Pol’y Rev. 471 (2016).

<sup>324</sup> *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).

<sup>325</sup> *Reynolds v. Sims*, 377 U.S. 533, 565 (1964).

<sup>326</sup> Merriam-Webster. *Voice*. (Available at <https://www.merriam-webster.com/dictionary/voice>; Accessed on January 17, 2020)

<sup>327</sup> Article 21 (UDHR)

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

<sup>328</sup> Article 25 (ICCPR)

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

fundamental right protected by the First Amendment to the Constitution of the United States,<sup>329</sup> the logical conclusion is that the right to vote is a fundamental right protected by the First Amendment, which protects the right of freedom of expression.

The syllogism of such reasoning reads as follows:

**Major Premise:** Voting is a form of expression.

**Minor Premise:** Expression is a fundamental right protected by the First Amendment to the Constitution.

**Conclusion:** Voting is a fundamental right protected by the First Amendment to the Constitution.

If we accept such a syllogistic conclusion as valid, there would be monumental legal implications regarding the right of suffrage. So far, the right to vote—not always perceived as a big fundamental right—generally fits into the rational basis standard of review.

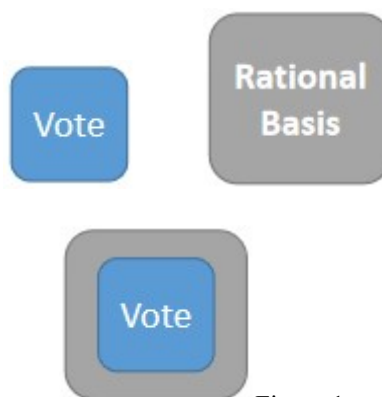


Figure 1

Freedom of expression, on the other hand, is a colossal fundamental right that always fits into the strict scrutiny standard of review.

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<sup>329</sup> Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

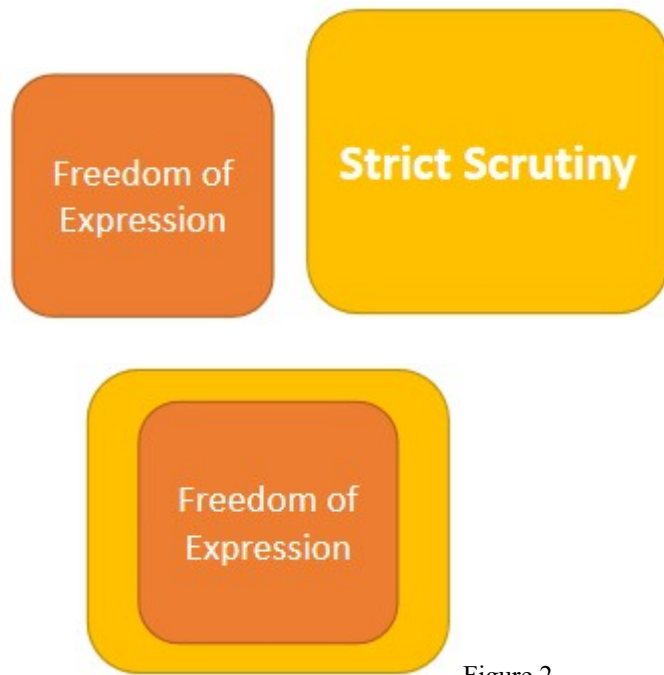


Figure 2

If the right to vote were considered a manifestation of the right of freedom of expression (as it should be), courts would have to analyze it through strict scrutiny lenses invariably.

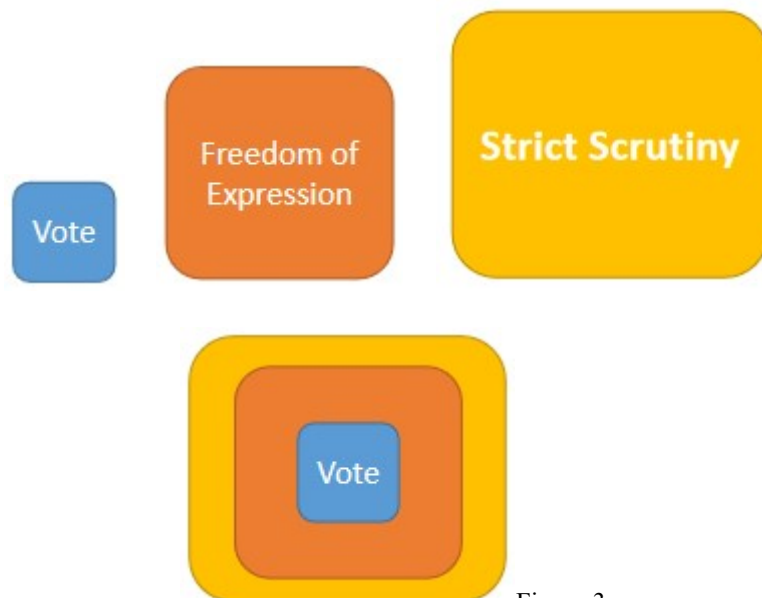


Figure 3

## Shosics as a Suspect Classification

As stated above, a strict scrutiny standard of review is applicable whenever the courts deal with restrictions to fundamental rights or suspect classifications.<sup>330</sup> “Suspect classification refers to a class of individuals that have been historically subject to discrimination.”<sup>331</sup> The Supreme Court established the judicial precedent for suspect classifications in the cases of *Hirabayashi v. United States* (1943),<sup>332</sup> and *Korematsu v. United States* (1944).<sup>333</sup> In these cases, the Supreme Court recognized that there are four generally agreed-upon suspect classifications: race, religion, national origin, and alienage. However, this is not an inclusive list.”<sup>334</sup>

Shosics are a suspect class for purposes of state law.<sup>335</sup> Therefore courts must analyze any government action that discriminates against them through strict scrutiny. In *Graham v. Richardson* (1971), for instance, the Supreme Court held that “resident non-citizens have access to rights under the Equal Protection Clause, and a state law that discriminates against them must be justified by a compelling state interest to be valid.”<sup>336</sup> In contrast, because the United States Congress has the power to regulate immigration, federal government action that discriminates based on “alienage” receive rational basis scrutiny.<sup>337</sup> State acts that affect undocumented Shosics are generally analyzed with rational basis review unless the topic is the education of children, in which case they are analyzed under intermediate scrutiny.<sup>338</sup>

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<sup>330</sup> U.S. Legal. *Suspect Classification Law and Legal Definition*. (Available at <https://definitions.uslegal.com/s/suspect-classification/>; Accessed on February 12, 2020)

<sup>331</sup> Legal Information Institute. Cornell Law School. *Suspect Classification*. (Available at [https://www.law.cornell.edu/wex/suspect\\_classification](https://www.law.cornell.edu/wex/suspect_classification); Accessed on February 12, 2020)

<sup>332</sup> *Hirabayashi v. United States*, 320 U.S. 81 (1943)

<sup>333</sup> *Korematsu v. United States*, 323 U.S. 214 (1944)

<sup>334</sup> Legal Information Institute. Cornell Law School. *Suspect Classification*. (Available at [https://www.law.cornell.edu/wex/suspect\\_classification](https://www.law.cornell.edu/wex/suspect_classification); Accessed on February 12, 2020)

<sup>335</sup> See *Graham v. Richardson*, 403 U.S. 365 (1971); *In Re Griffiths*, 413 U.S. 717 (1973); *Ambach v. Norwick*, 441 U.S. 68 (1979); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Bernal v. Fainter*, 467 U.S. 216 (1984)

<sup>336</sup> *Graham v. Richardson*, 403 U.S. 365 (1971)

<sup>337</sup> Exploring Constitutional Conflicts. Rights of Non-Citizens Under the Equal Protection Clause. (Available at <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/alienage.html>; Accessed on February 12, 2020)

<sup>338</sup> See *Plyler v. Doe*, 457 U.S. 202 (1982)

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that “no state shall deny to any person within its jurisdiction the equal protection of the laws.” It is essential to recognize that the Equal Protection Clause does not prohibit making distinctions between citizens and Shosics. Such distinction, however, must be rationally justified as a means to serve a legitimate social purpose.

Hence, if the states want to impose restrictions on Shosics over their right to vote and to hold office, those restrictions should be required to pass tests of reasonability, proportionality, and necessity. If the restriction fails these tests, the distinction between citizens and Shosics would be unconstitutional, and the United States would have to grant the right to vote and hold office to the millions of Shosics.

To analyze the legality of the distinction between Shosics and citizens, it is essential to consider the 1982 Supreme Court decision in *Plyler v. Doe*. This case involved a Texas regulation denying children who were undocumented immigrants free admission to elementary and secondary schools. In Owen Fiss’s words, the interpretation of the Supreme Court on the Equal Protection Clause in *Plyler* “prohibits not only discrimination but also the creation of a near-caste structure. It prohibits creating socially and economically disadvantaged groups that are forced to live at the margin of society, isolated from the mainstream, always at risk, seen in their own eyes and in those of the dominant group as inferior.”<sup>339</sup> After reading Fiss’s interpretation of *Plyler*, one would think that he is in favor of Shosic enfranchisement. In his opinion, however, the political distinctions made about Shosics are acceptable. He believes Shosics should not have the right to vote under the consideration that exclusive citizen voting sustains and implements the political principles that define a

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<sup>339</sup> Fiss, Owen. *The Immigrant as a Pariah; A Community of Equals: The constitutional protection of new Americans*; p. 12. Beacon Press, Boston, 1999; Edited by Joshua Cohen and Joel Rogers.



nation.<sup>340</sup> In my opinion, Fiss contradicts himself. Such a distinction would affect the very same things that he is trying to protect.

To avoid political marginalization of Shosics, and the “creation of a near-caste structure,”<sup>341</sup> courts should assess whether the restrictions on voting and holding office are reasonable, proportional and necessary. Therefore, I firmly believe that courts should consider Shosics as a suspect classification.



Figure 4

For purposes of considering Shosics as a suspect classification, it is essential to take into consideration other decisions of the Supreme Court of the United States. In *Yick Wo v. Hopkins*, the Supreme Court stated that the right to vote is a fundamental right because it is preservative of all rights. In fairness, the Supreme Court added that the right to vote is a fundamental but not natural right. The Court regarded suffrage “as a privilege merely conceded by society according to its will under certain conditions.”<sup>342</sup>

Contrary to the theory of Shosic enfranchisement, it is vital to consider the Supreme Court case *Sugarman v. Dougall*. In this decision, the Court argued that it

<sup>340</sup> Fiss, Owen. *The Immigrant as a Pariah; A Community of Equals: The constitutional protection of new Americans*; p. 5. Beacon Press, Boston, 1999; Edited by Joshua Cohen and Joel Rogers.

<sup>341</sup> Fiss, Owen. *The Immigrant as a Pariah; A Community of Equals: The constitutional protection of new Americans*; p. 12. Beacon Press, Boston, 1999; Edited by Joshua Cohen and Joel Rogers.

<sup>342</sup> *Yick Wo v. Hopkins*, 118 U.S. 356 (1886)

“has never held that aliens have a constitutional right to vote or to hold high public office under the Equal Protection Clause. Indeed, implicit in many of this Court's voting rights decisions is the notion that citizenship is a permissible criterion for limiting such rights.”<sup>343</sup> Also contrary to my thesis, we must review the Supreme Court decision in *Kramer v. Union Free Sch. Dist. No. 15*. In that case, the Supreme Court ruled that “the states have the power to impose reasonable citizenship, age, and residency requirements on the availability of the ballot.”<sup>344</sup> *Kramer v. Union Free Sch. Dist. No. 15* is very interesting because it reminds us that the decision about who is qualified to vote is within the competence of each state legislature. As Jennifer Gordon argues, “contrary to popular understanding, the law imposes no impediment to non-citizens voting in the United States. The Constitution does not require voters to be citizens; the decision about who can vote in federal elections rests in the hands of each state.”<sup>345</sup>

Considering that the enfranchisement of Shosics depends on each state legislature, it is fundamental to analyze the Colorado Supreme Court holding in *Skafte v. Rorex*. In this case, Peter Skafte, a permanent resident alien, sought a declaratory judgment that the Colorado statutes that deny aliens the right to vote in school elections were unconstitutional. The Colorado Supreme Court ruled that “the state has a rational interest in limiting participation in government to those persons within the political community. Aliens are not a part of the political community.”<sup>346</sup>

A lot has changed in the United States since these cases were argued. The political arena, migration dynamics, and human rights values in this country have evolved in a direction that makes it essential to reconsider the aforementioned

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<sup>343</sup> *Sugarman v. Dougall*, 413 U.S. 634 (1973).

<sup>344</sup> *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621 (1969)

<sup>345</sup> Gordon, Jennifer. *The Immigrant as Pariah: Let them vote*. Boston Review. October 1, 1998. Beacon Press, Boston, 1999; Edited by Joshua Cohen and Joel Rogers. (Available at <http://bostonreview.net/forum/immigrant-pariah/jennifer-gordon-let-them-vote>; Accessed on February 12, 2020)

<sup>346</sup> *Skafte v. Rorex*; 553 P.2d 830 (1976)

resolutions. As stated in previous chapters, Shosics represent 7% of the population of the United States. Hence, regardless of what the Supreme Court and other lower courts have ruled in the past, I strongly believe it is time to reconsider the enfranchisement of Shosics.

## **Comparative Jurisprudence**

Even though American Courts and legislatures do not find international jurisprudence and comparative legislation as persuasive as other countries do, it is essential to review what some international and national courts have ruled regarding restriction of political rights. According to international and comparative national jurisprudence, states can only restrict political rights if such limitations are reasonable, proportional, and necessary. This conclusion is adopted in the following three emblematic cases,<sup>347</sup> which illustrate the requirements to restrict any political right:

- a) *Sauvé v. Canada*;
- b) *Hirst (No. 2) v. the United Kingdom*; and
- c) *Castañeda Gutman v. Mexico*.

### **a) Reasonability Test: *Sauvé v. Canada***

In the emblematic case, *Sauvé v. Canada*, the Canadian Supreme Court held that prisoner disenfranchisement was unconstitutional. The Court argued that such political restriction failed to establish a reasonable connection between the denial of the right to vote and the objectives of a democratic state. The Court ruled that “to disenfranchise a segment of the population finds no place in a democracy built upon

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<sup>347</sup> There is an infinite number of cases that can be used in this research such as *Richardson v. Ramirez* (418 U.S. 24 [1974]), *Scoppola (No. 3) v. Italy* (ECHR, 2012), *Kulinski and Sabev v. Bulgaria* (ECHR, 2016), and others. Even though these cases will be taken into account for purposes of the investigation, the three selected cases are very illustrative of the tests that must be conducted to restrict political rights.

principles of inclusiveness, equality, and citizen participation.”<sup>348</sup> Thus, this dissertation suggests conducting a Reasonability Test to discover whether the restriction of suffrage of Shosics in the United States is reasonably justified or not.

**b) Proportionality Test: *Hirst (No. 2) v. the United Kingdom***

In the landmark case of *Hirst (No. 2) v. the United Kingdom*, the European Court of Human Rights denied the possibility of states to impose restrictions on electoral rights to all the imprisoned individuals. In their view, the severe measure of disenfranchisement must be justified under the principle of proportionality, which requires a discernible and sufficient link between the sanction, the conduct, and circumstances of the individual concerned.<sup>349</sup> Therefore, this dissertation suggests conducting a Proportionality Test to discover whether Shosic disenfranchisement in the United States is proportionally or not.

**c) Necessity Test: *Castañeda Gutman v. Mexico***

In the landmark case of *Castañeda Gutman v. Mexico*,<sup>350</sup> the Inter-American Court of Human Rights resolved that for a political restriction to be permitted in light of the American Convention, it must be necessary for a democratic society. To evaluate whether the restrictive measures comply with this requirement, the Court must assess whether: “(a) it fulfills an urgent social need; (b) it is the measure that least restricts the protected rights, and (c) it is closely adapted to achieving a legitimate purpose.”<sup>351</sup> Hence, this thesis suggests conducting a Necessity Test to

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<sup>348</sup> *Sauvé v. Canada* (Attorney General), [1993] 2 S.C.R. 438

<sup>349</sup> *Hirst v United Kingdom (No 2)* (2005) ECHR 681

<sup>350</sup> This case is about the international responsibility of Mexico for denying the right of a Mexican citizen to run as an independent (or non-partisan) candidate in the 2006 presidential election.

<sup>351</sup> *Castañeda Gutman v. Mexico*. IACrtHR (2008)

discover whether the restriction of democratic rights of Shosics in the United States is necessary or not.<sup>352</sup>

## **Comparative Legislation**

Domestic norms of each country are also fundamental to answer the research questions proposed in this dissertation. For instance, “Uruguay and New Zealand grant resident non-citizens the right to vote in national elections relatively easily. Certain democracies extend suffrage to specific categories of resident non-citizens. Residents in Portugal with Brazilian passports may participate in national elections, and Irish citizens have the right to participate in the elections held in the United Kingdom. Other democracies recognize the right of all non-citizens to participate in local elections after a certain period of residency.”<sup>353</sup> Moreover, it is fundamental to review the case of Europe, where they introduced Union citizenship. As a result, citizens of any member state can vote in European and local elections, irrespective of place of residence within the Union.<sup>354</sup>

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<sup>352</sup> The corresponding reasonableness, necessity, and proportionality tests are part of a separate paper that is still on process.

<sup>353</sup> Beckman, Ludvig. *The Frontiers of Democracy: the Right to Vote and Its Limits*. Basingstoke: Palgrave Macmillan, 2009.

<sup>354</sup> Føllesdal, Andreas. *Third Country Nationals as European Citizens*; 1999. (Available at <http://follesdal.net/ms/Follesdal-1999-3rdcntry.rtf>; Accessed on January 21, 2019)

## Chapter VI

### Reasonability, Proportionality, and Necessity of Shosic Enfranchisement

The right of suffrage is a fundamental right that must be protected, respected, and fulfilled in the United States. Laws that outrightly disenfranchise Shosics are unconstitutional unless the State rationally justify them as a means to serve a legitimate, reasonable, and necessary social purpose. Any law hindering the right of suffrage must be “narrowly tailored to further a compelling state interest” to be legal.<sup>355</sup>

To find out if outright Shosic disenfranchisement from all the electoral jurisdictions in the country is legitimate or not, this chapter will present the positive contributions of Shosics in the economy and social tissue of the United States. Then, it will explain the relevance of Shosics in the decennial census and, consequently, in the allocation of federal funds and apportionment of seats in the House of Representatives. Finally, the chapter will propose a reasonability-test and a necessity-test that would be applicable in any court and legislature of the United States. If proven successful, such tests would allow Shosics in the country to vote and to hold office in specific electoral jurisdictions.

The value of Shosic enfranchisement does not rest on just one particular merit. “There is a plurality of virtues here, including, first, the intrinsic importance of political participation and freedom in human life; second, the instrumental importance of political incentives in keeping governments responsible and accountable; and third,

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<sup>355</sup> See *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 655 (1990); *Boos v. Barry*, 485 U.S. 312, 334 (1988) (plurality); see also *Burson v. Freeman*, 504 U.S. 191, 198 (1992) (plurality); *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 573 (1987); *Cornelius v. NAACP Legal Defense and Educ. Fund, Inc.*, 473 U.S. 788, 800 (1985); *United States v. Grace*, 461 U.S. 171, 177 (1983); *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983).

the constructive role of democracy in the formation of values and the understanding of needs, rights, and duties.”<sup>356</sup>

### **Shosic Disenfranchisement in the United States**

Population determines political representation in the United States.<sup>357</sup> The number of residents in every state determine the apportionment of seats in the House of Representatives. The more populated a state is, the broader representation in Congress it will have.<sup>358</sup> Congressional apportionment is blind to age, nationality, payment of taxes, or legal residence of the inhabitants of the states. All residents equally count for purposes of the census, which occurs every ten years.

Nevertheless, even though the size of the population determines political representation, the right of suffrage is not entrusted to society as a whole. Such prerogative is exclusive for American citizens who are at least eighteen years old. The rest of the population does not have an opportunity to voice their concerns and ideals through the ballot. Regardless that most of the elective positions in the country owe their existence to the whole population, not every inhabitant has the right to vote. Shosics, minors, felons, persons experiencing homelessness, and *non compos mentis* are among the many categories of groups currently excluded from the polls.

Shosics represent 7% of the population of the United States.<sup>359</sup> Preventing such a large chunk of the population from the right of suffrage creates a democratic deficit

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<sup>356</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) 3-17. (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

<sup>357</sup> U.S. House of Representatives. *Proportional Representation* (Available at <https://history.house.gov/Institution/Origins-Development/Proportional-Representation/>; Accessed on January 20, 2020)

<sup>358</sup> U.S. Constitution, Amendment XIV, section 2

<sup>359</sup> Migration Policy Institute. *Frequently Requested Statistics on Immigrants and Immigration in the United States*; Available at <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states> (Accessed on January 10, 2018)

that demands careful analysis. Excluding 17.5 million people from their right to participate in all the electoral jurisdictions, just because they are not American citizens, seems unreasonable, disproportionate, and illegitimate. If states wanted to argue otherwise, they would have to tailor their arguments to suit each electoral jurisdiction narrowly. Arguments for disfranchising Shosics in federal electoral elections cannot be the same for local elections. The stakes of each electoral jurisdiction are as different as the duties of the elective positions. The responsibilities of a county sheriff, for instance, cannot be compared to the duties of President of the United States.

### **Contributions of Shosics to the United States**

Many Americans are opposed to the suffrage of Shosics because of the stereotype that Shosics are low wage, uneducated, rural immigrants who do not speak English, and who do not have enough knowledge on American civics and history. That is not necessarily the case. There is a lot of diversity. The U.S. attracts talent from all over the world: students, professors, doctors, farmworkers, entrepreneurs, domestic workers, artists, and caretakers. Shosics' right of suffrage must be respected not only because it is a fundamental right, but also because Shosics contribute to the American society—of which they are a part—in a variety of ways. Arguments in favor of Shosic enfranchisement due to their contributions to the country can be classified as follows:

- Patriotic Arguments;
- Taxpaying Arguments;
- Economic Arguments;
- Social Tissue Arguments; and



- Hate-Speech Prophylactic Arguments.

## Patriotic Arguments

Patriotic arguments are supported on the fact that Shosics serve in the U.S. Armed Forces of the United States, and in some counties, they serve as first responders.<sup>360</sup> “In 2015, close to 8,000 noncitizens were in active-duty Army, representing 1.6 percent of the Army’s enlisted force. Foreign nationals have served in the U.S. military throughout American history.”<sup>361</sup> Some may argue that sacrificing one’s life for a nation in combat overseas or protecting the streets within the borders of the country should suffice to be able to vote in the United States. That is how eighteen-year-olds in the country obtained the right of suffrage.

## Taxpaying Arguments

Taxpaying arguments support Shosic enfranchisement from a contributing perspective. *Taxation without representation is tyranny*, is a phrase, “generally attributed to James Otis, that reflected the resentment of American colonists at being taxed by a British Parliament to which they elected no representatives and became an anti-British slogan before the American Revolution.”<sup>362</sup> To this day, a vast majority believes that only taxpayers contribute to the support of the government.<sup>363</sup> Hence, some argue that only taxpayers should be allowed to vote. If such a premise is

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<sup>360</sup> Moreno, Britt. *Door Now Open To Some Non-U.S. Citizens To Serve In Aurora Police Department*. Published on September 19, 2019 on CBS Denver. (Available at <https://denver.cbslocal.com/2019/09/19/aurora-police-department-change-citizens-employ-green-cards/>; Accessed on January 20, 2020)

<sup>361</sup> Muzaffar, Christi; Rose, Austin; Yale-Loehr, Stephen. *Noncitizens in the U.S. Military: Navigating National Security Concerns and Recruitment Needs*. Published May, 2019. Migration Policy Institute. (Available at <file:///C:/Users/acast/Downloads/MPI-Noncitizens-Military-Final.pdf>; Accessed on January 20, 2020)

<sup>362</sup> Encyclopaedia Britannica. *James Otis: American Politician*. (Available at <https://www.britannica.com/biography/James-Otis>; Accessed on January 20, 2020)

<sup>363</sup> Porter, Kirk H. *A History of Suffrage in the United States*. P.31. New York: Greenwood Press, 1969.

considered valid and correct, Shosics must be enabled to vote because they pay more than 220 billion dollars in federal taxes and more than 104.6 billion in state taxes.<sup>364</sup>

## **Economic Arguments**

The economic relevance of Shosics in the United States supports arguments to enfranchise them. Some argue that being a taxpayer does not justify being granted the right of suffrage. The taxpayer—they claim—“is not to be praised nor given special recognition and privilege because of this. Those who augment social wealth, whether they pay taxes or not, are the ones who ultimately support the government.”<sup>365</sup> Therefore, it is essential to highlight the importance and contribution of Shosics in the economy. Shosics help drive the American economy by filling critical gaps in the U.S. labor market.<sup>366</sup> “Shosic households earn around 1.5 trillion dollars in total income, wielding significant spending power that pumps much-needed money into local economies.”<sup>367</sup>

## **Social Tissue Arguments**

Social Tissue Arguments argue that Shosics should be able to vote because they are members of the communities where they live. In many cases, they are parents and partners of American citizens. They strengthen the family values of the country.<sup>368</sup> Some of them have been living in the United States longer than they have ever been

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<sup>364</sup> Kosten, Dan. *Immigrants as Economic Contributors: Immigrant Tax Contributions and Spending Power*. Published on September 6, 2018 at National Immigration Forum. (Available at <https://immigrationforum.org/article/immigrants-as-economic-contributors-immigrant-tax-contributions-and-spending-power/>) (Accessed on January 20, 2020)

<sup>365</sup> Porter, Kirk H. *A History of Suffrage in the United States*. P.31. New York: Greenwood Press, 1969.

<sup>366</sup> Rohrlach, Justin. *U.S. Immigrants Pay Billions of Dollars in Taxes Each Year*. Published on April 14, 2019 at Quartz. (Available at <https://qz.com/1595339/immigrants-pay-billions-in-taxes-each-year/>; Accessed on January 20, 2020)

<sup>367</sup> Rohrlach, Justin. *U.S. Immigrants Pay Billions of Dollars in Taxes Each Year*. Published on April 14, 2019 at Quartz. (Available at <https://qz.com/1595339/immigrants-pay-billions-in-taxes-each-year/>; Accessed on January 20, 2020)

<sup>368</sup> Zill, Nicholas. *Most Immigrant Families are Traditional Families*. Institute for Family Studies. Published November 30, 2016. (Available at <https://ifstudies.org/blog/most-immigrant-families-are-traditional-families>; Accessed on February 20, 2020)

anywhere else. They all contribute to the enrichment of the culture, language, academia, and gastronomy of the places where they reside in the United States. Hence, some may argue that being a member of the community should suffice to grant them the right to vote.

### **Hate-Speech Prophylactic Arguments**

Hate-Speech Prophylactic Arguments are based on the premise that when Shosics lack voting rights, they easily become scapegoats of political candidates who benefit from creating fear and confusion around them. Politicians can target and blame Shosics for the problems of the country because the latter cannot vote. It can be politically profitable to blame Shosics because candidates and political parties know that they are not able to vote them out or in. Only qualified voters who are sympathetic to Shosic rights can punish in the polls those candidates whose rhetoric is discriminatory against Shosics. In recent years, political rhetoric against Shosics has increased. Shosics are constant targets of fallacious and pejorative speeches that belittle them. Such hurtful rhetoric sparked an alarming rate of hate crimes against immigrants in the United States. Particularly hate crimes against Latinos have significantly increased in recent years.<sup>369</sup> Some experts argue that there is a direct correlation between “hate speech and fear-mongering coming from certain politicians with the increase in attacks against Latinos.”<sup>370</sup> Historical data suggests a link between heated rhetoric from top political leaders and ensuing reports of hate

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<sup>369</sup> Hassan, Adeel. *Hate-Crime Violence Hits 16-Year High, F.B.I. Reports*; Published at The New York Times on November 12, 2019. (Available at <https://www.nytimes.com/2019/11/12/us/hate-crimes-fbi-report.html>; Accessed on January 20, 2020)

<sup>370</sup> Hassan, Adeel. *Hate-Crime Violence Hits 16-Year High, F.B.I. Reports*; Published at The New York Times on November 12, 2019. (Available at <https://www.nytimes.com/2019/11/12/us/hate-crimes-fbi-report.html>; Accessed on January 20, 2020)

crimes.<sup>371</sup> Therefore, granting Shosics the right to vote would prevent hate crimes in the United States.

## **Relevance of Shosics in the Census**

Every ten years, the United States government has a constitutional obligation to count all the inhabitants that reside within the nation's borders, regardless of their citizenship.<sup>372</sup> More specifically, the Constitution requires an "actual Enumeration" of the "whole number of persons in each State" every decade.<sup>373</sup> It does so to "provide a basis for apportioning representatives among the states in the Congress."<sup>374</sup> Such decennial enumeration, most commonly known as census, has been conducted twenty-three times since 1790<sup>375</sup> for the following four purposes:

- i. Gather statistics on the demographic, economic, and social composition of the country;
- ii. Draw electoral districts;<sup>376</sup>
- iii. Allocate federal funds to the states; and
- iv. Apportion members of the House of Representatives among the States.

## **Gathering Statistics**

Gathering statistics on the demographic, economic, and social composition of the country is essential to understand the United States better.<sup>377</sup> The census asks

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<sup>371</sup> Kunzelman, Michael and Galvan, Astrid. *Trump words linked to more hate crime? Some experts think so*. Published at AP on August 7, 2019. (Available at <https://apnews.com/7d0949974b1648a2bb592cab1f85aa16>; Accessed on January 20, 2020)

<sup>372</sup> U.S. Constitution; Art. I, Section 3

<sup>373</sup> Art. I, §2, cl. 3; Amdt. 14, §2.

<sup>374</sup> *Baldrige v. Shapiro*, 455 U. S. 345, 353 (1982); see also Art. I, §2, cl. 3.

<sup>375</sup> *United States Department of Commerce, et al. v. State of New York, et al.* 588 US \_ (2019)

<sup>376</sup> *Wisconsin v. City of New York*, 517 U. S. 1, 5–6 (1996).

<sup>377</sup> Bass, Frank, and Bass, Frank. *Guide to the Census*. Somerset: John Wiley & Sons, Incorporated, 2013. Accessed January 15, 2020. ProQuest Ebook Central.

questions to discover the sex, age, and race of the people who live in each house.<sup>378</sup> Those statistics are “used for such varied purposes as computing federal grant-in-aid benefits, drafting of legislation, urban and regional planning, business planning, and academic and social studies.”<sup>379</sup>

## **Draw Electoral Districts**

Providing data to draw electoral districts is a fundamental goal of the decennial census. “The U.S. Constitution requires each district to have about the same population [including Shosics]. Each federal district within a state must have about the same number of people, each state district within a state must have about the same number of people, and each local district within its jurisdiction must have about the same number of people.”<sup>380</sup> “The U.S. Supreme Court’s one-person/one-vote decision of 1964, and various subsequent rulings of the courts, have been instrumental in providing census data aggregated for small geographic units. Before the one-person/one-vote ruling, most State authorities favored drawing or revising congressional and State legislative districts to coincide with legally defined units such as counties and other municipal corporations. These geographic entities often were not demographically or statistically comparable, however. Consequently, the resulting districts often had significant population imbalances.”<sup>381</sup>

Now, “the standard for congressional districts is quite strict. In practice, this means that states must make a good-faith effort to draw districts with exactly the same number of people in each district within the state. State and local legislative districts

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<sup>378</sup> United States Census Bureau. *Why We Conduct the Decennial Census* (Available at <https://www.census.gov/programs-surveys/decennial-census/about/why.html>; Accessed on January 16, 2020)

<sup>379</sup> *Baldrige v. Shapiro*, 455 U. S. 345, 353–354, n. 9 (1982).

<sup>380</sup> Levitt, Justin. All about Redistricting: *Where are the lines drawn?*. Loyola Law School. (Available at <http://redistricting.lls.edu/where.php>; Accessed on January 16, 2020)

<sup>381</sup> Richard L. Morrill. *Political Redistricting and Geographic Theory*. Association of American Geographers, Washington, DC: 1981.

have a bit more flexibility as they have to be substantially equal.”<sup>382</sup> Considering that “[T]he framers of the Constitution of the United States chose population to be the basis for sharing political power, not wealth or land.” Hence, drawing accurate electoral districts that take into account both citizens and Shosics, must be regarded as one of the most important elements of the census.

### **Allocation of Federal Funds**

The census is also helpful to allocate federal funds that are distributed based state population.<sup>383</sup> More than 675 billion dollars per year in federal funds go to schools, hospitals, roads, public works, and other vital programs based on the population count.<sup>384</sup> The larger the population, the more significant the amount of money that states receive.<sup>385</sup> That means that Shosics contribute to the economies of the states where they live not only by paying taxes, buying goods, or creating jobs. They are essential to the economy of the place where they live, by merely residing there. If it were not for the Shosics who live in certain states, those states would not have access to the lucrative federal funds that are distributed based on population. Unfortunately, some studies reveal that the census has disproportionately undercounted members of minority groups.<sup>386</sup> Evidence shows that Shosic households have historically responded to the census at lower rates than other groups.

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<sup>382</sup> Levitt, Justin. All about Redistricting: *Where are the lines drawn?*. Loyola Law School. (Available at <http://redistricting.lls.edu/where.php>; Accessed on January 16, 2020)

<sup>383</sup> United States Department of Commerce, et al. v. State of New York, et al. 588 US \_\_ (2019)

<sup>384</sup> United States Census Bureau. *Why We Conduct the Decennial Census* (Available at <https://www.census.gov/programs-surveys/decennial-census/about/why.html>; Accessed on January 16, 2020)

<sup>385</sup> Wisconsin v. City of New York, 517 U. S. 1, 5–6 (1996)

<sup>386</sup> See M. Anderson, *The American Census: A Social History*. (1988)

## Apportionment of U.S. Representatives

The most relevant purpose of the census is to "provide a basis for apportioning representatives among the states in Congress."<sup>387</sup> When the Framers included the census mandate in the Constitution, they did so to ensure that "comparative state political power in the House . . . reflect[s] comparative population."<sup>388</sup> They wanted an actual count of every resident—including citizens and Shosics—to "limit political chicanery" and to prevent the census count from being "skewed for political purposes."<sup>389</sup>

The Framers' primary purpose for the census created a directly proportional relation between population and seats apportioned among states in Congress. The more populated a state is, the more federal Representatives it will have. Such fact reveals that there are many Representatives who owe their congressional seat to Shosics. States with a disproportionate share of Shosics have more seats in Congress than they would have if Shosics did not live within their boundaries. In many cases, Shosics are the reason why Representatives can run for office in the first place. Their electoral district would not exist if it were not for the Shosics residing there. Hence, it is reasonable to ask for the right of suffrage of Shosics in the elections taking place in the electoral districts that exist precisely because they inhabit in such district. Translated into Descartes-like terms, Shosics could very well tell their respective Representatives, "I reside, therefore you exist."

Even though Shosics already play a vital role in the distribution of congressional seats, they have not unleashed their full power yet. Unfortunately, some studies reveal that the census has disproportionately undercounted members of minority groups

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<sup>387</sup> Baldrige, 455 U. S., at 353

<sup>388</sup> Evans, 536 U. S., at 477

<sup>389</sup> Evans, 536 U. S., at 477

throughout history.<sup>390</sup> Evidence shows that Shosic households have historically responded to the census at lower rates than other groups.<sup>391</sup> If Shosics had the right to vote, they would develop a stronger sense of belonging in the country. They would feel compelled and safe to respond to the census. The statistics of the decennial enumeration would be more accurate, the allocation of funds more precise, and the apportionment of congressional seats fairer. All parties would benefit from such a scenario.

As Professor Beth Lyon suggests in her enlightening research on predatory migration regimes, the relationships between Shosics and Representatives, and between Shosics and states are symbiotic. They both need each other. The question, however, is whether such symbiotic relationships are mutualist, commensalist, or parasitic.<sup>392</sup> Mutualist symbiotic relationships are those in which both organisms benefit from the association. Commensalist symbiotic relationships are those in which one organism benefits from the association while not harming the other.<sup>393</sup> Finally, parasitic symbiotic relationships are those in which “one organism gains (the parasite) while the other (the host) suffers.”<sup>394</sup>

At first glance, both relationships seem to be commensalist, leaning towards parasitic. Both Representatives and states are getting all the benefits (congressional seats and federal funds) from the residence of Shosics within their boundaries, while Shosics are being left unharmed. Nevertheless, the lack of action from Representatives and states is starting to harm Shosics. If Shosics were allowed to vote

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<sup>390</sup> See M. Anderson, *The American Census: A Social History*. 1988

<sup>391</sup> *United States Department of Commerce, et al. v. State of New York, et al.* 588 US \_\_ (2019)

<sup>392</sup> Lyon, Beth. *Predatory Migration Regimes*. (Work in progress)

<sup>393</sup> National Geographic Society; *Symbiosis: The Art of Living Together* (Available at <https://www.nationalgeographic.org/article/symbiosis-art-living-together/>; Last updated April 19, 2019; Accessed on January 15, 2020)

<sup>394</sup> Dore, Arden. *Animal Partnerships*. (Available at <https://www.factmonster.com/math-science/biology/plants-animals/animal-partnerships>; Last updated February 21, 2017; Accessed on January 15, 2020)



for the Representatives—which exist and are getting paid due to Shosics—within their electoral district, Representatives would pay more attention to the issues that affect their lives. Likewise, if states—who are cashing in their Shosic population—granted the right of suffrage to Shosics, they would be able to voice their concerns and aspirations through the ballot.

Let us take, for instance, the landmark case *Department of Commerce v. New York* (2019),<sup>395</sup> in which the Supreme Court addressed the constitutionality of a citizenship question in the 2020 census questionnaire. A group of seventeen states, eleven cities, five counties, and the District of Columbia,<sup>396</sup> argued as respondents against the proposition. They expounded that the inclusion of a citizenship question “would result in noncitizen households responding to the census at lower rates than other groups, which would cause them to be undercounted and lead to many of the injuries respondents asserted—diminishment of political representation, loss of federal funds, degradation of census data, and diversion of resources. Some state respondents showed that if noncitizen households were undercounted by as little as 2%, they would lose out on federal funds that are distributed on the basis of state population.”<sup>397</sup>

I wonder whether the states, cities, and counties that filed suit against the Department of Commerce were more worried about the constitutionality of the citizenship question or about the congressional seats and federal funds they would lose with the census. Perhaps both. As noted above, “the consequences of mistakes in the census count, of even a few hundred thousand, are grave. Differences of a few

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<sup>395</sup> 588 US \_\_ (2019)

<sup>396</sup> State of New York, State of Colorado, State of Connecticut, State of Delaware, D.C., State of Illinois, State of Iowa, State of Maryland, Commonwealth of Massachusetts, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, State of Pennsylvania, State of Rhode Island, State of Vermont, State of Washington, City of Central Falls, City of Chicago, City of Columbus, City and County of San Francisco, Counties of Cameron and Hidalgo, County of El Paso, County of Monterey, City of New York, City of Philadelphia, City of Phoenix, City of Pittsburgh, City of Providence, and City of Seattle.

<sup>397</sup> *Susan B. Anthony List v. Driehaus*, 573 U. S. 149, 158 (2014)

thousand people, as between one state and another, can mean a loss or gain of a congressional seat—a matter of great consequence to a State. And similar small differences can make a large difference to the allocation of federal funds among competing state programs”.<sup>398</sup>

Regardless of the intention of the respondents, it is essential to highlight the one thing in common among all of them: they have a large population of Shosics living within their boundaries compared to other jurisdictions. Among the seventeen states and the District of Columbia, who were respondents in the citizenship question case, thirteen of them<sup>399</sup> are among the top twenty-one states (including D.C.) with the largest foreign-born population rate.<sup>400</sup>

It would be congruent on the respondents of the *citizenship question case* to grant the right of suffrage to the Shosics who live in their jurisdictions. If they are to have a commensalist symbiotic relationship, both of them must enjoy the benefits of such relationship. If the states, cities, and counties that opposed the citizenship question really care about their constituents, and not just about congressional seats and federal funds, they should grant the right to vote to Shosics.

## **Municipal Incorporation**

Besides the apportionment and allocation arguments, the census is also essential to demonstrate the reasonability of Shosic enfranchisement within the municipal corporations. As explained in previous chapters, municipal corporations are counties,

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<sup>398</sup> 588 US \_ (2019)

<sup>399</sup> State of New York, State of Colorado, State of Connecticut, State of Delaware, District of Columbia, State of Illinois, State of Maryland, Commonwealth of Massachusetts, State of New Jersey, New Mexico, State of Oregon, State of Rhode Island, and State of Washington.

<sup>400</sup> Migration Policy Institute. U.S. *Immigrant Population by State and County*. (Available at <https://www.migrationpolicy.org/programs/data-hub/charts/us-immigrant-population-state-and-county>; Accessed on January 16, 2020)

cities, towns, and villages. The census enumerates the people, and such statistics allow for incorporating new municipal corporations—and keeping the status of old ones—based on the size of the population as a whole. In other words, municipal corporations would not exist without a minimum population to start them. The positions occupied by elected officials of municipal corporations exist thanks to the residents of their respective jurisdictions, regardless of the citizenship status of their inhabitants. Hence, it is reasonable to demand the right to vote of residents of municipal corporations in municipal elections.

All the states of the Union, except for Hawaii, have their municipal incorporation procedures. It would be impossible to include them all in this dissertation. However, it is important to mention a few examples to show the direct relation that exists between population—which includes, without distinction, Shosics and citizens—and incorporation of municipalities. In Arizona, for instance, communities considering incorporation must have a population of at least 1,500 people. A community with a population of less than 3,000 people incorporates with the status of a town. To incorporate as a city, a community needs at least 3,000 people. In the state of New York, a community with a population of 500 people with a population density of 100 people per square mile, can incorporate as a *village*.<sup>401</sup>

The counties and cities that were respondents in the citizenship question case before the Supreme Court are densely populated with Shosics.<sup>402</sup> Two of them, Chicago and San Francisco, already allow Shosics to vote in school board elections. It would be congruent, however, to enable Shosics to vote in all municipal elections. This is a reasonable petition not only because Shosics are a source of federal funding

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<sup>401</sup> Carl Vinson Institute of Government. *A Brief Summary of Municipal Incorporation Procedures by State*. The University of Georgia. (Available at <http://www.senate.ga.gov/committees/Documents/CarlVinsonSummaryMunicipalIncorporationProceduresbyState.pdf>; Accessed on January 16, 2020)

<sup>402</sup>

for them, but also because their municipalities, and consequently their elective positions, would not exist if it were not for the inhabitants who reside there, including citizens and Shosics.

### **Reasonability and Proportionality of Shosic Enfranchisement**

Every election in each of the multiple electoral jurisdictions in the United States has a direct impact on the lives of Shosics. Such an impact creates for them a stake in the outcome of elections. The value of that stake varies depending on the jurisdiction where the electoral process takes place. In small local jurisdictions where the elected officials deal with the everyday community's necessities, there is no reasonable, proportional, or necessary justification to exclude Shosics from the democratic process based on nationality. Nationality is an irrelevant voting qualification in school board elections, library district elections, village elections, town elections, city elections, and state elections. Nationality, however, can play a more critical role in the federal jurisdiction where national and international policies are adopted. It seems, in principle, more reasonable to restrict the suffrage to American citizens when voting for Congress or President of the United States.

At first glance, it does not seem legally justifiable to restrict the right of suffrage of Shosics in most of the electoral jurisdictions based on their lack of American citizenship. Is it legitimate to deny Shosics the right to vote in presidential elections just because they are not American citizens? Yes, because the President is in charge of the national and foreign policy. Is it reasonable to exclude Shosics from village elections based on their lack of American citizenship? I do not think so. The hypothesis underlying this dissertation is that each electoral jurisdiction requires a

narrowly tailored explanation from the State showing the proportionality, reasonableness, and necessity of any voting restriction.

For such reason, it is essential to differentiate among the many elections that occur in the United States. Hence, we can classify the electoral jurisdictions in the following tiers:

**Tier 1 (T1):** District Elections (School board; library district; or fire district)

**Tier 2 (T2):** Village Elections

**Tier 3 (T3):** City and Town Elections

**Tier 4 (T4):** County Elections

**Tier 5 (T5):** State Elections

**Tier 6 (T6):** Federal Elections

**Tier  $\phi$  (T $\phi$ ):** Primaries, referendums, and participatory budgeting (Variable tier dependant on the electoral jurisdiction where they occur)

The purpose of making clear distinctions among electoral jurisdictions is to understand the powers and duties of elected officials in their respective spheres. To see a detailed explanation of the responsibilities of the governing bodies in all electoral jurisdictions, please see Appendices 52-61. Having sufficient knowledge of their duties will allow us to make narrowly tailored arguments about the reasonability, necessity, and proportionality of Shosic enfranchisement. The responsibilities of elected officials vary dramatically depending on the electoral jurisdiction where they serve.

It is my firm belief that Shosics should be allowed to vote in some of these elections as long as they can prove sufficient connections with their place of residence. To avoid arbitrariness as much as possible on determining when Shosics should be

allowed to vote in what election tier, this thesis proposes the following *reasonability-test*. The reasonability-test requires implementing a reasonability-equation, whose factors depend on the election tiers and a *Shosic Point Chart* (explained below). If proven successful, such a test would redefine the concept of *demos* in the country and would allow Shosics to participate in specific elections. The reasonability-test is based on the following reasonability-equation:

$$r = \Sigma p \geq e \cdot t$$

where  $r$  = Reasonability of Shosic enfranchisement;  $p$  = Connection points (based on the chart proposed in the last chapter);  $e$  = Election (constant value of 5); and  $t$  = Tier of the election (interchangeable value of 1-6 depending on electoral jurisdiction where Shosic intends to vote).

According to the reasonability equation, a Shosic needs to demonstrate 5 points to vote in district elections, 10 points for village elections, 15 points for town and city elections, 20 points for county elections, 25 points for state elections, and 30 points for federal elections. (See chart below)

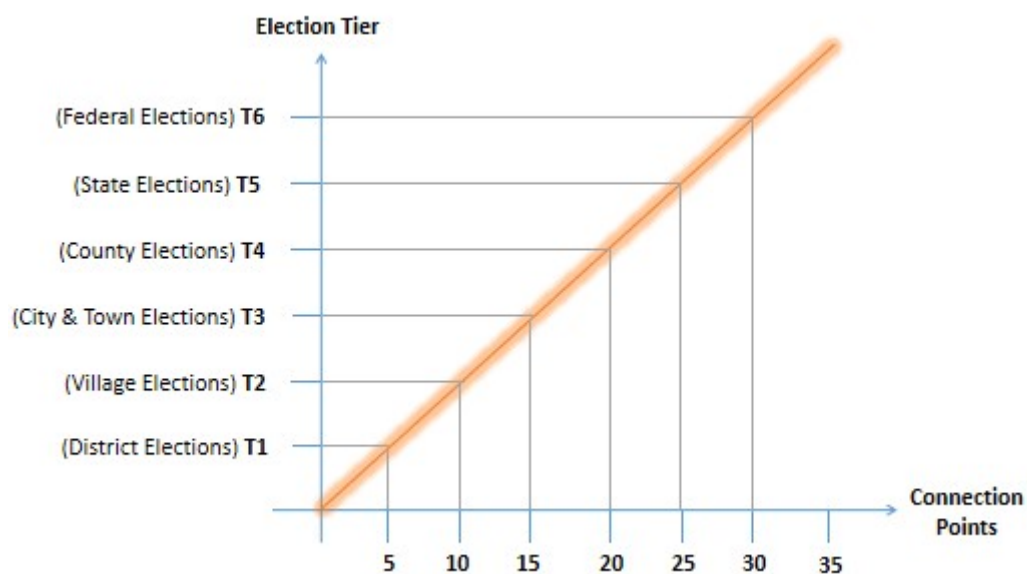


Figure 5

The Shosic Point Chart, vital for the reasonability-equation, is a point-based system to demonstrate the Shosics' roots and connections to the jurisdiction where they want to vote. Depending on the number of points that Shosics can prove, certain election tiers should be accessible for them. I understand that a point-based system can be arbitrary *per se*. I intend, however, to use as the basis of the *Shosic Chart*, a previously-created point system that has been employed in the State of New York for a long time. I am talking about the *Proof requirements for a permit, license, or non-driver ID in New York (NY-point-chart)*,<sup>403</sup> which is a point-based system to obtain any of the documents included in its title. The NY-point-chart is very helpful but insufficient to demonstrate all the possible connections that a Shosic can have with the United States. Hence, I added a few new categories to prove Shosic connections to their place of residence. The proposed Shosic-connection chart is the following:

Document	Point Value
State Photo Driver License, Permit or Non-Driver ID Card (must be current or expired for less than two years)	1
U.S. Military Photo ID Card (issued to active, reserve, and retired military personnel only)	2
Valid Employment Authorization Card (I-688B or I-766) with photo, issued by DHS	1
Permanent Resident Card (I-551)	2
Reentry Permit (I-327)	1
Refugee Travel Document (I-571)	1

<sup>403</sup> Proof requirements for a permit, license or non-driver ID; Available at <https://dmv.ny.gov/driver-license/prove-identity-age-permitlicense> (Accessed on March 1, 2019)

Foreign Passport with a valid I-551 stamp or with a statement on the Visa (must be in English or translated by an embassy)	1
Foreign Passport with a Visa and a valid I-94 issued by DHS	1
State Benefit/Medicaid Card with photo	1
State Benefit/Medicaid Card without photo	1
State Interim License/Permit/Non-Driver ID without photo	1
State Pistol Permit	1
State Professional License	1
State Registration Document (vehicle or boat only)	1
State Certificate of Title	1
U.S. Military Dependent ID Card	1
U.S. College Photo ID Card and Transcript	1
U.S. High School ID Card with Report Card	1
U.S. Marriage or Divorce Record OR Court Issued Name Change Decree	1
U.S. Social Security Card	1
U.S. Computer Printed Pay Stub (must have your name)	1
U.S. Employee ID Card	1
U.S. High School Diploma OR GED (General Equivalency Diploma)	1
U.S. Supermarket Check Cashing Card with signature and pre-printed name	1
U.S. Union Card	1
U.S. Health Insurance Card/Prescription Card (must show	1



current proof of health insurance coverage)	
U.S. Life Insurance Policy or Current Statement (in effect at least 2 years)	1
U.S. Utility Bill (must include your name and address)	1
Veterans Universal Access Photo ID Card	1
Federal or NY State Income Tax W-2 Form	1
Only one of these items, if issued by the same financial institution, can be accepted:  <ul style="list-style-type: none"> <li>● U.S. bank statement</li> <li>● U.S. canceled check (must have your pre-printed name)</li> <li>● U.S. cash card (ATM) (must have your signature &amp; pre-printed name)</li> <li>● U.S. credit card (must be valid)</li> </ul>	1
Certificate of marriage with an American citizen <sup>404</sup>	1
Certificate of domestic partnership with an American citizen	1
Birth certificate of an American citizen that proves a relationship with Shosic parent	1
Tax Return Transcript of the past year	1
Tax Return Transcripts of the past five consecutive years	2
Certificate of Deferred Action for Childhood Arrivals (DACA)	1
Contract with phone services provider in the United States	1
First responder proof of employment (e.g., police officers, fire fighters, paramedic)	2
Proof of uninterrupted residence in the U.S. for the past five	1

<sup>404</sup> From this line down, the points and categories are suggested by the author.

years	
Proof of subscription to a U.S. newspaper	0.5
Test of English as a Foreign Language (TOEFL)	0.5
Proof of registration as organ donor in the U.S.	0.5
Proof of registration as a blood donor in the U.S.	0.5
Certificate of volunteer work in the U.S. in the past year	0.5
A written record of charitable contribution in the U.S.	0.5
Proof of attendance to town hall or city hall meetings occurred in the past year.	1
Proof of attendance to school board meetings occurred in the past year.	1

Table 20

The Shosic point chart and the reasonability equation are the only ways in which the state can demonstrate the reasonability of disenfranchisement of Shosics at electoral tiers. It is also the only way through which the State can prove the proportionality of any measure hindering Shosics from voting. Outright disenfranchisement is disproportional and illegitimate. Granting the right to vote, however, in certain electoral jurisdictions depending on the number of roots that Shosics have to their place of residence is proportional and legitimate. This thesis is not suggesting to open the right of suffrage for every Shosic fully. Those who want to vote—and be considered part of *The People*—must demonstrate that they are significantly attached to their place of residence.

It is essential to recognize that the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution<sup>405</sup> does not prohibit making distinctions

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<sup>405</sup> “No state shall deny to any person within its jurisdiction the equal protection of the laws.”

between citizens and Shosics. Such distinction, however, must be rationally justified as a means to serve a legitimate social purpose. Hence, under this point chart and equation, it would be legal to request additional requirements to vote to Shosics than to citizens.

## Necessity of Shosic Enfranchisement

Even though the burden of proof lies on the State to demonstrate why restricting suffrage to Shosics is necessary to serve a legitimate social purpose, this dissertation explains why and when it is reasonable to enfranchise Shosics. This research suggests that enfranchising Shosics is particularly necessary in electoral jurisdictions where the average quality of life index<sup>406</sup> of Shosics is lower than the average quality of life of the citizen population. In arithmetic terms, the necessity-equation looks as follows:

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<sup>406</sup> The quality of life index measures the aggregated and weighted values of “health status; employment and occupancy rate status; quality of lifetime work status; income status; consumption status; environment and accommodation status; education status; safety, law and order and corruption status; moral-ethical, spiritual, cultural values and leisure time status; gender equality status.” According to the renowned economist S. Piskorious, the quality of life index can be calculated using the following formula:

$$I = \sum_{i=1}^{10} a_i b_i,$$

“Where

b1; a1–value of summarized health status indicator of population (b1) and weight coefficient of this indicator (a1) correspondingly;”

b2; a2–value of summarized employment and occupancy rate status of population (b2) and weight coefficient of this indicator (a2) correspondingly;”

b3; a3–value of summarized quality of lifetime work status indicator of population (b3) and weight coefficient of this indicator (a3) correspondingly;”

b4; a4–value of summarized income status indicator of population (b4) and weight coefficient of this indicator (a4) correspondingly;”

b5; a5–value of summarized consumption status indicator of population (b5) and weight coefficient of this indicator (a5) correspondingly;”

b6; a6–value of summarized environment and accommodation status indicator of population (b6) and weight coefficient of this indicator (a6) correspondingly;”

b7; a7–value of summarized education status indicator of population (b7) and weight coefficient of this indicator (a7) correspondingly;”

b8; a8–value of summarized safety, law and order and corruption status indicator of population (b8) and weight coefficient of this indicator (a8) correspondingly;”

b9; a9–value of summarized moral-ethical, spiritual, cultural values and leisure time status indicator of population (b9) and weight coefficient of this indicator (a9) correspondingly;”

b10; a10–value of summarized gender equality indicator of population (b10) and weight coefficient of this indicator (a10) correspondingly.”[Puskorious, S. *The Methodology of Calculation the Quality of Life Index*. International Journal of Information and Education Technology, Vol. 5, No. 2, February 2015. (Available at <http://www.ijiet.org/papers/494-S10008.pdf>; Accessed on February 7, 2020)]

$$n = cI > sI$$

where  $n$  = Necessity of Shosic enfranchisement;  $cI$  = Citizens' average quality of life index;  $sI$  = Shosics' average quality of life index.

The necessity-equation makes sense, particularly if we consider the wise words of Amartya Sen, world-renowned economist, who expounds in his famous essay *Democracy as a Universal Value* that “political and civil rights allow people to draw attention forcefully to general needs and to demand appropriate public action. The response of a government to the acute suffering of its people often depends on the pressure that is put on it. The exercise of political rights (such as voting, criticizing, protesting, and the like) can make a real difference to the political incentives that operate on a government.”<sup>407</sup> “The positive role of political and civil rights applies to the prevention of economic and social disasters in general.”<sup>408</sup>

### **Kern County, California: An Example of the Necessity of Shosic Enfranchisement**

This necessity test would be essential, for instance, in places like Kern County, California—America's top agricultural county<sup>409</sup>—which I had the opportunity to visit in 2017 with the Cornell Farmworkers Legal Assistance Clinic. On that trip, I had the pleasure of meeting with tens of Shosics from Kern County, whose quality of life was, unfortunately, deplorable compared to the life conditions of those who were American citizens.

<sup>407</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) 3-17. (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

<sup>408</sup> Sen, Amartya. *Democracy as a Universal Value*. Journal of Democracy 10.3 (1999) 3-17. (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

<sup>409</sup> Mayer, Steven; *Kern hits top crop value in nation for the first time*, Published at Bakersfield.com on September 19, 2017; Available at [http://www.bakersfield.com/news/kern-hits-top-crop-value-in-nation-for-the-first/article\\_131d8628-9d6d-11e7-86ee-e726eeb2a60b.html](http://www.bakersfield.com/news/kern-hits-top-crop-value-in-nation-for-the-first/article_131d8628-9d6d-11e7-86ee-e726eeb2a60b.html) (Accessed on May 9, 2018).

Ranked as the country's largest producer of grapes, second-largest producer of almonds, third-largest producer of citrus, and seventh-largest producer of pistachios,<sup>410</sup> Kern County boasts an agricultural industry that generates annual revenues estimated in 7.2 billion dollars.<sup>411</sup> This buoyant industry is possible, not only due to the vision and capital of the farmers but also to the sweat and hard labor of the farmworkers. Like most of the agricultural hubs in California, Kern County has historically attracted Mexican immigrants, both documented and undocumented, to work in the fields.<sup>412</sup> This workforce, which has been essential to boost the local and national economy, has impacted the demographics of Kern County.

The Hispanic community, according to the U.S. Census Bureau, represents a majority of the county's population. Out of the 884,000 inhabitants of Kern County, 52.8% are Hispanic or Latino.<sup>413</sup> Such a Hispanic majority has not only contributed to the thriving agricultural economy of the county, but it has also strengthened family values<sup>414</sup> and enriched the gastronomy and traditions of Kern County.<sup>415</sup>

Despite the Hispanic majority and evident contributions to the county, I was surprised to find out that Caucasian candidates—who in many cases had a firm stance against immigration—were significantly more likely than Hispanics to win elections and hold elective positions in Kern County. In the 2016 presidential election, Donald Trump, the candidate who referred to Mexican immigrants in his campaign as rapists

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<sup>410</sup> Department of Agriculture and Measurement Standards; *2016 Kern County Agricultural Crop Report*; September 12, 2017; Available at [http://www.kernag.com/caap/crop-reports/crop10\\_19/crop2016.pdf](http://www.kernag.com/caap/crop-reports/crop10_19/crop2016.pdf) (Accessed on May 9, 2018).

<sup>411</sup> Mayer; *supra*

<sup>412</sup> Mines, Richard. *Data on Crops, Employment and Farmworker Demographics: A Resource for California Rural Legal Assistance*; February 2006, available at <https://migrationfiles.ucdavis.edu/uploads/cf/files/2007-june/minescadata.pdf> (Accessed on May 9, 2018)

<sup>413</sup> U.S. CENSUS BUREAU; QuickFacts: Kern County, California; Available at <https://www.census.gov/quickfacts/fact/table/keShosicountycalifornia/PST045216>; (Accessed on May 9, 2018).

<sup>414</sup> Zill, Nicholas. *Most Immigrant Families are Traditional Families*. Institute for Family Studies. Published November 30, 2016. (Available at <https://ifstudies.org/blog/most-immigrant-families-are-traditional-families>; Accessed on February 20, 2020)

<sup>415</sup> *Taquerias* were on every other street and *ranchera* music could be heard everywhere.

and criminals,<sup>416</sup> won in Kern County by a landslide of votes over Hilary Clinton<sup>417</sup> despite her appeal among Latinos.<sup>418</sup> The results of the 2016 General Election for the U.S. House of Representatives regarding California's 23<sup>rd</sup> and 21<sup>st</sup> Congressional Districts (which include cities of Kern County) were even more appalling. Both districts elected candidates who promised to “combat”<sup>419</sup> illegal immigration.<sup>420</sup>

One would assume that in a Hispanic-majority community, such as Kern County, the local elected officials' ethnicity would mirror the ethnicity of their constituents. The reality, however, was very different. Law enforcement and judicial positions were controlled by Caucasians,<sup>421</sup> only a few mayors out of the fifty-one cities in Kern County were Latinos,<sup>422</sup> and only one out of five members of the Kern High School District Board of Trustees was Hispanic.<sup>423</sup>

The electoral preference of Kern County in relation to its demographic composition seemed perplexing, but I later understood the root cause of that situation. Even though the majority of the population in Kern County is Hispanic, a large percentage of the community is not allowed to vote or run for office. According to the U.S. Census Bureau, 20.3% of the population in Kern County is foreign-born.<sup>424</sup>

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<sup>416</sup> “When Mexico sends its people, they’re not sending their best. They’re not sending you. They’re not sending you. They’re sending people that have lots of problems, and they’re bringing those problems with us. They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people.” Donald Trump’s Presidential Announcement Speech. Available at <https://www.youtube.com/watch?v=apjNfkysjBM> (Accessed on May 9, 2018).

<sup>417</sup> Politico. 2016 California Presidential Election Results; Available at <https://www.politico.com/2016-election/results/map/president/california/> (Accessed on May 9, 2018)

<sup>418</sup> Pantoja, Adrián D. *Hillary Clinton Is Winning Decisively The Latino Millennial Vote*; Published at The Huffington Post on September 27, 2016; Available at [https://www.huffingtonpost.com/latino-decisions/hillary-clinton-is-winnin\\_b\\_12212974.html](https://www.huffingtonpost.com/latino-decisions/hillary-clinton-is-winnin_b_12212974.html) (Accessed on May 9, 2018).

<sup>419</sup> Rep. David G. Valadao, *Immigration*; Available at <https://valadao.house.gov/issues/issue/?IssueID=103628> (Accessed on May 11, 2018)

<sup>420</sup> Rep. Kevin McCarthy, *Immigration*; Available at <https://kevinmccarthy.house.gov/issues/immigration> (Accessed on May, 9, 2018)

<sup>421</sup> Ballotpedia; *Superior Court of Kern County, California*; Available at [https://ballotpedia.org/Kern\\_County,\\_California\\_\(Judicial\)](https://ballotpedia.org/Kern_County,_California_(Judicial)) (Accessed on May 15, 2019)

<sup>422</sup> José Gurrola (Arvin, California); Grace Vallejo (Delano, California); Manuel Cantú Jr. (McFarland, California); Gilberto Reyna (Wasco, California)

<sup>423</sup> Ballotpedia; *Kern High School District, California*; Available at [https://ballotpedia.org/Kern\\_High\\_School\\_District,\\_California](https://ballotpedia.org/Kern_High_School_District,_California); (Accessed on May 15, 2019)

<sup>424</sup> U.S. Census Bureau; *QuickFacts: Kern County, California*; Available at <https://www.census.gov/quickfacts/fact/table/keShosicounty/california/PST045216>; (Accessed on May 9, 2018).

From that figure, it is possible to infer that many of the residents of Kern County are not allowed to vote or run for office because they are not citizens of the United States.

Even though Shosics of Kern County pay taxes, are essential to the agricultural, religious, cultural, and economic activities of the county, are subject to the same laws as citizens, are affected by the public policies adopted by elected officials, can enlist in the American Armed Forces, whose kids and spouses are in many cases American citizens, who have enriched the gastronomy and traditions of the county, and who in many cases have lived in Kern County longer than they have ever lived anywhere else, are prevented from voting and running for office.

From my trip to Kern County, I realized that preventing Shosics to vote and run for office has three consequences that are worthy of study and analysis:

- I. The winners of the elections do not necessarily represent the interests of the majority of their constituents, but those of their voters;
- II. Most of the winners of the elections do not belong to the same demographic group of the majority of their constituents, but that of the majority of their voters; and
- III. There is a direct correlation between the right of suffrage and the quality of life of disenfranchised groups. Shosics' average quality of life index is significantly lower than that of the American citizen population.

Such consequences made me question democracy, not only in Kern County, California but in the United States as a whole. Preventing Shosics from voting and holding office in villages, towns, cities, and counties has created a democratic deficit that negatively impacts the quality of life of Shosics. Therefore, this dissertation suggests enfranchising Shosics in electoral jurisdictions where their average quality of life index is lower than the average quality of life of the citizen population.

## Chapter VII

### Strategies to Enfranchise Shosics in the United States

It is hard to believe that the qualifications for suffrage in the United States have reached a peak and will no longer change. After centuries of an evolving electorate, I do not think that we have already reached the ideal, desired, and perennial elector. Qualifications for suffrage in this country are continually changing to adapt to the social, economic, and political development of the United States. As Kirk H. Porter argues, “each generation seeks to add a new qualification or restriction and base the right to vote on some new ground.”<sup>425</sup>

This dissertation understands that there might be people interested in enfranchising Shosics, while others prefer to keep the current voting qualifications untouched. The purpose of this dissertation is to present all the alternatives surrounding the right of suffrage of Shosics. Hence, this chapter will provide a comprehensive guide for any person willing to take on the task of enfranchising Shosics in the United States. There are at least six alternatives, classified into three general categories, to enable Shosics to vote and hold office in the country:

1. **Legislative reforms.** One can push for amendments to the U.S. Constitution, states’ constitutions, and municipal charters.
2. **Judicial processes.** Alternative through which courts and international bodies can enable Shosics to vote.
3. **Vicarious voting.** Novel strategy through which a qualified voter votes on behalf of a non-qualified voter without expecting or receiving anything in exchange.

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<sup>425</sup> Porter, Kirk H. *A History of Suffrage in the United States*. P. 6. New York: Greenwood Press, 1969.



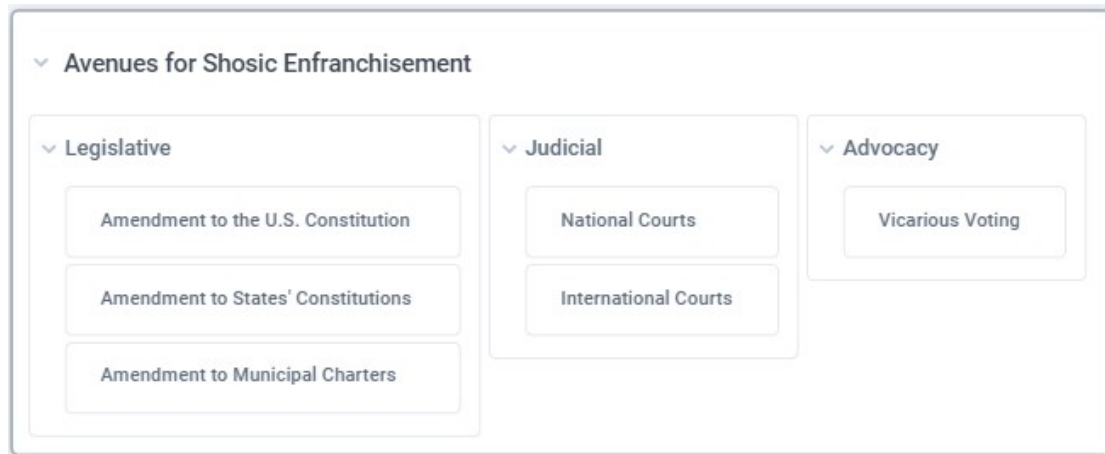


Table 21

## Constitutional Amendment

As observed in previous chapters, the U.S. Constitution explicitly forbids state legislatures from restricting the right of suffrage on account of religion,<sup>426</sup> ethnicity,<sup>427</sup> sex,<sup>428</sup> payment of taxes,<sup>429</sup> and age.<sup>430</sup> Hence, the most general way to enfranchise Shosics in the United States is through an amendment to the U.S. forbidding state legislatures to deny the right to vote to residents of the United States solely based on their nationality. That would become (perhaps) Amendment XXVIII to the Constitution of the United States, and it would be applicable in all the electoral jurisdictions of the country. The text of such amendment could read as follows:

### Amendment XXVIII

The right of residents of the United States to vote shall not be denied or abridged by the United States or by any State on account of their nationality.

<sup>426</sup> First Amendment to the U.S. Constitution

<sup>427</sup> Fifteenth Amendment to the U.S. Constitution

<sup>428</sup> Nineteenth Amendment to the U.S. Constitution.

<sup>429</sup> Twenty-Fourth Amendment to the U.S. Constitution.

<sup>430</sup> Twenty-Sixth Amendment to the U.S. Constitution.

There are two possible avenues to propose a constitutional amendment, according to Article V of the U.S. Constitution:

1. Congress can propose an amendment when at least two-thirds of both chambers—Senate and House of Representatives—support it.
2. State legislatures can propose an amendment when at least two-thirds of the state legislatures call for a constitutional convention.<sup>431</sup> It is essential to highlight that none of the twenty-seven amendments to the constitution have passed by constitutional convention.<sup>432</sup>

Proposed amendments are sent to the National Archives and Records Administration's (NARA) Office of the Federal Register (OFR), which forwards them to the Governors of all states. The Governor then submit the proposed amendment to their state legislatures. When the State ratifies a proposed amendment, it sends the ratification back to the OFR, who retains these documents until the amendment passes or fails. An amendment is adopted when at least 38 of 50 states (three-fourths) ratify it. The Office of the Federal Register then drafts a formal proclamation to certify that the amendment is valid and has become part of the Constitution.<sup>433</sup>

Amending the Constitution of the United States is a very complex process. Furthermore, the success rate of constitutional amendments is meager. Considering that only twenty-seven amendments to the Constitution have passed since its ratification in 1788, it is possible to expect high opposition to an amendment intended

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<sup>431</sup> United States. *The Constitution of the United States*. Article V. [Hartford: Printed by Hudson and Goodwin?, 1788.]

<sup>432</sup> National Archives; Federal Register. *Constitutional Amendment Process* (Available at <https://www.archives.gov/federal-register/constitution>; Web page last reviewed on August, 2016; Accessed on December 15, 2019)

<sup>433</sup> United States Code; TITLE 1 -- GENERAL PROVISIONS; CHAPTER 2 -- ACTS AND RESOLUTIONS; FORMALITIES OF ENACTMENT; REPEALS; SEALING OF INSTRUMENTS; Sec. 106b. Amendments to Constitution (1 U.S.C. 106b.)

to enfranchise Shosics. Hence, enabling Shosics to vote through a constitutional reform shortly seems statistically unlikely. Nevertheless, if such an amendment is successful, it would impact all the electoral jurisdictions in the United States, and Shosics could not be excluded from any election in the country.

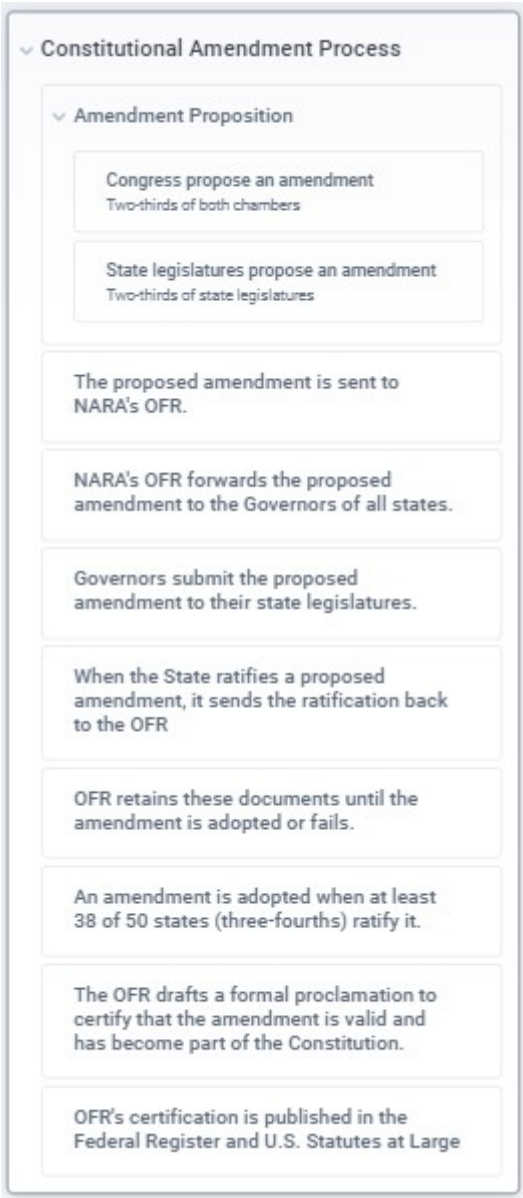


Table 22

**States’ Constitutional Reform**

The second most general way to enfranchise Shosics is through amendments to states’ constitutions. As reviewed in previous chapters, the state legislatures can set

*inclusion skies* regarding suffrage qualifications. Each state has its process to amend its constitutional provisions. It would be impossible to review the amendment processes of all the fifty states. Hence, this dissertation will consider New York State's Constitution as an example of the states' constitutional reform process nationwide.

There are two different avenues to reform the Constitution of New York according to Article XIX of the state's constitution:

1. **Threefold voting process:** Either chamber of the legislature (Assembly or Senate) can propose an amendment to the state constitution. If the majority of both chambers agree on such reform, it is referred to the next legislative session. Then, the legislature of the following legislative session votes on it. If the majority of both chambers agree again, it is submitted to the people for approval. If the majority of the electors ratify it, the proposed amendment becomes a part of the constitution.<sup>434</sup>

2. **Constitutional Convention Process:** Every twenty years at the general elections, there must be the following question in the ballots: "Shall there be a convention to revise the constitution and amend the same?". If the majority of electors decide in favor of such convention, the voters elect delegates at the next ensuing general election. Such delegates, after they convene, can propose a new constitution or constitutional amendments, which they submit to the vote of the electors.<sup>435</sup>

Amending the New York State Constitution is also a very complicated process. Proposing an amendment to the state constitution to enfranchise Shosics would be a

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<sup>434</sup> New York State Constitution; Article XIX, Section 1.

<sup>435</sup> New York State Constitution; Article XIX, Section 2.

long and challenging strategy. Nevertheless, if it were successful, it would impact all the electoral jurisdictions in the state, and Shosics could vote in the state, municipal, and district elections.

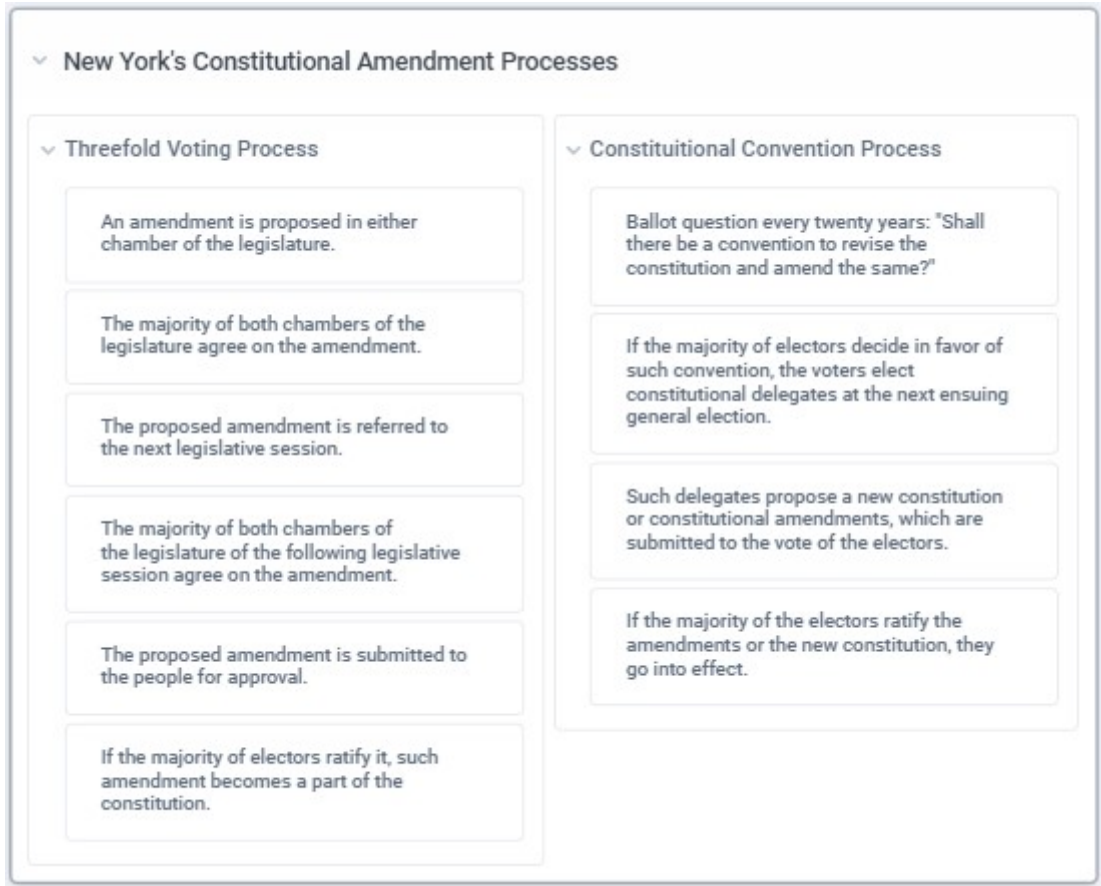


Table 23

**Municipal Charter Reform**

The last, but not least important, legislative option to enfranchise Shosics in the United States is through reforms to the municipal charters of the country. As reviewed in the previous chapters, municipal corporations have only the powers that the state legislature expressly delegates to them in their enabling legislation. This general rule is known as Dillon’s Rule. That means that not every municipal can freely reform their charters. In theory, only municipal corporations with the express powers to determine voting qualifications could amend their legislation to enfranchise Shosics.

Even though Dillon's Rule is generally accepted, there are municipal corporations that have amended their charters to enfranchise Shosics without express powers delegated by the state legislature. These municipalities (reviewed in previous chapters of the dissertation) are the cities of Cambridge and Newton, and the town of Amherst, all in Massachusetts. Despite the good intentions of the amendments to the Cambridge's, Newton's, and Amherst's charters, Shosics have not been able to vote in these municipalities because they still await state enabling legislation to implement.

The constitution of the state of Maryland, where eleven municipal corporations have amended their charters to allow Shosics to vote in local elections, "requires U.S. citizenship to vote in state elections, but that qualification is not applicable to municipalities other than Baltimore City."<sup>436</sup> This interpretation of the law makes the state of Maryland a pioneer of Shosic enfranchisement in the country. The eleven municipalities of the state that have amended their charters are fascinating study cases that deserve further research. For now, let us just highlight the fact that municipal corporations can reform their charters to enable Shosics to vote.

## National Courts

Advocates and lawyers have pushed the boundaries of suffrage qualifications in the country through litigation in courts throughout history. Through litigation, women won the right to vote,<sup>437</sup> suffrage disqualification on account of race was ruled unconstitutional,<sup>438</sup> members of the armed forces won the right to vote in their place

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<sup>436</sup> Kraut, Aron. *Takoma Park stands by non-U.S. citizen voting law*. Published in The Washington Post on March 14, 2012 (Available at [https://www.washingtonpost.com/local/takoma-park-stands-by-non-us-citizen-voting-law/2012/03/13/gIQA VBcg BS\\_story.html](https://www.washingtonpost.com/local/takoma-park-stands-by-non-us-citizen-voting-law/2012/03/13/gIQA VBcg BS_story.html); Accessed on December 15, 2019)

<sup>437</sup> *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875)

<sup>438</sup> *United States v. Reese*, 92 U.S. 214 (1875)

of residence during service,<sup>439</sup> federal provisions banning literacy tests as a suffrage qualification were upheld,<sup>440</sup> poll taxes were deemed unconstitutional,<sup>441</sup> the so-called “grandfather clauses” were declared void,<sup>442</sup> students have gained access to the polls in the places where they reside,<sup>443</sup> and persons with mental illnesses have won their right to vote.<sup>444</sup>

Fundamental rights of Shosics, including voting rights, have already been tried before courts with partial success.<sup>445</sup> Regardless of the success or failure of any particular litigation, it is crucial to keep trying these cases with novel arguments, before new judges and justices, in different jurisdictions. Arguments that could work before one court might not work on others. Reasonings that failed years ago might become pertinent under new social, economic, cultural, or political conditions. For instance, even though the United States remembers *Minor v. Happersett* as the first case in which the Supreme Court declared unconstitutional to refuse a woman to register as a qualified voter.<sup>446</sup> That case, however, was not the first to deal with the right of suffrage for women. Only two years before *Minor v. Happersett*, in 1873, the Supreme Court dealt with the case *U.S. v. Susan B. Anthony*. “This was one of the first in a series of decisions—including two rendered by the Supreme Court—which found that Section 1 of the Fourteenth Amendment to the U.S. Constitution did not expand or protect women's rights, an interpretation which remained unchanged for almost 100 years.”<sup>447</sup> Even though Susan B. Anthony did not win her case, she opened the path to enable women to vote in the country.

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<sup>439</sup> *Carrington v. Rash*, 380 U.S. 89 (1965)

<sup>440</sup> *Katzenbach v. Morgan*, 384 U.S. 641 (1966)

<sup>441</sup> *Harper v. Virginia Bd. of Elections*, 383 U.S. 663 (1966)

<sup>442</sup> *Guinn & Beal v. United States*, 238 U.S. 347 (1915)

<sup>443</sup> *Auerbach v. Rettaliata* 765 F.2d 350 (2d Cir. 1985)

<sup>444</sup> *Doe v. Rowe* 156 F. Supp.2d 35 (D. Me. 2001)

<sup>445</sup> See e.g., *Sugarman v. Dougall*, 413 U.S. 634 (1973); *Skaft v. Rorex*, 553 P.2d 830 (1976)

<sup>446</sup> *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875)

<sup>447</sup> Encyclopedia. *U.S. v. Susan B. Anthony: 1873*. (Available at <https://www.encyclopedia.com/law/law-magazines/us-v-susan-b-anthony-1873>; Accessed on February 18, 2020; Last updated February 11, 2020.)

If advocates of Shosic enfranchisement wish to pursue this judicial avenue, it is essential to keep in mind that for a legal dispute to qualify as a genuine case or controversy, at least one plaintiff must have standing to sue. The doctrine of standing “limits the category of litigants empowered to maintain a lawsuit in federal court to seek redress for a legal wrong” and “confines the federal courts to a properly judicial role.”<sup>448</sup> To have standing, a plaintiff must “present an injury that is concrete, particularized, and actual or imminent; fairly traceable to the defendant’s challenged behavior; and likely to be redressed by a favorable ruling.”<sup>449</sup>

### **International Bodies**

The strategies for Shosic enfranchisement in the United States through international bodies are quite complex and require political support from international organizations as well as from other states. There are at least four ways through which international law can push for the right to vote of Shosics in the United States: i. contentious jurisdiction of the ICJ; ii. advisory jurisdiction of the ICJ; iii. Individual complaint before the Inter-American Commission of human rights; and iv. advisory jurisdiction of the Inter-American Court of Human Rights.

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<sup>448</sup> *Spokeo, Inc. v. Robins*, 578 U. S. \_\_\_, \_\_\_ (2016) (slip op., at 6)

<sup>449</sup> *Davis v. Federal Election Comm’n*, 554 U. S. 724, 733 (2008).



<p>▼ Strategies before international bodies</p> <ol style="list-style-type: none"> <li>1. Contentious Jurisdiction of the ICJ</li> <li>2. Advisory Jurisdiction of the ICJ</li> <li>3. Individual Petition System before the IACHR</li> <li>4. Advisory Opinion of the IACrTHR</li> </ol>
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Table 24

## I. Contentious Jurisdiction of the International Court of Justice

The International Court of Justice (ICJ), as the principal judicial organ of the United Nations, has contentious jurisdiction over the United States. Such jurisdiction, however, is not broad. It is based only on a treaty-by-treaty basis.<sup>450</sup> In other words, a state can only institute proceedings against the United States before the ICJ if there is a treaty, declaration, or special agreement between the countries that expressly consent to the jurisdiction of the court. The United States has been a party—either as a defendant or petitioner—in twenty-five contentious cases before the ICJ.<sup>451</sup>

<sup>450</sup> Mulligan, Stephen P. The United States and the World Court. Congressional Research Service. Published on October 17, 2018. (Available at <https://fas.org/sgp/crs/row/LSB10206.pdf>; Accessed on January 8, 2020)

<sup>451</sup> See *Rights of Nationals of the United States of America in Morocco* (France v. United States of America); *Aerial Incident of 10 March 1953* (United States of America v. Czechoslovakia); *Aerial Incident of 7 October 1952* (United States of America v. Union of Soviet Socialist Republics); *Interhandel* (Switzerland v. United States of America); *Treatment in Hungary of Aircraft and Crew of United States of America* (United States of America v. Hungarian People's Republic); *Aerial Incident of 27 July 1955* (United States of America v. Bulgaria); *Aerial Incident of 4 September 1954* (United States of America v. Union of Soviet Socialist Republics); *Treatment in Hungary of Aircraft and Crew of United States of America* (United States of America v. Union of Soviet Socialist Republics); *Aerial Incident of 7 November 1954* (United States of America v. Union of Soviet Socialist Republics); *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Canada/United States of America); *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America); *Elettronica Sicula S.p.A. (ELSI)* (United States of America v. Italy); *Aerial Incident of 3 July 1988* (Islamic Republic of Iran v. United States of America); *Oil Platforms* (Islamic Republic of Iran v. United States of America); *Vienna Convention on Consular Relations* (Paraguay v. United States of America); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (Libyan Arab Jamahiriya v. United States of America); *United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran); *Monetary Gold Removed from Rome in 1943* (Italy v. France, United Kingdom of Great Britain and Northern Ireland and United States of America); *LaGrand* (Germany v. United States of America); *Legality of Use of Force* (Yugoslavia v. United States of America); *Avena and Other Mexican Nationals* (Mexico v. United States of America); *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals*

Hence, any country with such an agreement can institute proceedings for the violation of the international human right of suffrage of Shosics. For instance, Mexico could argue that the United States violates the right to vote of all sufficiently connected Mexican nationals who reside in the United States. The United States would have to prove that restricting the right to vote is reasonable, proportional, and necessary. The resolutions of the ICJ are supposed to be binding. Nevertheless, the United States has ignored in the past the court's rulings based on its federal system and its distinction between self-executing, and non-self executing treaties.<sup>452</sup>

## **II. Advisory Jurisdiction of the International Court of Justice**

Besides the contentious jurisdiction, the ICJ has an advisory jurisdiction. The advisory jurisdiction grants the ICJ the authority to address any legal question at the request of whatever body of the United Nations: General Assembly, Security Council, U.N. organs, and specialized agencies.

Contrary to the limited treaty-by-treaty contentious jurisdiction, the ICJ has broad advisory jurisdiction over any country. The ICJ has the authority to address any question through an advisory opinion.<sup>453</sup>

Hence, a body of the United Nations could ask the following question to the ICJ:

*What are the legal consequences arising from the restriction of the right of suffrage of Shosics, considering the rules and principles of international law, including the ICCPR and the Universal Declaration of Human Rights?*

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(*Mexico v. United States of America*); *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*;

*Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*; *Relocation of the United States Embassy to Jerusalem (Palestine v. United States of America)*.

<sup>452</sup> See e.g. *Medellin v. Texas*, 552 U.S. 491 (2008)

<sup>453</sup> International Court of Justice. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004). (Available at <https://www.icj-cij.org/en/case/131>; Accessed on January 8, 2020)

ICJ's advisory opinions are not binding, but they usually spark more profound debates on the subject they address. Even though these opinions lack enforceable teeth, the reputational cost of not complying is considerable. No country wants to be under the spotlight as a violator of human rights among the family of nations.

### **III. Individual Communication before the Inter-American Commission of Human Rights**

The United States of America, as a member of the Organization of American States (OAS) and signatory to the American Declaration of the Rights and Duties of Man, is subject to the jurisdiction of the Inter-American Commission of Human Rights (IACHR). The IACHR is a quasi-judicial organ of the OAS with authority to learn about individual petitions regarding human rights violations.<sup>454</sup> A significant number of human rights violations in the United States have been tried before the IACHR.<sup>455</sup>

Two particular cases deserve special attention in this dissertation because they deal with the right to vote: *The Statehood Solidarity Committee v. United States (D.C. Statehood Case)* and *Pedro Roselló et al. v. United States*.

In the *D.C. Statehood Case*, from 2003, the petitioners contended that the United States was responsible for violating the right to equality, to vote, and to participate in government, of the residents of D.C. More particularly, the petitioners alleged that the citizens of the District of Columbia lacked effective representation in the U.S. federal legislature. Unlike citizens in all other states of the Union, the

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<sup>454</sup> Inter-American Commission on Human Rights. *What is the IACHR?* (Available at <https://www.oas.org/en/iachr/mandate/what.asp>; Last updated 2011; Accessed on January 8, 2020)

<sup>455</sup> See e.g. Report No. 80/11 Case 12.626 Merits Jessica Lenahan (Gonzales) Et Al. v. United States (\*), July 21, 2011; *Repatriation of Haitians*, Case 10.675, Inter-Am. C.H.R. 334, OEA/ser. L/V/II.85, doc. 9 rev. (1993); *U.S. Military Action in Panama*, Case 10.573, Inter-Am. C.H.R. 312, OEA/ser. L/V/II.85, doc. 9 rev. (1993); *Disabled Peoples' International et al.*, Case 9213, Inter-Am. C.H.R. 184, OEA/ser. L/V/II.71, doc. 9 rev. 1 (1987).

residents of the District of Columbia do not have the right to legislative, budgetary, or full judicial autonomy. Rather, the U.S. Congress and the U.S. President can overturn and disregard the District's locally-approved legislation or appropriations, without regard to the will of the people of the District.<sup>456</sup> In that case, the IACHR found the United States in violation of those rights, arguing that the government may not deprive its citizens of their right to voting representation in Congress on account of their place of residence.<sup>457</sup>

In the case of *Pedro Roselló et al. v. United States*—currently under review—“the petitioners affirm that all American citizens residing in Puerto Rico are denied the right to vote and elect the President, the Vice-President and voting members of the Congress of the United States of America on the discriminatory basis that they reside in a U.S. territory and not in a state.”<sup>458</sup>

Hence, any disenfranchised Shosic in the United States can file an individual petition before the IACHR demanding the protection of their rights. The rulings of the Commission are not binding, but they have the power to create awareness and put pressure on lawmakers, stakeholders, NGOs, and lawyers. Even though states do not have an obligation to comply with IACHR rulings, the international reputational stigma of not complying is undesirable for any country.

#### **IV. Advisory Jurisdiction of the Inter-American Court of Human Rights**

The Inter American Court of Human Rights (IACrHR) has no contentious jurisdiction over the United States. Created by the American Convention on Human Rights, the IACrHr has only contentious jurisdiction over the ratifying states of the

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<sup>456</sup> Report N° 98/03\* Case 11.204 Statehood Solidarity Committee v. United States (December 29, 2003)

<sup>457</sup> Report N° 98/03\* Case 11.204 Statehood Solidarity Committee v. United States (December 29, 2003)

<sup>458</sup> IACHR. Report No. 17/17 Petition p-1105-06. Report on Admissibility. *Pedro Roselló et al. v. United States*. Published on January 27, 2017.

convention. Nevertheless, the Court also has an advisory jurisdiction through which it can render opinions on other treaties concerning the protection of human rights in the Americas.<sup>459</sup>

Consulting the IACrHR about a topic related to the United States has never been tried before. The United States government is likely to allege that the court has no jurisdiction over them. Nevertheless, the IACrHR could apply the same reasoning that the ICJ used in the Israeli Wall question<sup>460</sup> to support its advisory jurisdiction.

The IACrHR, at the request of any OAS member, may address a legal question regarding the voting rights of Shosics in the United States. Such a question could read as follows: *What are the legal consequences arising from the restriction of the right of suffrage of resident non-citizens in the United States, considering the rules and principles of international law, including the American Declaration of the Rights and Duties of Man?*

The advisory opinion of the IACrHr does not create any binding obligation for the states. This opinion, however, would trigger a debate about voting rights of Shosics in the United States and the Americas.

## **Vicarious Voting**

If the legislative and judicial avenues fail to enfranchise Shosics, there is a last-resort option that would make the voice of all the non-qualified voters count in any election of the United States: Vicarious Voting.

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<sup>459</sup> American Convention on Human Rights; *Article 64*. (Available at <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>; Accessed on January 8, 2020)

<sup>460</sup> International Court of Justice. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004). (Available at <https://www.icj-cij.org/en/case/131>; Accessed on January 8, 2020)

Vicarious voting is the action through which a qualified voter votes on behalf of a non-qualified voter without expecting or receiving anything in exchange. This type of voting requires at least two parties:

1. A qualified voter; and
2. A non-qualified voter (i.e., Shosic, underage, or felon).

Vicarious voting is a process that takes place in four steps:

- I. Person A, who is a qualified voter meets Person B, who is a non-qualified voter;
- II. B expresses their desire to A to vote in one way in an upcoming election where B not qualified to vote;
- III. Person A makes a non-enforceable promise to vote in the same way in which B would vote, without expecting or receiving anything in exchange.
- IV. A votes in the same way in which B would have voted should they had been qualified to do so even if B's voting intentions were different to A's.

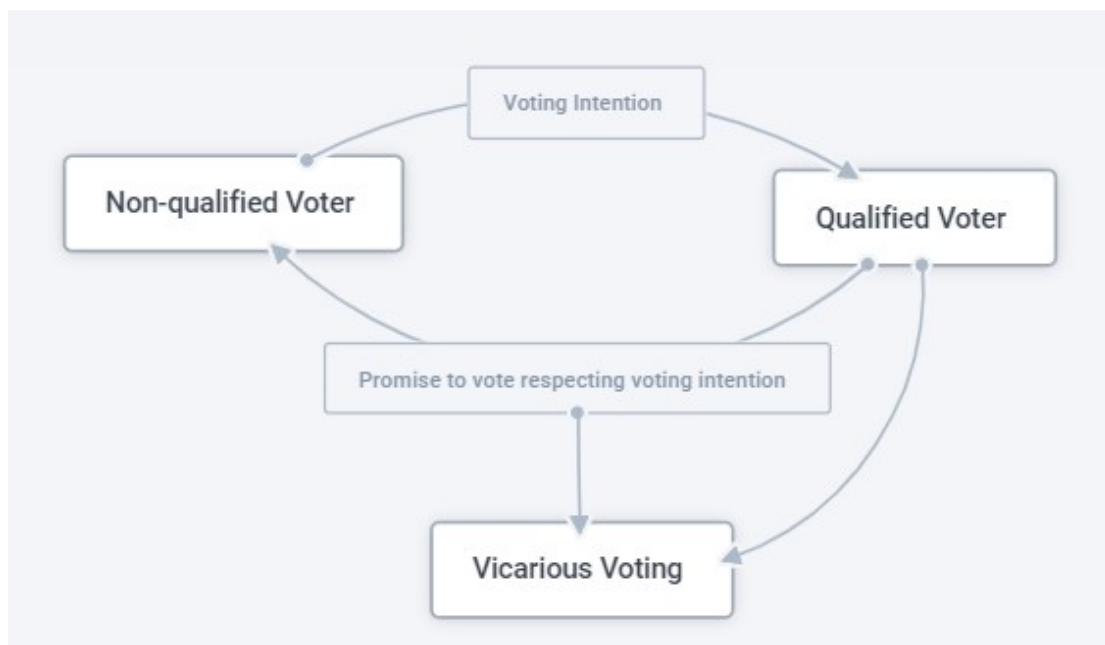


Table 25

The ideal vicarious voting scheme is the one where there are no hierarchical relationships between the parties. There can be no expectations of a present or future reward. Employers should not ask employees to vote on their behalf vicariously, and employees should not offer their employers to vote on their behalf vicariously. Professors should not ask their students to vote on their behalf, and students should not offer their professors to vote in their behalf. Even vicarious-voting promises within families could be problematic. Ideally, vicarious voting should work in a way where a qualified voter freely volunteers to sacrifice their voice in an upcoming election on behalf of a non-related non-qualified voter's voice in any given election.

Vicarious voting is a strategy that can give voice not only to Shosics, but to minors, felons, and *non compos mentis*. It is a democratic and inclusive scheme that empowers groups of people traditionally neglected from electoral processes.

Vicarious voting presents three problems that could hinder and discourage this type of voting:

1. Vicarious voting needs unselfish persons willing to take a step back and sacrifice a prerogative that they have for non-qualified voters to take a step forward and exercise that privilege. It is impossible to predict how many people would be willing to sacrifice their prerogative in exchange for nothing. Only vicarious voters who genuinely believe in the ultimate goal of vicarious voting—which is the eventual full enfranchisement of Shosics in the United States—might be willing to take that step back.

2. There is no way to verify if the vicarious voter fulfilled their promise of voting in the same way as the non-qualified voter would have. It is a gentleman's pledge where trust and honor are all that the parties may offer.

3. Even though vicarious voting technically does not break any electoral rules, it could be interpreted by some as a form of bending the law. There is no way to predict what society may think of vicarious voting.



## Chapter VIII

### Arguments Against Shosic Enfranchisement and Unintended Consequences

Enfranchising Shosics is a controversial issue that raises many arguments against it. Dealing with difficult questions about the identity of the country is what makes the United States a strong nation. Neither the enfranchisement of black voters after the Civil War nor the right to vote of women passed smoothly. However, the debates on both occasions strengthened America's personality and helped to evolve and redefine political membership in the country.

Obtaining the right to vote of Shosics in Congress or through litigation without the previous consent of the American people could be perilous. It is crucial to let the Shosic enfranchisement grow in American towns and cities, spread into states, and eventually reach the whole nation. If the Supreme Court or Congress in Washington, D.C., imposed Shosic enfranchisement from one day to another to the rest of the country, it could create resentment and violence towards Shosics. Shosic enfranchisement could backfire if we do not take into account the reasonable fear that some Americans might have about granting the right to vote to millions of people who speak, eat, pray, dance, and behave differently to them.

In this chapter, I will address all the opposing arguments that I have identified in the current literature and round tables about Shosic enfranchisement. Analyzing the multiple perspectives on Shosic enfranchisement is crucial to offer better and narrowly tailored arguments. Most of the arguments against Shosic voting rights come from Stanley A. Rehnson, author of the book *“Noncitizen Voting and American*

*Democracy*.”<sup>461</sup> This book is essential to this thesis because it compiles all the arguments against granting the right to vote for Shosics. Understanding the opposing views allowed this research to present narrowly tailored counter-arguments. After addressing such arguments, I will attempt to predict the unintended consequences that Shosic enfranchisement would have in the United States if implemented without the support of the American people.

## **Arguments Against Shosic Enfranchisement**

### **a. Shosic enfranchisement would violate the principle of self-determination of the United States**

Self-determination is a principle recognized in multiple sources of international law<sup>462</sup> that protects “the right of a people to determine its own destiny.”<sup>463</sup> In particular, the doctrine allows a people “to pursue its political, economic, social, and cultural development.”<sup>464</sup> Contemporary notions of self-determination usually distinguish between *internal* and *external* self-determination. “Internal self-determination may refer to various political and social rights; by contrast, external self-determination refers to full legal secession for the given people from the larger politico-legal state.”<sup>465</sup>

Some people worry that allowing foreigners to vote in the United States would be an opportunity for foreign powers to intervene in American politics illegally. They

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<sup>461</sup> Renshon, Stanley Allen. *Noncitizen Voting and American Democracy*. Lanham, Md.: Rowman & Littlefield Publishers, 2009.

<sup>462</sup> See e.g. Article 1, Clause 2, of the United Nations Charter & Article 1 of the International Covenant on Civil and Political Rights

<sup>463</sup> Unrepresented Nations and & Peoples Organization. *Self-Determination*. (Available at <https://unpo.org/article/4957>; published on September 21, 2017; Accessed on February 15, 2020)

<sup>464</sup> Supreme Court of Canada. Reference re Secession of Quebec [1998] 2 S.C.R. 217

<sup>465</sup> Legal Information Institute. *Self Determination (International Law)*. Cornell Law School. (Available at [https://www.law.cornell.edu/wex/self\\_determination\\_international\\_law](https://www.law.cornell.edu/wex/self_determination_international_law); Accessed on February 15, 2020)

argue that other countries could interfere with the self-determination of the United States by sending thousands of co-opted electors to vote in American elections to tip it in one way or another depending on their needs.

To prevent any foreign intervention in American politics, this dissertation suggests only to enfranchise Shosics who have been vetted by the government of the United States, and to restrict their right of suffrage to certain elections. Shosics should only be allowed to vote in the electoral jurisdictions where they can prove sufficient connections and roots to their place of residence.

Furthermore, this dissertation suggests that granting voting rights to Shosics should be a result of American self-determination. Democratically elected legislators and judges, in representation of the American people, will eventually decide to enfranchise Shosics or not. That goes in line with the principle of self-determination. For a long time, Shosics were allowed to vote in the United States without any violation of its self-determination.

**b. Shosics have no understanding of American civics or historical knowledge**

The proponents of this argument fail to recognize the different kinds of Shosics that live in the United States. Whenever they think of Shosics, they imagine low-wage immigrants who do not know anything about their new country. It is essential to highlight that among Shosics there are Ph.D. students, college professors, C.E.O.s of transnational companies, artists, chefs, and other kinds of Shosics who may know much more of American civics and history than the average American voter. Furthermore, Shosics follow the news and read about their new country as much as any other American citizen. Some of them follow the news of the United States in

English, while others read newspapers and watch cable news in their native language.<sup>466</sup>

Nevertheless, to prevent an avalanche of Shosics voting without any civics or historical knowledge, this dissertation suggests to exclusively enfranchise Shosics who have taken the necessary steps to integrate into the communities where they live. The reasonability-test proposed in this thesis requires Shosics to demonstrate the sufficient ability to navigate the institutional bureaucracy of the United States.

### **c. Shosics who do not speak English should not be allowed to vote**

Understandably, some American English-speakers might feel uncomfortable sharing the right of suffrage with people who do not speak their language. Nevertheless, it is essential to point out that English is not the official language of the United States. Even though thirty-two states do have English as their official language,<sup>467</sup> it is not possible to hinder the right to vote of people who cannot read, speak, or understand English.

In 1966, the Supreme Court of the United States in *Katzenbach v. Morgan* invoked the Equal Protection Clause of the Fourteenth Amendment to uphold federal legislation that prohibited the use of English language literacy tests.<sup>468</sup> Four years later, in 1970, the Supreme Court ruled in *Oregon v. Mitchell* that the Fifteenth Amendment gave Congress the power to ban English literacy tests.<sup>469</sup>

Additionally, most of the Shosics in the United States do speak and understand English. Those who think otherwise are failing to recognize the many types of Shosics.

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<sup>466</sup> Noorani, Ali. *There Goes the Neighborhood: How Communities Overcome Prejudice and Meet the Challenge of American Immigration*. P. 160. Amherst, New York: Prometheus Books, 2017.

<sup>467</sup> Schwarz, Hunter. *States where English is the official language*. The Washington Post. Published on August 12, 2014. (Available at

<https://www.washingtonpost.com/blogs/govbeat/wp/2014/08/12/states-where-english-is-the-official-language/>; Accessed on February 15, 2020)

<sup>468</sup> *Katzenbach v. Morgan*, 384 U.S. 641 (1966)

<sup>469</sup> *Oregon v. Mitchell*, 400 U.S. 112 (1970)

Moreover, if English were a prerequisite to vote, it would be in open discrimination of the American deaf community who speak through ASL. Furthermore, we live in an era where news outlets translate to multiple languages every speech, rally, and debate during the campaigns.

Recognizing, however, that English is an important prerequisite of suffrage for some American citizens, the point-system chart presented in this dissertation suggests that Shosics could demonstrate their connections and roots to their place of residence by taking the Test of English as Foreign Language (TOEFL).

**d. Enfranchising Shosics would shift the political center of gravity to the left because of the influx of these new voters**

Those who employ this argument fail to recognize the multiple types of Shosics. We cannot place all the Shosics in the same political basket. Some of them have liberal ideologies, while others lean towards conservative agendas. While it is true that the proponents of Shosic enfranchisement tend to be progressive, the pool of new voters does not necessarily mirror that ideology. Arguing that Shosics are all liberal because the advocates of Shosic enfranchisement are all progressive, is as fallacious as assuming that all the LGBTQ community is liberal just because the advocates of their rights are progressive. Some Shosics come from very religious countries. In many cases, their first identity is their religion, not their ethnicity or nationality.<sup>470</sup> Hence, contrary to what some people might think, enfranchising Shosics could potentially shift the political balance to the right.

Regardless of what could happen to the political balance, the preference of the potential electorate is not a legitimate justification to disenfranchise any group of

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<sup>470</sup> Noorani, Ali. *There Goes the Neighborhood: How Communities Overcome Prejudice and Meet the Challenge of American Immigration*. P. 37. Amherst, New York: Prometheus Books, 2017

people. In 1965 the Supreme Court ruled in *Carrington v. Rash* that “fencing out from the franchise a sector of the population because of the way they may vote is constitutionally impermissible.”<sup>471</sup>

**e. Shosic enfranchisement would not require any knowledge of the issues on which the person would be voting since the person will only have been in the country for a short period.**

Residence in the place where a Shosic intends to vote is a legitimate concern from those who oppose Shosic enfranchisement. To address such concern, this dissertation suggests granting the right to vote and to hold office exclusively to those Shosics who can demonstrate sufficient connections and roots to their place of residence. Even though, the Supreme Court in 1972 ruled in *Dunn v. Blumstein* that “durational residence requirements are violative of the Equal Protection Clause of the Fourteenth Amendment, as they are not necessary to further a compelling state interest”<sup>472</sup> this dissertation understands that Shosics are a suspect classification to which the State can demand additional requirements.

Arguing that only people who have spent sufficient time in the electoral jurisdiction should be able to vote, would automatically disenfranchise American citizens living abroad. Moreover, that argument would also disenfranchise American citizens from Arizona, for instance, who decided to move to New York. Should the Arizonan be disenfranchised as well from the local elections? Furthermore, every respectable candidate has a web page where any voter can find their political agenda. Hence, any voter can get knowledgeable of the issues on which they would be voting.

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<sup>471</sup> See *Carrington v. Rash*, 380 U.S. 89 (1965); *Gray v. Sanders*, 372 U. S. 368.

<sup>472</sup> *Dunn v. Blumstein*, 405 U.S. 330 (1972)

**f. Naturalization should be the only way in which an immigrant should be allowed to vote.**

As reviewed in previous chapters, it does not seem legally justifiable to restrict voting rights of Shosics in most of the electoral jurisdictions of the United States based on nationality. Moreover, not every Shosic in this country is eligible for naturalization. Temporary Shosics cannot apply for a green card even if they spend many years in the United States. The term “temporary” can be misleading. Some of these “temporary” Shosics renew their “temporary” visas periodically. For instance, I am a temporary Shosic who came to the United States to pursue a Master of Laws (LL.M.) for just one year. After one year, however, I received the fantastic opportunity to continue with my studies in the United States for three additional years. At the end of those four years, my wife—a temporary Shosic like myself—was admitted to law school in the United States. Hence, we renewed our “temporary” visas for five additional years. With our “temporary” visas, we are not eligible for naturalization. Not even after spending—at least—nine years in the United States. If we decide not to renew our “temporary visas” by the end of the nine years, I will have spent a little bit more than one-tenth of my life in the United States (considering that the average life expectancy for males in the United States is 76 years.) One-tenth of life is not temporary at all. In that period, one develops multiple connections to their place of residence. Hence, naturalization should not be the only possible alternative for Shosics to vote in the United States. If Shosics can demonstrate sufficient connections to their place of residence, they should have the right of suffrage.

**g. The Constitution of the United States limits the right to vote to American citizens**

Contrary to what many people think, the Constitution of the United States does not forbid Shosics from voting. The Supreme Court unanimously ruled in *Minor v. Happersett* that "citizenship has not in all cases been made a condition precedent to the enjoyment of the right of suffrage."<sup>473</sup> It cited Missouri, Texas, Indiana, Georgia, Alabama, Arkansas, Florida, Kansas, and Minnesota as examples of states then allowing Shosics to vote.

State legislatures define voting qualifications in the country. The Supreme Court in *Breedlove v. Suttles* held that "voting is a privilege derived not from the United States, but from the State, which may impose such conditions as it deems appropriate, subject only to the limitations of the Fifteenth and Nineteenth Amendments and other provisions of the Federal Constitution."<sup>474</sup> Moreover, the U.S. Supreme Court in *Pope v. Williams* held that while a state may not abridge the privilege to vote on account of race, color and previous condition of servitude, "the privilege is not given by the federal Constitution or by any of its amendments, nor is it a privilege springing from citizenship of the United States."<sup>475</sup>

As seen in previous chapters, the text of all the state constitutions—with except for Arizona and North Dakota—denies neither explicitly nor implicitly the right of suffrage of Shosics. The only legislation that explicitly disenfranchises Shosics from federal elections in the United States is the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Section 611.

#### **f. Shosic voting has been tried in many places without success**

Authors like Stanley A. Rehnson, who oppose Shosic enfranchisement, argue that "noncitizen voting has been tried in a number of places. The results [of Shosic

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<sup>473</sup> *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875)

<sup>474</sup> *Breedlove v. Suttles*, 302 U.S. 277 (1937)

<sup>475</sup> *Pope v. Williams*, 193 U.S. 621 (1904)



enfranchisement] do not support claims of great benefits following from noncitizen voting, because even where they are able to, they don't register in substantial numbers, and those that do register don't vote."<sup>476</sup>

I suspect that no court would sustain that the fundamental right to vote or to hold office depends on the turnout of a specific group of people. If Shosics are not exercising their voting prerogative perhaps it is because they do not know that it is available for them. Instead of outrightly denying the right to vote of Shosics, it is more reasonable to think of a legal literacy campaign to inform about their prerogative. Shosics are enfranchised only in fourteen municipalities of the United States. Hence, it is natural for Shosics to assume that they do not have the right to vote in this country. If we were to weigh in a balance the outright disenfranchisement of Shosics because they do not exercise their prerogative and maintaining the right to vote of Shosics along with a legal literacy campaign, there is no doubt that the latter outweighs the former.

**g. Non-permanent Shosics should not be allowed to vote because they do not have a stake in the outcome of an election**

Around 2.3 million non-permanent Shosics reside in the United States.<sup>477</sup> Among non-permanent Shosics, there are students, diplomats, professors, and temporary workers. These Shosics do have a stake in the outcome of elections not only because they represent a significant chunk of the population, but also because they are members of the communities where they reside. As explained above, “non-permanent” or “temporary” Shosics can spend a lifetime in the United States

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<sup>476</sup> Renshon, Stanley Allen. *Noncitizen Voting and American Democracy*. P. 93. Lanham, Md.: Rowman & Littlefield Publishers, 2009.

<sup>477</sup> Baker, Bryan. *Nonimmigrants Residing in the United States: Fiscal Year 2016*. U.S. Department of Homeland Security. Published on March 2018. (Available at [https://www.dhs.gov/sites/default/files/publications/Nonimmigrant\\_Population%20Estimates\\_2016\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/Nonimmigrant_Population%20Estimates_2016_0.pdf); Accessed on February 14, 2020)

with their “non-permanent” status. Hence, Shosics who can demonstrate that they have enough roots in the United States, should be allowed to vote in certain electoral jurisdictions.

Furthermore, even if “non-permanent” Shosics decide to leave the United States after a short period, they do have a stake in the outcome of the elections of this country. I will not deny the difficulty of arguing in defense of non-permanent Shosic enfranchisement. Let me try to explain, however, why they should be enfranchised even if they spend little time in the United States. Allow me to use the following analogy:

In 2016 I came to the United States to pursue an LL.M at Cornell Law School. As soon as I was admitted to Cornell, I started receiving emails from the Cornell Law Students Association (CLSA), which is a democratically elected group of J.D. students that represents the interests of all the Cornell law students, including those who are pursuing an LL.M. The way through which the CLSA board is elected works as follows: Every year before summer break, the whole student body votes for the JD candidates of their preference. LL.M.s are granted the right to vote for these candidates even though they will not be at Cornell the following academic year (the LL.M. program is one year long while the J.D. program is three years long).

That election meant that when I came to Cornell, I was democratically represented by a group of people that I did not know, but who were trusted by the former LL.M. class to protect my interests. The importance of this election became evident when my class voted for the next year’s CLSA Board. There were two running candidates. One of them had many ideas that included LL.M. students, while the other candidate’s plan showed no specific interest in the LL.M. program. The vast majority of my LL.M. classmates voted for the candidate who introduced ideas for the

incoming LL.M. class. Even though we would not directly benefit from this candidate's plan, the incoming LL.M. class would be represented by someone who would take them into account. On that occasion, I had no interest in protecting my interests because I would no longer be in Law School. My interest was future-oriented, and I voted for someone who would represent the interests of my peers to come.

The power of the vote of the LL.M. class has forced J.D. candidates to include specific ideas for the LL.M. program. Even though we are a minority of the voters in Cornell Law School, over one hundred LL.M. votes can influence the election in one way or another.

In that regard, non-permanent residents in the United States should have the right to vote in this country. Thousands of students and temporary workers who come to the United States with a non-permanent visa pay their taxes, are essential to the economic activities of the United States, are subject to the same laws as American citizens, and are affected by the policies adopted by public officials. They should have the right to vote for those candidates who will protect the rights and interests of the future non-permanent residents who will come to the United States after them.

#### **h. Shosics should not be allowed to run for office**

The right to vote and to hold office generally go holding hands. The Universal Declaration of Human Rights,<sup>478</sup> the American Declaration of the Rights and Duties of Man,<sup>479</sup> the ICCPR,<sup>480</sup> include both prerogatives in the same articles as if they were the same right with the same legal weight.

However, the Constitution of the United States does make distinctions between the right to vote and the right to hold office. The Constitution does not set the

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<sup>478</sup> United Nations. *Universal Declaration of Human Rights*. Article 21.

<sup>479</sup> American Declaration of the Rights and Duties of Man. Article XX.

<sup>480</sup> International Covenant on Civil and Political Rights. Article 25.

qualifications to vote. Still, it does determine the specific requirements for holding the presidency and for being a congressman, which are significantly stricter than the requirements to vote. According to Article II, Section 1, Clause 5 of the Constitution, there are three qualifications for holding the presidency of the United States:

- i. Be a natural-born U.S. citizen of the United States;
- ii. Be at least 35 years old;
- iii. Be a resident in the United States for at least 14 years.<sup>481</sup>

Under Article I, section 3, clause 3 of the Constitution, the qualifications to be a U.S. senator are the following:

- i. Be a citizen of the United States for at least nine years;
- ii. Be at least 30 years old;
- iii. Be an Inhabitant of that State for which they shall be chosen.<sup>482</sup>

Article I, Section 2 of the Constitution of the United States, sets the qualifications for representatives of Congress:

- i. Be at least twenty-five years old
- ii. Be a citizen of the United States for the past seven years;
- iii. Be an inhabitant of the state they represent.<sup>483</sup>

State constitutions as well make distinctions between voters and office-holders. For instance, in the state of New York, only an American citizen, thirty years old or above, who has resided in the state for at least five years can be elected governor.<sup>484</sup>

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<sup>481</sup> U.S. Constitution of the United States. Article II, Section 1, Clause 5.

<sup>482</sup> U.S. Constitution of the United States. Article I, section 3, clause 3.

<sup>483</sup> U.S. Constitution of the United States. Article I, Section 2.

<sup>484</sup> N.Y. *New York State Constitution*. Article IV, Section 2.

Such requirements are significantly higher than the qualifications to vote in the state.<sup>485</sup>

Therefore, it is legally and reasonably justified to differentiate between the right to vote and the right to hold office. Even though this dissertation supports the right to hold office of Shosics, I understand that not everyone would be thrilled with such a proposition. In an attempt to find common ground between both sides of the argument, this thesis suggests creating Shosic-delegate positions to protect the voice of this group in the United States. If there is not enough support to grant the right to hold office, Shosics should have non-voting delegates representing their voice at all levels. There should be Shosic delegates in the governing bodies of districts, villages, towns, cities, counties, and states, as well as in the federal jurisdiction.

For instance, following on the CLSA analogy, even though candidacies for the CLSA Board are limited for J.D. students, the incoming LL.M. class can vote for an LL.M. representative to re-enforce the protection of their interests before the CLSA Board. In that regard, I firmly believe that non-permanent Shosics should be allowed to run for office. If not for the presiding positions, they should have at least the right to elect someone to represent them in city councils and governments' cabinets.

### **I. If Shosics were allowed to vote there would be no differences between Shosic and American citizen**

As reviewed in the second chapter, contrary to what some people might think, granting political rights to Shosics would not downgrade the value of citizenship. American citizenship would continue playing a vital role in defining personal and legal identity. It would not only continue being a factor in how Americans perceive

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<sup>485</sup> N.Y. *New York State Constitution*. Article II, Section 1.

themselves, but it also would keep entailing legal rights and duties that are available exclusively to American citizens.<sup>486</sup>

**J. Shosics, as guests, have to follow the rules of the host country. They do not make the rules**

It is a universally recognized unwritten norm that guests must follow the rules imposed by hosts. If a host, for instance, has as a house-rule that forbids to eat breakfast in the bedroom, the guest generally has two options: 1) abide by the rule and refrain from having breakfast in the bedroom, or 2) leave the house if she strongly disagrees with the rule.

Let us imagine that the guest in the house pays a monthly rent for a bedroom in the house. Would she be legitimized to suggest a change to the no-breakfast-in-the-bedroom rule? What if the host insisted on hosting the guest in his home in exchange for doing house chores? Should the guest be allowed to voice his opinion on the house rules?

While pondering the answers to these hypothetical questions, I came across a passage in the second chapter of the graphic novel *The Walking Dead*. In the passage, Rick, the main character of the story, along with his family and crew, just fled the place where they lived because it was full of zombies. They wander for weeks for a new safe place to live. They find a farm surrounded by wire where they are welcomed by Herschel, the owner. Herschel allows Rick to stay at the farm for some time. In exchange, Rick and his crew help Herschel with the farm chores, and they provide protection against the zombies. At some point, Rick asks Herschel if he can move into the barn with his crew. Herschel advises him not to go into the barn because that's

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<sup>486</sup> See chapter 2.

where he keeps all the zombies. Herschel explains that he keeps the zombies alive in case someone finds a way to help them and bring them back to real life.<sup>487</sup> Rick, who has fought against zombies and who knows how dangerous they can be, confronts Herschel about his decision. Rick explains that all zombies should be killed and put out of their misery before they eat them alive. Herschel, evidently upset, reminds Rick that he is just a guest in the farm. He informs Rick that he can abide by the rules, or leave the farm. Rick decides to abide by Herschel's rule even though he strongly disagrees with it and is directly affected by it.<sup>488</sup>

I thought of this passage because, as a non-permanent Shosic, I have been confronted by some people who say that if I do not agree with the laws of the United States, I have two options: 1) abide by the rules, or 2) leave the country. They explain that my Shosic-enfranchisement arguments lack legitimacy because I am a guest of this country, not a host. I understand and respect, but disagree with these arguments. First, my research does not intend to impose a new legal framework in the United States. My goal is simply to start a debate about Shosic enfranchisement. Eventually, it will be the courts and legislators who will decide what is best for the country. Second, critiques about my residence status are *ad hominem* fallacies. If critics target the messenger and not the message, that does not make the arguments wrong. Third, my dissertation is focused on the United States because it is a country that fascinates me. Fourth, I have lived in this country one-tenth of my life already. I consider myself a member of the community where I live. As such, I only want the best for my community. Fifth, the debate on the enfranchisement of Shosics is a debate that directly affects Shosics. Shosics are guests in this country, but if we are going to be

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<sup>487</sup> At this point in the story nobody knows much about zombies. They do not know if zombies can think or feel. Nobody knows if zombism is a disease that can be cured.

<sup>488</sup> Kirkman, Robert (creator, writer, and letterer) & Adlard, Charlie (penciler and inker); *The Walking Dead: Book One, Chapter Two*; Image Comics; Berkeley, California (2013)

affected by the outcome of the debate, we must have a say in it. Sixth, I am a Shosic who has witnessed first-hand the unequal treatment that some of my peers receive in the United States. The goal of my research is not to criticize this country. On the contrary, I intend to find a way in which both citizens and Shosics can unite to generate better, stronger, and fairer communities. Seventh, even though I am a non-permanent Shosic, my wife and I intend to continue our lives in this country that we love. We still do not know under what visa we will be granted permission to stay, but we do not want to be non-immigrants forever. We want to vote, we want to belong, and we want to improve the community where we live. Finally, the United States Constitution protects Shosics' right to respectfully express our support or disagreement with the norms enacted in this country.

### **Unintended Consequences of Shosic Enfranchisement**

Even though the current rhetoric in American politics about immigration seems to divide the country into two, the reality is that “three-quarters of Americans say immigration is a good thing. They continue to believe that those who come seeking a better life ought to be able to stay and contribute.”<sup>489</sup> That support of immigration, however, cannot translate into a support of Shosic enfranchisement. I worry that if Shosic enfranchisement is pushed too fast and without a general consent in the country, it might backfire and create fear around Shosics. As Ali Noorani—advocate of immigrants' rights—explains, “with fear comes a lack of trust and mutual respect.

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<sup>489</sup> Brennan, Megan. *Record-High 75% of Americans say immigration is a good thing*. Gallup, June 21, 2018. (Available at <https://news.gallup.com/poll/235793/record-high-americans-say-immigration-good-thing.aspx>; Accessed on February 17, 2020)



Opponents of immigrants and immigration reform prey on this fear to their benefit, while supporters ignore this fear to their peril.”<sup>490</sup>

Naturally, some American citizens would worry that the value of their citizenship will be watered down if Shosics were suddenly allowed to vote and run for office. They might not feel so happy sharing the political pie of their respective electoral jurisdictions. That fear could trigger many unintended consequences that could potentially damage Shosics. Violence and discrimination against immigrants could surge. Certain politicians could capitalize on such concern and endorse closed-border policies that would hinder the flow of immigrants to the United States.

As Ali Noorani warns in his book *There Goes the Neighborhood*, we should not exert the political powers and rights of Shosics without taking into account the perspective of the broader American public.<sup>491</sup> Shosic enfranchisement is not a crowd-pleaser. It is a pill that might be too hard to swallow. Nevertheless, this pill would have prophylactic and healing effects.

Considering that hate crimes against immigrants reached its highest point in sixteen years<sup>492</sup> and rhetoric in the nation’s capital seems as bitter as ever against Shosics, enfranchising Shosics would force politicians to change their narrative. If their election depended on having Shosics on their side, they would think twice calling names or using harsh adjectives on immigrants. The first years of Shosic enfranchisement could be difficult for immigrants in the country, but eventually, the American people would move forward. The early years of school integration in the United States were very tough on the African-American kids who transferred to

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<sup>490</sup> Noorani, Ali, and Juan Williams. *There Goes the Neighborhood: How Communities Overcome Prejudice and Meet the Challenge of American Immigration*. P. 37. Amherst, New York: Prometheus Books, 2017.

<sup>491</sup> Noorani, Ali, and Juan Williams. *There Goes the Neighborhood: How Communities Overcome Prejudice and Meet the Challenge of American Immigration*. Amherst, New York: Prometheus Books, 2017.

<sup>492</sup> Hassan, Adeel. *Hate-Crime Violence Hits 16-Year High, F.B.I. Reports*. The New York Times. Published on November 12, 2019. (Available at <https://www.nytimes.com/2019/11/12/us/hate-crimes-fbi-report.html>; Accessed on February 17, 2020)

predominantly white schools. That generation of kids, however, sacrificed for the betterment of the country, which has significantly improved in the last fifty years.

Following Amartya Sen's impressions on the economic relevance of the right to vote,<sup>493</sup> Shosic enfranchisement would provide, little by little, more political power for Shosics all over the United States. That power would eventually translate into economic independence. Shosics' financial autonomy would lead to an improvement in the national economy. The strength of the national economy would reduce the bitterness of certain citizens against immigrants. This whole process has the potential of becoming a virtuous cycle.

The United States leads the way on democracy around the world. If they set an excellent example of Shosic enfranchisement, it is natural that the rest of the nations will follow. That shift would empower the significant American diaspora—estimated in nine million people<sup>494</sup>—living all over the world.

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<sup>493</sup> Sen, Amartya. *Democracy as a Universal Value*. *Journal of Democracy* 10.3 (1999) 3-17. (Available at [https://www.unicef.org/socialpolicy/files/Democracy\\_as\\_a\\_Universal\\_Value.pdf](https://www.unicef.org/socialpolicy/files/Democracy_as_a_Universal_Value.pdf))

<sup>494</sup> The Association of American Residents Overseas. *8.7 million Americans (excluding military) live in 160-plus countries*. (Available at <https://www.aaro.org/about-aaro/8m-americans-abroad>; Accessed on February 17, 2020)

## Conclusion

The research question that guided this thesis is whether restricting the right of suffrage of Shosics in all electoral jurisdictions of the United States—federal, state, county, city, town, village, and district jurisdictions—is legitimate or not. The answer is it depends.

Shosics should not be outrightly disenfranchised from all the electoral jurisdictions in the United States just because they are not American citizens. As long as Shosics can demonstrate sufficient connections and roots to their place of residence, they should be allowed to participate in certain elections. The more connections Shosics can prove, the broader political participation they should have.

The right of suffrage is a twofold fundamental right. It is a fundamental right *per se* enshrined in various laws and international treaties that explicitly protect the right to vote, and it is also fundamental because it is a manifestation of the right of freedom of speech. Hence, states are only allowed to hinder the right of suffrage of Shosics as long as they can prove a narrowly tailored compelling state interest. That means that the state's arguments to disenfranchise Shosics from state elections cannot be the same to disenfranchise them from county, city, town, village, and district elections. Each jurisdiction deserves its specific reasonable, necessary, and proportional justification.

These dissertation suggests that Shosics are neither explicitly nor implicitly disenfranchised in almost any state constitution of the United States. Except in Arizona and North Dakota, which explicitly limit suffrage for American citizens, Shosics should be allowed to vote in all state, county, city, town, village, and district elections in the remaining forty-eight states.

Citizenship and nationality are traits that may be relevant when voting for the President of the United States or members of Congress. After all, such elected officials are in charge of the national and foreign policy of the country. Nevertheless, nationality and citizenship should be irrelevant qualifications to vote in school board elections, library district elections, village elections, town elections, city elections, county elections, and state elections.

There is a direct correlation between the right of suffrage and the quality of life index. People who are denied political avenues for voicing their concerns are not as successful in attracting the attention of mayors, sheriffs, district attorneys, school boards, governors, presidents, legislators, and judges. Thus, people without the right to vote may end up with lower levels of quality of life, public services, legal protection, and other resources provided by the state. Therefore, enfranchising Shosics is particularly necessary for electoral jurisdictions where the average quality of life index of Shosics is lower than the average quality of life of the citizen population.

Shosic enfranchisement in the United States is possible through legislative reforms, judicial processes, and advocacy strategies. Such alternatives can be sought in international, federal, state, and municipal jurisdictions. Shosic enfranchisement, however, should not be imposed from one day to another on communities that disagree with this fundamental right. Obtaining the right to vote and to hold office for Shosics should be the result of a gradual process. Otherwise, we would face the risk of unintended consequences that would backfire from well-intended policies. Taking into account the perspectives of the members of all the electoral jurisdictions is essential before enfranchising Shosics.

Suffrage qualifications in the United States continuously evolve to adapt to the social, economic, cultural, and political development of the country. There is no reason to believe that the qualifications of the electorate have reached a final point where there is no space for change.

It is time for us to reimagine new rules and parameters of political enfranchisement. There are around 17.5 million adult Shosics in the United States working hard every day to generate jobs, create arts, and produce food for a country that they love. Shosics are essential economic, social, and religious members of the communities where they live. They should be allowed to vote and hold office in certain electoral jurisdictions as long as they can prove sufficient connections to their place of residence. The outcome of every election that occurs in this country has a direct impact on their daily lives. Whether it is the election of sheriffs, district attorneys, school boards, mayors, judges, legislators, governors, or presidents, the stake of Shosics in these processes is as relevant as it is for American citizens.

## Appendices

### A Note on the First Fifty Appendices

The fifty first appendices correspond to the evolution of suffrage qualifications in all the states of the Union. The first thirteen correspond to the original states and they are organized in chronological order based on the date in which they adopted their first constitution. The following thirty-seven appendices are classified in chronological order based on the time the states joined the Union.

1. **New Hampshire** (Adopted its first constitution in January 5, 1776)
2. **South Carolina** (Adopted its first constitution in March 26, 1776)
3. **Virginia** (Adopted its first constitution in June 29, 1776)
4. **New Jersey** (Adopted its first constitution in July 2, 1776)
5. **Delaware** (Adopted its first constitution in September 21, 1776)
6. **Pennsylvania** (Adopted its first constitution in September 28, 1776)
7. **Maryland** (Adopted its first constitution in November 11, 1776)
8. **North Carolina** (Adopted its first constitution in December 18, 1776)
9. **Georgia** (Adopted its first constitution in February 5, 1777)
10. **New York** (Adopted its first constitution in April 20, 1777)
11. **Massachusetts** (Adopted its first constitution in June 15, 1780)
12. **Connecticut** (Adopted its first constitution in September 15, 1818)
13. **Rhode Island** (Adopted its first constitution in November 1842)
14. **Vermont** (Joined the Union in March 4, 1791)
15. **Kentucky** (Joined the Union in June 1, 1792)
16. **Tennessee** (Joined the Union in June 1, 1796)
17. **Ohio** (Joined the Union in March 1, 1803)
18. **Louisiana** (Joined the Union in April 30, 1812)
19. **Indiana** (Joined the Union in December 11, 1816)
20. **Mississippi** (Joined the Union in December 10, 1817)
21. **Illinois** (Joined the Union in December 3, 1818)
22. **Alabama** (Joined the Union in December 14, 1819)
23. **Maine** (Joined the Union in March 15, 1820)
24. **Missouri** (Joined the Union in August 10, 1821)
25. **Arkansas** (Joined the Union in June 15, 1836)
26. **Michigan** (Joined the Union in January 26, 1837)
27. **Florida** (Joined the Union in March 3, 1845)
28. **Texas** (Joined the Union in December 29, 1845)
29. **Iowa** (Joined the Union in December 28, 1846)
30. **Wisconsin** (Joined the Union in May 29, 1848)
31. **California** (Joined the Union in September 9, 1850)
32. **Minnesota** (Joined the Union in May 11, 1858)
33. **Oregon** (Joined the Union in February 14, 1859)
34. **Kansas** (Joined the Union in January 29, 1861)

35. **West Virginia** (Joined the Union in June 20, 1863)
36. **Nevada** (Joined the Union in October 31, 1864)
37. **Nebraska** (Joined the Union in March 1, 1867)
38. **Colorado** (Joined the Union in August 1, 1876)
39. **North Dakota** (Joined the Union in November 2, 1889)
40. **South Dakota** (Joined the Union in November 2, 1889)
41. **Montana** (Joined the Union in November 8, 1889)
42. **Washington** (Joined the Union in November 11, 1889)
43. **Idaho** (Joined the Union in July 3, 1890)
44. **Wyoming** (Joined the Union in July 10, 1890)
45. **Utah** (Joined the Union in January 4, 1896)
46. **Oklahoma** (Joined the Union in November 16, 1907)
47. **New Mexico** (Joined the Union in January 6, 1912)
48. **Arizona** (Joined the Union in February 14, 1912)
49. **Alaska** (Joined the Union in January 3, 1959)
50. **Hawaii** (Joined the Union in August 21, 1959)

## Appendix 1

### Constitutional Evolution of Suffrage Qualifications in New Hampshire

New Hampshire adopted its first constitution in January 5, 1776. This constitution did not mention any qualifications for suffrage.<sup>495</sup> The requirements to vote remained as they were determined in 1727 during the colonial period. Hence, voters were required to possess real estate in the district to the value of fifty pounds. (McKinley, 377)<sup>496</sup>

New Hampshire (1776)	
Suffrage Qualifications	Groups Implicitly Excluded
Real estate in the district to the value of fifty pounds.	N/A

New Hampshire adopted a new constitution in 1784. The constitution only mentioned that every inhabitant of the state with the proper qualifications had the right to vote.<sup>497</sup> At that time, the traditional voting requirements were to be a man of at least twenty-one years of age. The 1784 constitution does not say anything about age or sex. We can presume, however, that the right to vote was limited to men over twenty-one. The constitution did not explicitly exclude any group from the polls.

<sup>495</sup> Constitution of New Hampshire (1776) [https://avalon.law.yale.edu/18th\\_century/nh09.asp](https://avalon.law.yale.edu/18th_century/nh09.asp)

<sup>496</sup> McKinley, Albert E. 1870-1936. The Suffrage Franchise in the Thirteen English Colonies in America. United States: For the University, 1905. <https://babel.hathitrust.org/cgi/pt?id=nyp.33433081802278&view=1up&seq=389>

<sup>497</sup> Article XI <https://lonang.com/library/organic/1784-nhr/>



New Hampshire (1784)

Suffrage Qualifications

Inhabitant of the state

Proper qualifications

Groups Explicitly Excluded

N/A

In 1792 New Hampshire amended its constitution to grant suffrage to male inhabitants of the state. It explicitly denied suffrage to paupers and persons exempted from the payment of taxes.<sup>498</sup>

New Hampshire (1792)

Suffrage Qualifications

Male

Residence in the state

Groups Explicitly & Implicitly Excluded

Women

Paupers

Persons exempted from paying taxes

New Hampshire amended its constitution in 1903 to provide that in order to vote a person must be able to read and write the Constitution in English. The amendment created three exceptions for the English literacy test: 1) Persons with physical disabilities; 2) Persons who were already qualified voters before the amendment; and 3) Persons who were over sixty years of age by January 1, 1904.<sup>499</sup>

<sup>498</sup> Part II; Form of Government; Senate; Section XXVIII;  
<https://babel.hathitrust.org/cgi/pt?id=mdp.35112203900149&view=1up&seq=44>  
<sup>499</sup> Part I; Article 11 & Part II; Article 27  
<https://babel.hathitrust.org/cgi/pt?id=nyp.33433034031587&view=1up&seq=45>

New Hampshire (1903)

Suffrage Qualifications

Male

Residence in the state

Ability to read and write the Constitution in English

Exceptions:

Unless the person has a physical disability

Unless the person already has the right to vote

Unless the person is over 60 years old by January 1, 1904

Groups Explicitly & Implicitly Excluded

Women

Paupers

Persons exempted from paying taxes at their own request

New Hampshire amended its constitution in 1912 to exclude from the polls persons convicted of treason, bribery or willful violation of the election laws from voting.<sup>500</sup>

New Hampshire (1912)

Suffrage Qualifications

Male

Residence in the state

Ability to read and write the Constitution in English

Exceptions:

Unless the person has a physical disability

Unless the person already has the right to vote

Unless the person is over 60 years old by January 1, 1904

Groups Explicitly & Implicitly Excluded

Women

Paupers

Persons exempted from paying taxes at their own request

Persons convicted of treason, bribery or willfull violation of the election laws

<sup>500</sup> Part I; Article 11 <https://babel.hathitrust.org/cgi/pt?id=hvd.hnebqi&view=1up&seq=12>

New Hampshire amended its constitution in 1968 to officially extend suffrage for women. The state also removed the literacy test and the disqualification for paupers and for nonpayers of taxes.<sup>501</sup>

New Hampshire (1968)

Suffrage Qualifications

Residence in the state

Groups Explicitly & Implicitly Excluded

Persons convicted of treason, bribery or willfull violation of the election laws  
Unless restored to civil rights

New Hampshire amended its constitution in 1974 to lower the minimum voting age from twenty-one years to eighteen.<sup>502</sup>

New Hampshire (1974)

Suffrage Qualifications

Residence in the state

Eighteen years of age

Groups Explicitly & Implicitly Excluded

Persons convicted of treason, bribery or willfull violation of the election laws  
Unless restored to civil rights

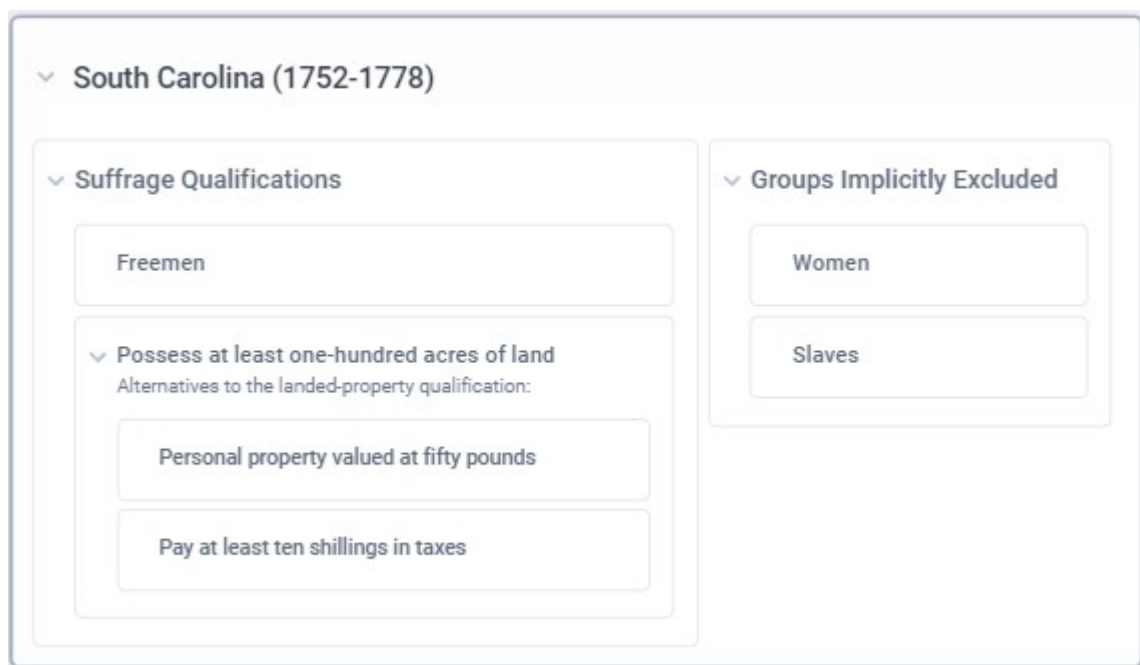
<sup>501</sup> New Hampshire Right to Vote Amendment (1968) & New Hampshire Remove Obsolete Language Amendment (1968) [https://ballotpedia.org/New\\_Hampshire\\_Right\\_to\\_Vote\\_Amendment\\_\(1968\)](https://ballotpedia.org/New_Hampshire_Right_to_Vote_Amendment_(1968))

<sup>502</sup> New Hampshire 18 Year Old Voting Age Amendment (1974) [https://ballotpedia.org/New\\_Hampshire\\_18\\_Year\\_Old\\_Voting\\_Age\\_Amendment\\_\(1974\)](https://ballotpedia.org/New_Hampshire_18_Year_Old_Voting_Age_Amendment_(1974))

## Appendix 2

### Constitutional Evolution of Suffrage Qualifications in South Carolina

South Carolina adopted its first constitution in 1776. This constitution did not mention any suffrage qualifications.<sup>503</sup> Hence, the old colonial voting requirements prevailed until 1778. In colonial South Carolina, only freemen who possessed one hundred acres of land, or who had a personal estate valued at fifty pounds, or who had paid at least ten shillings in taxes were allowed to vote since 1752. (McKinley, 480)<sup>504</sup>



The 1778 constitution granted suffrage to free white men who acknowledged the being of a God, who believed in a future state of rewards and punishment, who had resided in the state for one year, and who possessed a freehold of at least fifty acres of land or a town lot or who had paid taxes equal to the tax of fifty acres of land.<sup>505</sup>

<sup>503</sup> South Carolina Constitution (1776) [https://avalon.law.yale.edu/18th\\_century/sc01.asp](https://avalon.law.yale.edu/18th_century/sc01.asp)

<sup>504</sup> McKinley, Albert E. 1870-1936. The Suffrage Franchise in the Thirteen English Colonies in America. United States: For the University, 1905 <https://babel.hathitrust.org/cgi/pt?id=nyp.33433081802278&view=lup&seq=493>

<sup>505</sup> Article XIII [https://avalon.law.yale.edu/18th\\_century/sc02.asp](https://avalon.law.yale.edu/18th_century/sc02.asp)

▼ South Carolina (1778)

▼ Suffrage Qualifications

- Free white men
- Acknowledge the being of a God
- Believe in a future state of rewards and punishment
- Residence in the state for one year

▼ Possess a freehold of at least fifty acres of land or a town lot

- Alternative: Pay taxes equal to the tax of fifty acres of land

▼ Groups Implicitly Excluded

- Women
- Persons of color
- Slaves
- Atheists

South Carolina adopted a new constitution in 1790 which granted suffrage to free white men, citizens of South Carolina, who had resided for two years in the state and who had fifty acres of land or a town lot. an alternative to its landed-property requirement. The constitution offered the following alternative for the landed-property requirement: Residence of at least six months in the election district and the payment of three shillings in taxes.<sup>506</sup>

<sup>506</sup> Article I; Section 4 [https://www.carolana.com/SC/Documents/sc\\_constitution\\_1790.html](https://www.carolana.com/SC/Documents/sc_constitution_1790.html)

▼ South Carolina (1790)

▼ Suffrage Qualifications

- Free white men
- Citizens of South Carolina
- Residence in the state for two years

▼ Possess a freehold of at least fifty acres of land or a town lot

Alternative to the landed-property qualification:

- Pay a tax of three shillings
- Residence in the election district for six months

▼ Groups Implicitly Excluded

- Non-citizens
- Women
- Persons of color
- Slaves

South Carolina in 1810 amended its constitution to remove the taxpaying alternative for the landed-property qualification, and to explicitly exclude from the polls paupers and soldiers.<sup>507</sup>

<sup>507</sup> Amendment of 1810 [https://www.carolana.com/SC/Documents/sc\\_constitution\\_1790.html](https://www.carolana.com/SC/Documents/sc_constitution_1790.html)

▼ South Carolina (1810)

▼ Suffrage Qualifications

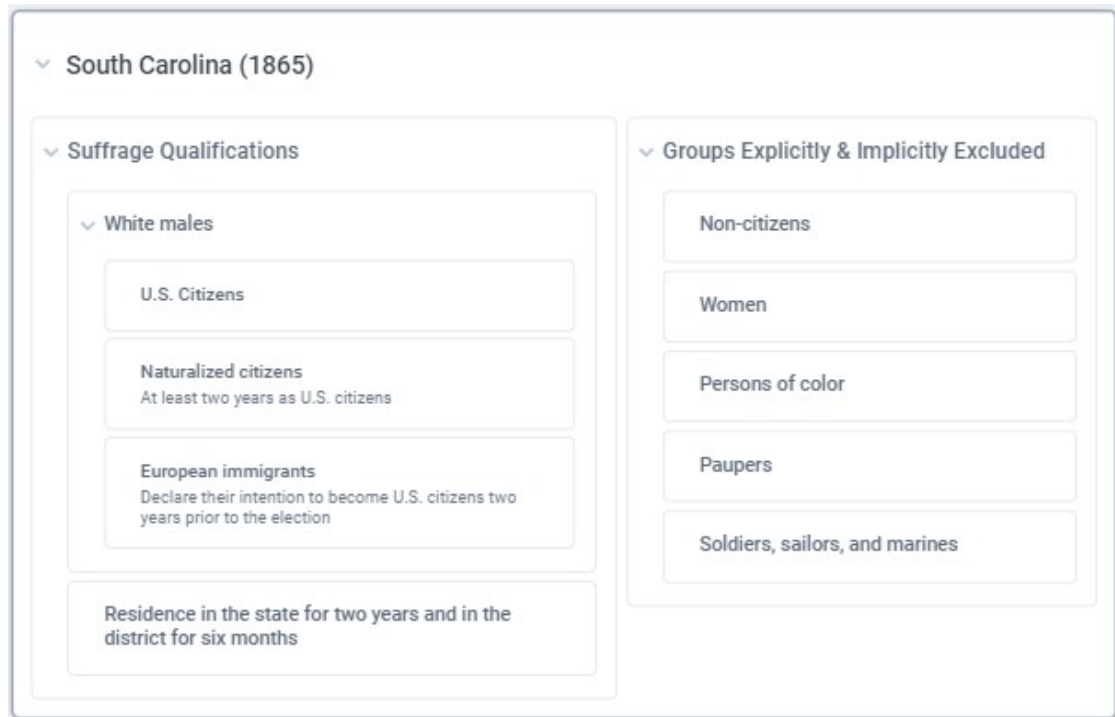
- Free white men
- Citizens of South Carolina
- Residence in the state for two years
- ▼ Possess a freehold of at least fifty acres of land or a town lot
  - Alternative to the landed-property qualification:
    - Residence in the election district for six months

▼ Groups Implicitly & Explicitly Excluded

- Non-citizens
- Women
- Persons of color
- Slaves
- Paupers
- Soldiers

South Carolina adopted a new constitution in 1865. It granted suffrage to free white men who had resided in the state for two years and in the District for at least six months. Naturalized citizens were granted suffrage only if they had been naturalized at least two years prior to the election. The constitution also granted suffrage to European immigrants who had declared their intention to become U.S. citizens two years prior to the election. Paupers, soldiers, sailors, and marines were explicitly prevented from voting.<sup>508</sup>

<sup>508</sup> (Article IV; Section 1) [https://www.carolana.com/SC/Documents/South\\_Carolina\\_Constitution\\_1865.pdf](https://www.carolana.com/SC/Documents/South_Carolina_Constitution_1865.pdf)



South Carolina in 1868 adopted a new constitution. It granted suffrage to all male citizens “without distinction of race, color, or former condition” who had resided in the state one year and in the county sixty days before the election<sup>509</sup>. It explicitly excluded persons who lived in almshouses, asylums or prisons, *non compos mentis*, soldiers, sailors, marines<sup>510</sup>, and persons convicted for treason, murder, robbery or duelling (except for crimes committed while being a slave).<sup>511</sup>

<sup>509</sup> Article VIII; Section 2 [https://www.carolana.com/SC/Documents/South\\_Carolina\\_Constitution\\_1868.pdf](https://www.carolana.com/SC/Documents/South_Carolina_Constitution_1868.pdf)

<sup>510</sup> Article VIII; Section 5

<sup>511</sup> Article VIII; Section 12





▼ South Carolina (1895)

▼ Suffrage Qualifications

- U.S. Citizens
- Males
- Residence in the state for two years and in the county for one year
- Pay all taxes assessed, including a poll tax
- ▼ Ability to read, write, understand, and explain the state constitution
  - Unless he owned \$300 worth of property

▼ Groups Explicitly & Implicitly Excluded

- Non-citizens
- Women
- Persons convicted of infamous crimes
- Sailors, soldiers and marines
- Students
- Paupers
- Non compos mentis
- Persons living in prison
- Illiterate

I have not been able to find the amendments to the South Carolina constitution between 1895 and 1970. In the latter year, the state amended its constitution to remove the word “male” from the suffrage qualifications to enfranchise women, and to remove most of the obsolete exclusions for suffrage.<sup>515</sup>

515 South Carolina Register to Vote Qualifications, Amendment 2 (1970)  
[https://ballotpedia.org/South Carolina Register to Vote Qualifications, Amendment 2 \(1970\)](https://ballotpedia.org/South_Carolina_Register_to_Vote_Qualifications,_Amendment_2_(1970))

▼ South Carolina (1970)

- ▼ Suffrage Qualifications
  - U.S. Citizens
  - Residence in the state for two years and in the county for one year
  - Ability to read and write the English language
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-citizens

South Carolina amended its constitution in 1974 to lower the minimum voting age from twenty-one to eighteen years, and to reduce the residence duration requirement.<sup>516</sup>

South Carolina (1974)

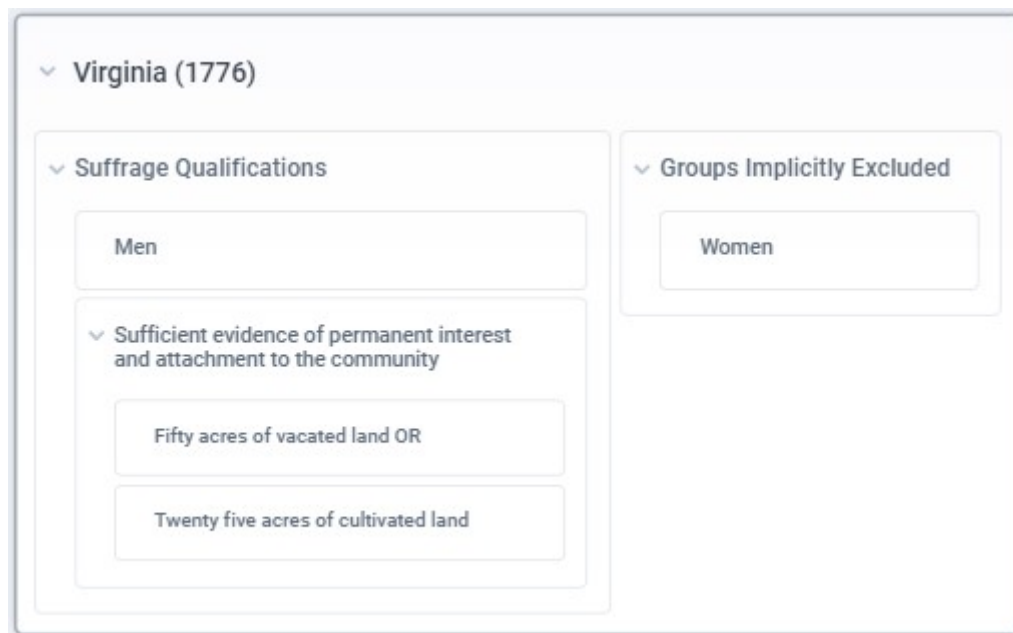
- Suffrage Qualifications
  - U.S. Citizens
  - Residence in the state
  - Ability to read and write the English language
  - Eighteen years of age
- Groups Explicitly & Implicitly Excluded
  - Non-citizens

516 South Carolina Age of Suffrage, Amendment 1 (1974)  
[https://ballotpedia.org/South\\_Carolina\\_Age\\_of\\_Suffrage,\\_Amendment\\_1\\_\(1974\)](https://ballotpedia.org/South_Carolina_Age_of_Suffrage,_Amendment_1_(1974))

### Appendix 3

#### Constitutional Evolution of Suffrage Qualifications in Virginia

Virginia adopted its first constitution in June 29, 1776. It granted suffrage to men who had sufficient evidence of permanent interest and attachment to the community. The sufficient evidence of attachment to the community were the old colonial suffrage qualifications: Possession of fifty acres of vacated land or 25 acres of cultivated land.<sup>517</sup>



Virginia convened a constitutional convention in 1829. The new constitutional provisions granted suffrage to white males who had an estate or freehold worth twenty five dollars. Such landed-property qualification allowed two alternatives: Be in occupation of a house worth twenty dollars yearly, or be the father of a family and pay taxes. It explicitly excluded from the polls *non compos mentis*, paupers, soldiers, and sailors.<sup>518</sup>

<sup>517</sup> Section 6 <http://www.wordservice.org/State%20Constitutions/usa1025.htm>

<sup>518</sup> <https://catalog.hathitrust.org/Record/009778281>

▼ Virginia (1829)

▼ Suffrage Qualifications

White males

▼ Estate or freehold worth twenty five dollars  
Alternatives to landed-property:

Occupation of a house worth twenty dollars yearly

Be the father of a family and pay taxes

▼ Groups Explicitly Excluded

Persons of color

Women

Non compos mentis

Paupers

Sailors and soldiers

Virginia adopted a new constitution in 1851. It is relevant to note that this constitution eliminated the old property qualification without even leaving a taxpaying requirement. It granted suffrage to white male citizens of the commonwealth who had resided in the state for two years and in the county, city or town of the election for twelve months. Soldiers, sailors, marines, paupers, non compos mentis, and persons convicted of bribery or any other infamous crime were explicitly excluded from the polls.









▼ Virginia (1902)

▼ Suffrage Qualifications

▼ General Qualifications

- Males
- Citizens of the United States
- Residence in the state for two years, in the county one year, and in the precinct for thirty days
- Pay a poll tax  
War veterans were exempted
- Ability to read any section of the state constitution

▼ Groups excluded from proving qualifications

- Veterans of the United States or Confederate States who had served in any war prior to the adoption of the constitution OR
- Sons of such veterans

▼ Groups Explicitly & Implicitly Excluded

- Non-Citizens
- Women
- Non compos mentis
- Persons convicted of treason, bribery, petit larceny, obtaining money or property under false pretences, embezzlement, forgery, or perjury
- Persons engaged in a duel
- Soldiers, sailors, and marines
- Paupers
- Students

Virginia allowed women to vote in 1920 after the ratification of the Nineteenth Amendment. The state, however, granted women suffrage, not through a constitutional amendment, but through an act of the legislature.<sup>526</sup>

526 An Act Extending the Right of Suffrage to Women (1920)  
<https://babel.hathitrust.org/cgi/pt?id=uva.x030202376&view=1up&seq=1072>

Virginia (1920)

Suffrage Qualifications

Constitutional Qualifications

Males

Citizens of the United States

Residence in the state for two years, in the county one year, and in the precinct for thirty days

Pay a poll tax  
War veterans were exempted

Ability to read any section of the state constitution

Groups excluded from proving qualifications

Veterans of the United States or Confederate States who had served in any war prior to the adoption of the constitution OR

Sons of such veterans

Additional Non-Constitutional Qualifications

Women

Citizens of the United States

Residence in the state for two years, in the county one year, and in the precinct for thirty days

Pay a Poll Tax

Ability to read and write

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women were only excluded in the state constitution

Non compos mentis

Persons convicted of treason, bribery, petit larceny, obtaining money or property under false pretences, embezzlement, forgery, or perjury

Persons engaged in a duel

Soldiers, sailors, and marines

Paupers

Students

Virginia amended its constitution in 1928 to extend the right of suffrage to women and to reduced the residence duration qualification to one year in the state, six months in the county, and thirty days in the precinct.<sup>527</sup> Voters were required to pay a poll tax (except war veterans or war veterans' widows) and to be able to read and write.<sup>528</sup> The constitution explicitly excluded from the polls *non compos mentis*, paupers, persons convicted of treason, felony, larceny, bribery, obtaining money under false

<sup>527</sup> Article II; Section 18 <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068097747&view=1up&seq=15>

<sup>528</sup> Article II; Section 20

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pretenses, embezzlement, forgery, or perjury, persons who have fought a duel with a deadly weapon,<sup>529</sup> soldiers, sailors, marines, and students.<sup>530</sup>

▼ Virginia (1928)

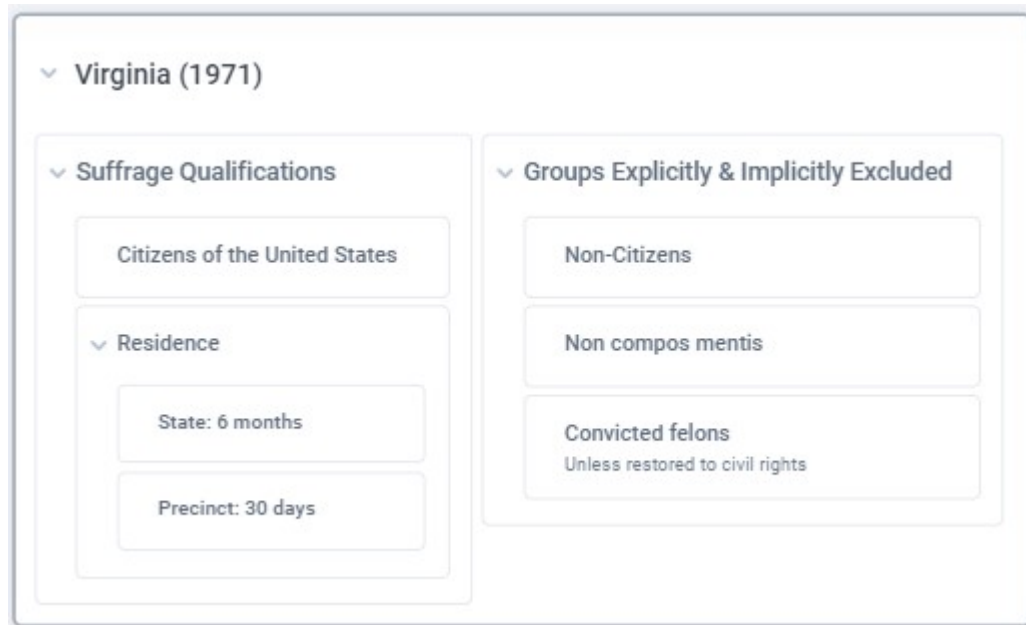
- ▼ Suffrage Qualifications
  - Citizens of the United States
  - ▼ Residence
    - State: 1 year
    - County: 6 months
    - Precinct: 30 days
  - Pay a poll tax
    - War veterans and war veterans' widows were exempted
  - Ability to read and write
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-Citizens
  - Non compos mentis
  - Persons convicted of treason, bribery, petit larceny, obtaining money or property under false pretences, embezzlement, forgery, or perjury
  - Persons engaged in a duel
  - Soldiers, sailors, and marines
  - Paupers
  - Students

Virginia adopted a new constitution in 1971 which granted suffrage to citizens of the United States who had resided for six months in the state and thirty days in the precinct. The new constitution explicitly denied suffrage to convicted felons (unless restored to civil rights) and *non compos mentis*.<sup>531</sup>

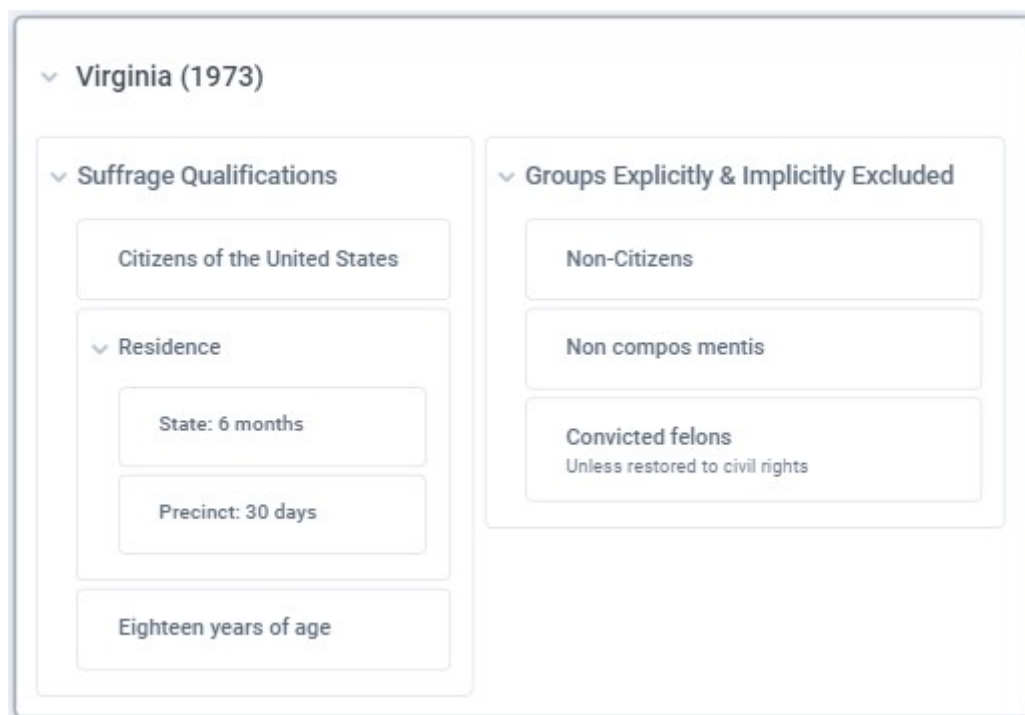
529 Article II; Section 23

530 Article II; Section 24

531 Article II; Section 1 <https://law.lis.virginia.gov/constitution/article2/section1/>



Only two years later, in 1973, Virginia adopted an amendment to its brand new constitution to lower the voting age requirement from twenty-one years to eighteen.<sup>532</sup>



In 1977 Virginia amended again its constitution to reduce the residence duration requirement from six months to a simple residence in the state.<sup>533</sup>

<sup>532</sup> Amendment ratified November 7, 1972 and effective January 1, 1973; Article II; Section 1 <https://law.lis.virginia.gov/constitution/article2/section1/>

<sup>533</sup> Amendment ratified November 2, 1976 and effective January 1, 1977; Article II; Section 1 <https://law.lis.virginia.gov/constitution/article2/section1/>

▼ Virginia (1977)

▼ Suffrage Qualifications

Citizens of the United States

Residence in the Commonwealth (State)

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Non compos mentis

Convicted felons  
Unless restored to civil rights

## Appendix 4

### Constitutional Evolution of Suffrage Qualifications in New Jersey

New Jersey adopted its first constitution in July 2, 1776. The new constitution granted suffrage to all inhabitants of the colony who had property valued at fifty pounds and who had resided in the county for twelve months.<sup>534</sup>

The screenshot displays a digital interface for the 1776 New Jersey constitution. It features a main header 'New Jersey (1776)' with a dropdown arrow. Below this, there are two columns. The left column is titled 'Suffrage Qualifications' and contains three stacked boxes: 'Inhabitants of the Colony', 'Property valued at fifty pounds', and 'Residence in the county for twelve months'. The right column is titled 'Groups Implicitly Excluded' and contains a single box with the text 'N/A'.

In 1844 New Jersey adopted a new constitution with simple suffrage qualifications. It granted the right to vote and to hold office exclusively to white male citizens of the United States who had resided in the state for one year and for five months in the county of the election. It explicitly excluded soldiers, sailors, marines, paupers, non compos mentis, persons convicted of bribery or infamous

<sup>534</sup> Article IV [https://avalon.law.yale.edu/18th\\_century/nj15.asp](https://avalon.law.yale.edu/18th_century/nj15.asp)

crimes.<sup>535</sup>

▼ New Jersey (1844)

▼ Suffrage Qualifications

U.S. Citizens

White males

Residence in the state of one year and five months in the county

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

People of color

Soldiers, sailors, and marines

Paupers

Non compos mentis

Persons convicted of bribery or infamous crimes

New Jersey extended suffrage to black citizens in 1871.<sup>536</sup>

▼ New Jersey (1871)

▼ Suffrage Qualifications

U.S. Citizens

Males

Residence in the state of one year and five months in the county

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Soldiers, sailors, and marines

Paupers

Non compos mentis

Persons convicted of bribery or infamous crimes

<sup>535</sup> Article II <https://www.state.nj.us/state/archives/docconst44.html#art2>

<sup>536</sup> Article II [https://babel.hathitrust.org/cgi/pt?id=uc1.\\$b22069&view=1up&seq=318](https://babel.hathitrust.org/cgi/pt?id=uc1.$b22069&view=1up&seq=318)

New Jersey did not change its constitutional suffrage qualifications until it adopted a new constitution in 1947. This constitution granted suffrage to America citizens who had resided in the state for one year and in the county for five months.<sup>537</sup> The constitution explicitly denied the right to vote to soldiers, sailors, marines, *non compos mentis*, and persons convicted of certain crimes (unless restored to civil rights).<sup>538</sup>

New Jersey (1947)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-Citizens
Residence in the state of one year and five months in the county	Soldiers, sailors, and marines
	Non compos mentis
	Persons convicted of certain crimes

In 1971 New Jersey lowered the minimum voting age from twenty-one to eighteen years.

<sup>537</sup> Article II; Section 3 <https://www.nj.gov/state/archives/docconst47.html#page3>

<sup>538</sup> Article II; Sections 5, 6, & 7



New Jersey (1971)

Suffrage Qualifications

U.S. Citizens

Residence in the state for one year and in the county for five months

Eighteen years of age

Groups Explicitly & Implicitly Excluded

Non-Citizens

Soldiers, sailors, and marines

Non compos mentis

Persons convicted of certain crimes

In 1974, New Jersey amended its constitution to lower the residence duration requirement from one year to thirty days.<sup>539</sup>

New Jersey (1974)

Suffrage Qualifications

U.S. Citizens

Residence in the state for thirty days

Eighteen years of age

Groups Explicitly & Implicitly Excluded

Non-Citizens

Soldiers, sailors, and marines

Non compos mentis

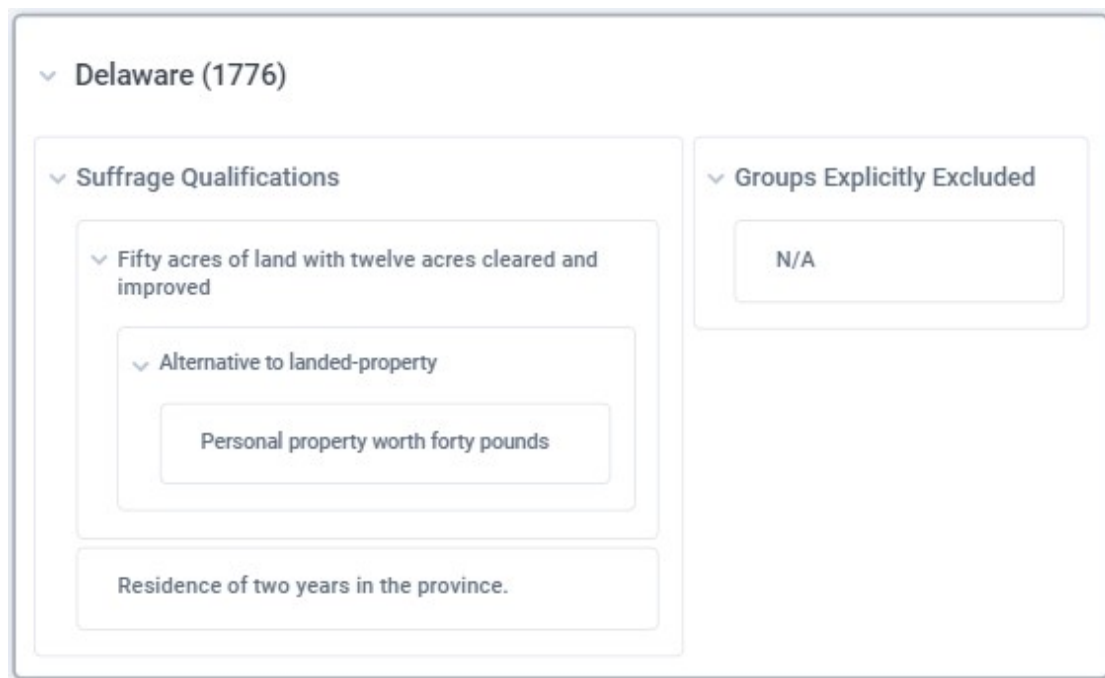
Persons convicted of certain crimes

<sup>539</sup> New Jersey Public Question No. 2 (1974)  
[https://ballotpedia.org/New\\_Jersey\\_Public\\_Question\\_No.\\_2\\_\(1974\)](https://ballotpedia.org/New_Jersey_Public_Question_No._2_(1974))

## Appendix 5

### Constitutional Evolution of Suffrage Qualifications in Delaware

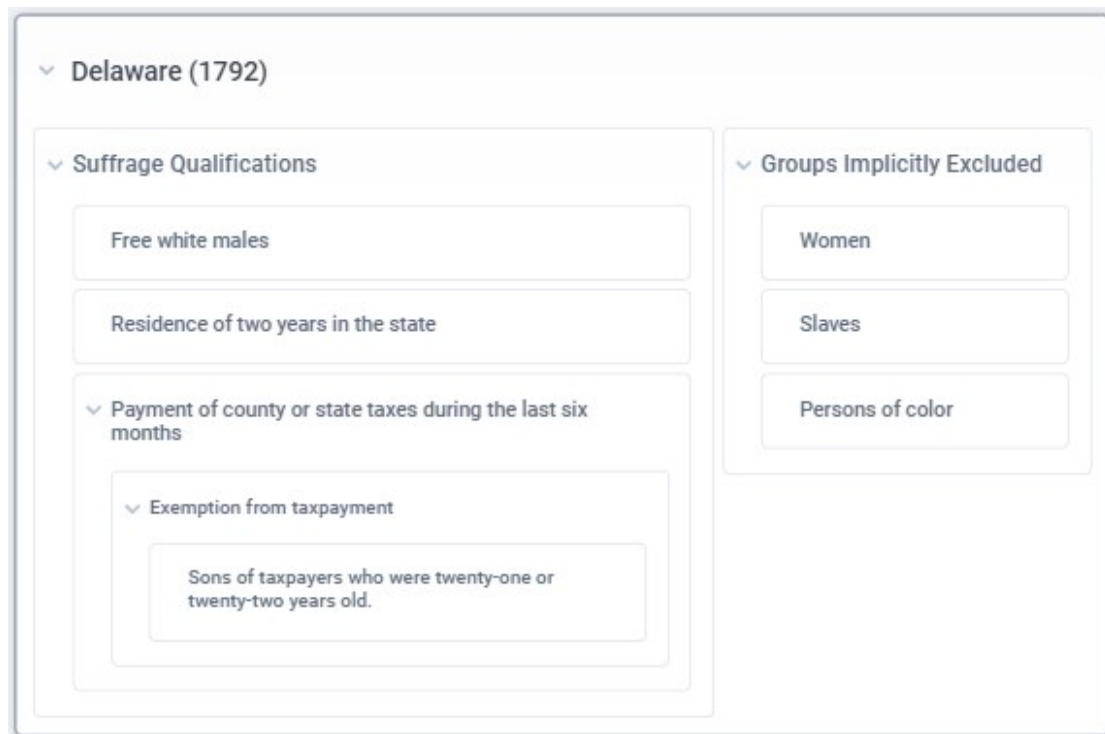
Delaware in 1776 adopted its first constitution. This constitution did not elaborate on the suffrage qualifications. The state decided to keep the suffrage qualifications as they were during colonial times. The constitution simply stated that the “the right of suffrage in the election of members for both houses shall remain as exercised by law at present.”<sup>540</sup>



Delaware in 1792 adopted a constitution that granted suffrage to free white men who had resided in the state for two years and who had paid a county or state tax at least six months before the election. The only persons exempted from paying taxes to vote were the sons of taxpayers when they were between twenty-one and twenty-two years old.<sup>541</sup>

<sup>540</sup> Article V [https://avalon.law.yale.edu/18th\\_century/de02.asp](https://avalon.law.yale.edu/18th_century/de02.asp)

<sup>541</sup> Article IV; Section 1  
[https://infoweb-newsbank-com.proxy.library.cornell.edu/iw-search/we/Evans/?p\\_product=EAIX&p\\_theme=cai&p\\_nbid=S5CN4DWCMTU3MjAxMzEyMy4yNjgxMzoxOjE0OjEzMi4yMzYuMjcuMTEx&p\\_action=doc&p\\_quer](https://infoweb-newsbank-com.proxy.library.cornell.edu/iw-search/we/Evans/?p_product=EAIX&p_theme=cai&p_nbid=S5CN4DWCMTU3MjAxMzEyMy4yNjgxMzoxOjE0OjEzMi4yMzYuMjcuMTEx&p_action=doc&p_quer)



Delaware in 1831 provided herself with a new constitution that granted suffrage to every free white male citizen who had resided in the state one year prior to the election and only one month in the county where he intended to vote. It also demanded the payment of county taxes as a requirement. It explicitly excluded soldiers, sailors, and marines, as well as paupers, convicted criminals, and non compos mentis.<sup>542</sup>

yname=page2&f\_qdnum=1&f\_qrnum=1&f\_qname=1&f\_qnext=&f\_qprev=&p\_docreft=v2:0F2B1FCB879B099B@EAIX-0F2FD441E28353C0@24259-0FC5CF2185F0EF60@20

<sup>542</sup> [https://felonvoting.procon.org/sourcefiles/1831\\_Del\\_Constitution.pdf](https://felonvoting.procon.org/sourcefiles/1831_Del_Constitution.pdf)

▼ Delaware (1831)

▼ Suffrage Qualifications

Free white males

U.S. Citizens

Residence in the state for at least one year and in the county for at least one month.

Payment of county taxes

▼ Groups Explicitly & Implicitly Excluded

Women

Persons of color

Non-citizens

Soldiers, sailors, and marines

Paupers

Non compos mentis

Convicted criminals of felonies

Delaware in 1876 amended its constitution to enfranchise black citizens.<sup>543</sup>

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<sup>543</sup> Amendment of 1876 <https://www.ctexplored.org/constitution-of-1818-rights-for-all/>

Delaware (1867)

Suffrage Qualifications

U.S. Citizens

Males

Residence in the state for at least one year and in the county for at least one month.

Payment of county taxes

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Soldiers, sailors, and marines

Paupers

Non compos mentis

Convicted criminals of felonies

Delaware in 1897 adopted a new constitution that granted suffrage to male citizens of Delaware, who had been a resident in the state for one year, in the county for three months and in the district for thirty days. Voters were required to be able to read the constitution in English and write their names, except for those with physical disabilities. The constitution explicitly excluded from the polls sailors, soldiers, marines, *non compos mentis*, paupers, persons convicted of a felony,<sup>544</sup> and persons who had received, accepted, offered money or other valuable thing as a compensation for a vote at such election.<sup>545</sup>

<sup>544</sup> Article V; Section 2 <https://babel.hathitrust.org/cgi/pt?id=hvd.hl43g7&view=1up&seq=34>

<sup>545</sup> Article V; Section 3

Delaware (1897)	
<p>▼ Suffrage Qualifications</p> <p>Delaware Citizens</p> <p>Males</p> <p>▼ Residence</p> <p>State One year</p> <p>County 3 Months</p> <p>District 30 days</p> <p>Ability to read the constitution in English and write their own names. Except persons with physical disabilities</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-citizens</p> <p>Women</p> <p>Soldiers, sailors, and marines</p> <p>Paupers</p> <p>Non compos mentis</p> <p>Convicted criminals of felonies</p> <p>Persons who had received, accepted, offered money or other valuable thing as a compensation for a vote at such election.</p>

In 1923, Delaware amended its constitution to enfranchise women.<sup>546</sup>

<sup>546</sup> An Act agreeing to the proposed amendment to Article 15 of the constitution of the state of Delaware providing that no citizen of the state of Delaware shall be disqualified to hold and enjoy any office, or public trust. Under the laws of this state by reason of sex. (Chapter 2, Volume 33; January 15, 1923) <https://babel.hathitrust.org/cgi/pt?id=mdp.39015008862362&view=lup&seq=76>

The diagram illustrates the suffrage qualifications and exclusions in Delaware in 1923. It is structured as follows:

- Delaware (1923)**
  - Suffrage Qualifications**
    - Delaware Citizens
    - Residence**
      - State: One year
      - County: 3 Months
      - District: 30 days
    - Ability to read the constitution in English and write their own names.
    - Except persons with physical disabilities
  - Groups Explicitly & Implicitly Excluded**
    - Non-citizens
    - Soldiers, sailors, and marines
    - Paupers
    - Non compos mentis
    - Convicted criminals of felonies
    - Persons who had received, accepted, offered money or other valuable thing as a compensation for a vote at such election.

Delaware's constitutional amendments are difficult to track. The voting qualifications, however, have not changed much since 1923. As of 2019, the minimum voting age pursuant to Delaware's constitution still is twenty-one. Voters are still constitutionally required to read the Constitution in English. Convicted felons are still excluded from the polls, unless restored to civil rights. The Delaware constitution has three categories of felons who can never be restored to civil rights: 1. Persons convicted of murder or manslaughter (except vehicular homicide); 2. Persons convicted of bribery or improper influence or abuse of office; and 3. Persons who were convicted of any felony constituting a sexual offense.<sup>547</sup>

<sup>547</sup> Article V, Section 2 <https://delcode.delaware.gov/constitution/constitution-06.shtml>

▼ Delaware (2019)

▼ Suffrage Qualifications

Delaware Citizens

▼ Residence

State  
One year

County  
3 Months

District  
30 days

Ability to read the constitution in English  
and write their own names.  
Except persons with physical disabilities

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Non compos mentis

▼ Convicted felons (Unless restored to civil rights)

Three categories of felons can never be restored to civil rights:

Persons convicted of murder or manslaughter  
Except vehicular homicide

Persons convicted of bribery or improper  
influence or abuse of office

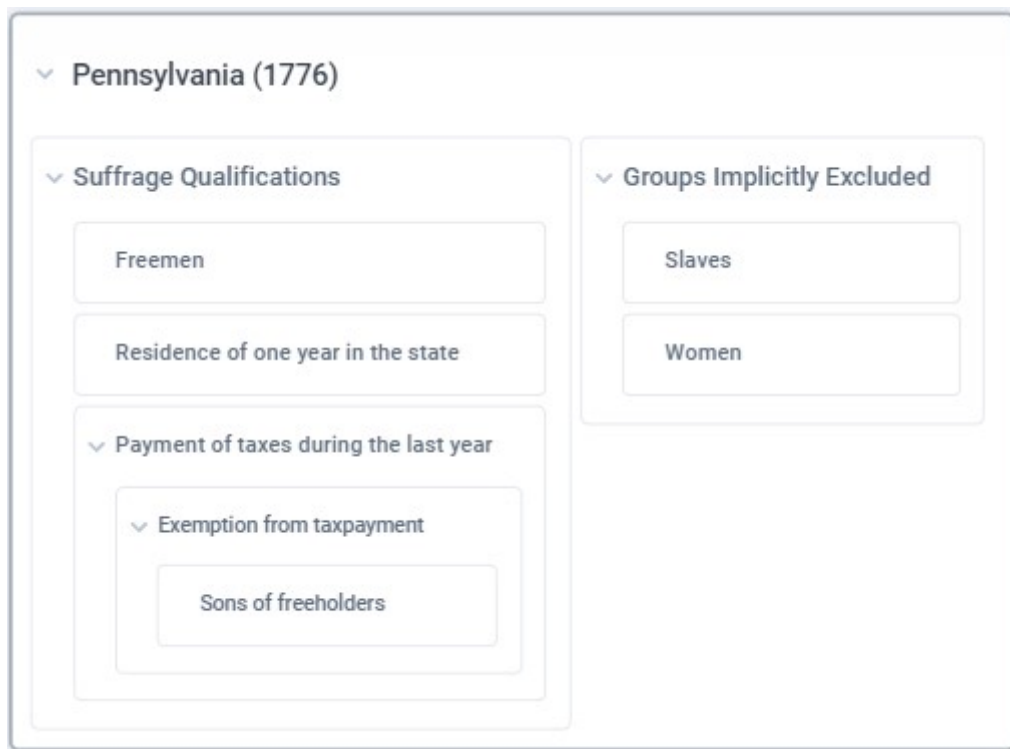
Persons who were convicted of any felony  
constituting a sexual offense



## Appendix 6

### Constitutional Evolution of Suffrage Qualifications in Pennsylvania

Pennsylvania adopted its first constitution in 1776. The new constitution granted suffrage to freemen who had resided in the state for one year and had paid taxes during that time. The constitution exempted from the payment of taxes the sons of freeholders of the state.<sup>548</sup>



Pennsylvania in 1790 adopted a new constitution that granted the right of suffrage to freemen citizens of Pennsylvania who had resided in the state for two years and who had paid county taxes within the last six months. The only persons exempted from paying taxes to vote were the sons of taxpayers when they were between twenty-one and twenty-two years old.<sup>549</sup>

<sup>548</sup> Section 6 [https://avalon.law.yale.edu/18th\\_century/pa08.asp](https://avalon.law.yale.edu/18th_century/pa08.asp)

<sup>549</sup> Article III; Section 1  
[http://find.gale.com.proxy.library.cornell.edu/ecco/retrieve.do?scale=0.33&sort=&docLevel=FASCIMILE&prodId=ECCO&tabID=T001&resultListType=RESULT\\_LIST&retrieveFormat=MULTIPAGE\\_DOCUMENT&inPS=true&userGroupName=cornell&docId=CB3332207147&currentPosition=1&workId=1547201600&relevancePageB](http://find.gale.com.proxy.library.cornell.edu/ecco/retrieve.do?scale=0.33&sort=&docLevel=FASCIMILE&prodId=ECCO&tabID=T001&resultListType=RESULT_LIST&retrieveFormat=MULTIPAGE_DOCUMENT&inPS=true&userGroupName=cornell&docId=CB3332207147&currentPosition=1&workId=1547201600&relevancePageB)



Pennsylvania in 1838 adopted a new constitution. This constitution granted the right to vote to white freemen citizens of the United States who had paid public taxes and who had resided for one year in the state and ten days in the district. Interestingly, Pennsylvania created exceptions for the taxpayment and one-year residence qualifications. Regarding the former, Pennsylvania extended the right to vote to the sons of qualified voters between the ages of twenty-one and twenty two who had resided in the state for two years, even if they had not paid taxes. As of the latter, the constitution allowed a six-month residence requirement for persons who had moved, but who had returned to Pennsylvania.<sup>550</sup>

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 IST&reformatPage=N&retrieveFormat=MULTIPAGE\_DOCUMENT&scale=0.33&pageIndex=12&orientation=  
 &showLOI=&quickSearchTerm=&stwFuzzy=&doDirectDocNumSearch=false  
<sup>550</sup> Article IV; Section 1  
[https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/copencou0001&id=157&men\\_tab=srchresults](https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/copencou0001&id=157&men_tab=srchresults)

Pennsylvania (1838)	
<p>▼ Suffrage Qualifications</p> <p>White freemen</p> <p>U.S. Citizens</p> <p>▼ Payment of public taxes</p> <p>Exempted group:</p> <p>Sons of qualified voters between the ages of 21 and 22</p> <p>▼ Residence of one year in the state and ten days in the district</p> <p>Alternative:</p> <p>Six months of residence for persons who had moved to other states but who had returned</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-Citizens</p> <p>Persons of color</p> <p>Women</p> <p>Indians</p>

Pennsylvania in 1874 adopted a new constitution that extended suffrage to black citizens. It granted suffrage to male citizens of the United States who had resided in the state for one year and in the district for two months. Voters who were twenty-two years old and upwards were required to pay a state or county tax at least two months before the election.<sup>551</sup> The constitution explicitly excluded from the polls persons who had received, promised or offered money or any other valuable for a vote in an election, soldiers, sailors, marines, students, and persons living in almshouses, asylums or prisons.<sup>552</sup>

551 Article VIII; Section 1  
[https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/cocommpa0001&id=32&men\\_tab=srchresults](https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/cocommpa0001&id=32&men_tab=srchresults)

<sup>552</sup> Sections VIII & XIV

▼ Pennsylvania (1874)

- ▼ Suffrage Qualifications
  - U.S. Citizens
  - Males
  - ▼ Payment of public taxes
    - Exempted group:
      - Twenty-one-year-old voters
  - Residence of one year in the state and two months in the district
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-Citizens
  - Women
  - Persons who had received, promised or offered money or any other valuable for a vote in an election
  - Soldiers, sailors, and marines
  - Students
  - Persons living in almshouses, asylums, or prison

Pennsylvania amended its constitution in 1933 to enfranchise women and to remove the taxpayment requirement.<sup>553</sup>

Pennsylvania (1933)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-Citizens
Residence of one year in the state and two months in the district	Persons who had received, promised or offered money or any other valuable for a vote in an election
	Soldiers, sailors, and marines
	Students
	Persons living in almshouses, asylums, or prison

<sup>553</sup> Article VIII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015005404564&view=1up&seq=6>

Pennsylvania lowered the minimum voting age from twenty-one years to eighteen in 1937. The change, however, was not through a constitutional amendment but through the enactment of the 1937 Pennsylvania Election Code.<sup>554</sup>

The screenshot displays a digital archive interface for Pennsylvania in 1937. It is organized into two main columns under the heading 'Pennsylvania (1937)'. The left column, titled 'Suffrage Qualifications', contains two sub-sections: 'Pennsylvania Constitution' and 'Pennsylvania Election Code'. Under 'Pennsylvania Constitution', there are three boxes listing 'U.S. Citizens', 'Residence of one year in the state and two months in the district', and 'Twenty-one years of age'. Under 'Pennsylvania Election Code', there is one box listing 'Eighteen years of age'. The right column, titled 'Groups Explicitly & Implicitly Excluded', contains four boxes listing 'Non-Citizens', 'Persons who had received, promised or offered money or any other valuable for a vote in an election', 'Soldiers, sailors, and marines', 'Students', and 'Persons living in almshouses, asylums, or prison'.

Pennsylvania adopted a new constitution in 1968. The new constitution reduced the residence duration requirement to ninety days in the state and sixty days in the district. The new constitution, however, did not lower the minimum voting age to eighteen as expressed in the election code.<sup>555</sup>

<sup>554</sup> Article VII; Section 1 <https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1937/0/0320..PDF>

<sup>555</sup> Article VII; Section 1 <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=00&div=0&chpt=7&sctn=1&sub&sctn=0>

▼ Pennsylvania (1968)

▼ Suffrage Qualifications

▼ Pennsylvania Constitution

U.S. Citizens

Residence of ninety days in the state and sixty days in the district

Twenty-one years of age

▼ Pennsylvania Election Code

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Persons who had received, promised or offered money or any other valuable for a vote in an election

Soldiers, sailors, and marines

Students

Persons living in almshouses, asylums, or prison

## Appendix 7

### Constitutional Evolution of Suffrage Qualifications in Maryland

Maryland in 1776 adopted its first constitution. This constitution granted suffrage to all freemen who had fifty acres of land in the county, who had property in the state above the value of thirty pounds, and who had resided in the county for one year.<sup>556</sup>

▼ Maryland (1776)

▼ Suffrage Qualifications

Freemen

Fifty acres of land

Property in the state above the value of thirty pounds

Residence in the county for one year

▼ Groups Implicitly Excluded

Slaves

Women

Maryland in 1809 adopted amendments to its 1776 Constitution that abolished all tax and property qualifications. Its new constitutional provision granted suffrage to white males, citizens of the United States who had resided in the state for one year and in the county for six months.<sup>557</sup>

<sup>556</sup> Article II <http://www.wordservice.org/State%20Constitutions/usa1019.htm>

<sup>557</sup> Article XIV [https://avalon.law.yale.edu/17th\\_century/ma03.asp](https://avalon.law.yale.edu/17th_century/ma03.asp)

Maryland drew up a new constitution in 1851. It granted suffrage to free, white, male, U.S. citizens who had resided in the state for one year and in the county for six months. It explicitly excluded non compos mentis, persons under guardianship, and persons who had been convicted of infamous crimes.<sup>558</sup>

Maryland in 1864 adopted a new constitution that granted suffrage to white male citizens of the United States who had resided in the state one year and in the county

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for six months.<sup>559</sup> It explicitly excluded from the polls *non compos mentis*, persons convicted of larceny or other infamous crime,<sup>560</sup> persons who had been armed in hostility to the United States, persons who had served for the Confederate States of America,<sup>561</sup> and persons convicted of bribery in connection to an election.<sup>562</sup>

Maryland (1864)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	Women
Residence in the state for one year and in the county for six months	Persons of color
	Non compos mentis
	Persons convicted of bribery in election
	Persons convicted of larceny or other infamous crime
	Persons who had been armed in hostility to the United States
	Persons who had been in the service of the Confederate States

In 1867 Maryland adopted a new constitution that kept suffrage for “white” citizens exclusively. This distinction, however, was inoperative under the Fifteenth Amendment to the United States Constitution.<sup>563</sup> It also explicitly disenfranchised persons under guardianship, as well as *non compos mentis*, persons convicted of

<sup>559</sup> Article I; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015030827235&view=1up&seq=101>

560 Article I, Section 3

561 Article I; Section 4

562 Article I; Section 5

<sup>563</sup> Article I, Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015030827235&view=1up&seq=161>



▼ **Maryland (1956)**

- ▼ **Suffrage Qualifications**
  - U.S. Citizens
  - Residence in the state for one year and in the county for six months
- ▼ **Groups Explicitly & Implicitly Excluded**
  - Non-citizens
  - Non compos mentis
  - Persons convicted of infamus crime
  - Persons under guardianship

In 1970, Maryland amended its constitution to lower the voting age requirement from twenty-one years to eighteen.<sup>567</sup>

▼ Maryland (1970)	
▼ Suffrage Qualifications	▼ Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for one year and in the county for six months	Non compos mentis
Eighteen years of age	Persons convicted of infamous crime
	Persons under guardianship

Eight years after this amendment, in 1978, Maryland changed the residence requirement from a specific time to a simple residence.<sup>568</sup>

<sup>567</sup> Article I, Section 1 <https://babel.hathitrust.org/cgi/pt?id=uc1.b4473614&view=1up&seq=11>

Article I, Section 1 <https://babel.natimults.org/cgi/pui?id=ac1.64775614&view=1>  
568 Article I, Section 1 <https://constitutii.files.wordpress.com/2013/02/maryland.pdf>

▼ Maryland (1978)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state and in the ward of the election

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Persons convicted of infamous crime

Persons under guardianship

## Appendix 8

### Constitutional Evolution of Suffrage Qualifications in North Carolina

North Carolina adopted its first constitution in 1776. The new constitution made distinctions among the type of elections to determine suffrage qualifications. For Senate elections, the constitution granted the right to vote to freemen who had resided in the state for twelve months and possessed a freehold within the same county of fifty acres of land.<sup>569</sup> For elections of the House of Commons, the constitution granted the right to vote to freemen who had resided in the state for twelve months and who had paid taxes.<sup>570</sup>

North Carolina (1776)	
Suffrage Qualifications for Senate Elections	Suffrage Qualifications for House of Commons Elections
Freemen	Freemen
Residence of twelve months in the state	Residence of twelve months in the state
Freehold of fifty acres of land	Payment of taxes

North Carolina called a constitutional convention in 1835. As a result, the state limited the right to vote to free white men who had resided in the district for one year. The constitution also required voters to possess a freehold within the same district of fifty acres of land to vote for members of the Senate. It explicitly excluded from the polls blacks, free mulattoes, or free persons of mixed blood who descended from black ancestors to the fourth generation.<sup>571</sup>

<sup>569</sup> Article VI [https://avalon.law.yale.edu/18th\\_century/nc07.asp](https://avalon.law.yale.edu/18th_century/nc07.asp)

<sup>570</sup> Article VII

<sup>571</sup> Article I; Section 3 <https://docsouth.unc.edu/nc/conv1835/conv1835.html>

North Carolina (1835)

Suffrage Qualifications

Free white males

Residence in the state for one year

Possess a freehold of fifty acres of land to vote for members of the Senate

Groups Explicitly & Implicitly Excluded

Women

Blacks and mulattoes

Free persons of mixed blood who descended from black ancestors to the fourth generation

North Carolina in 1857 amended its Constitution to abandon the landed-property qualification. The constitution granted the right of suffrage to free white male citizens who had resided in the state for one year and who had paid their taxes.<sup>572</sup>

North Carolina (1857)

Suffrage Qualifications

U.S. Citizens

White male

Residence in the state of one year

Payment of taxes

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Persons of color

North Carolina in 1868 adopted a new constitution. It granted suffrage to male citizens who had resided in the state one year and in the county for thirty days before the election.<sup>573</sup> Voters were also required to take an oath of allegiance to the U.S, Constitution.<sup>574</sup> The constitution did not explicitly exclude any group of people.

<sup>572</sup> Amendment of 1857 <http://www.nhinet.org/ccs/docs/nc-1776.htm>

<sup>573</sup> Article VI; Section 1 [https://www.ncleg.net/library/Documents/Constitution\\_1868.pdf](https://www.ncleg.net/library/Documents/Constitution_1868.pdf)

<sup>574</sup> Article VI; Section 2

North Carolina (1868)

Suffrage Qualifications

U.S. Citizens

Males

Oath of allegiance to the U.S. Constitution

Residence in the state for one year and in the county for thirty days

Groups Implicitly Excluded

Non-citizens

Women

North Carolina in 1875 held a constitutional convention to amend its 1868 constitution. The Amendment granted suffrage to male citizens of the United States who had resided in the state for one year and in the county of the election for ninety days before the election. Voters were still required to take an oath to support the Constitution of the United States. The Amendment just explicitly excluded from suffrage felons who had been convicted for an infamous crime.<sup>575</sup>

North Carolina (1875)

Suffrage Qualifications

U.S. Citizens

Males

Oath of allegiance to the U.S. Constitution

Residence in the state for one year and in the county for ninety days

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Persons convicted of infamous crimes  
Unless restored to full citizenship

<sup>575</sup> Amendment to Article VI, Section 1 <http://digital.ncdcr.gov/cdm/ref/collection/p249901coll22/id/417941> (p. 25)

North Carolina in 1900 amended its constitution to incorporate a literacy test, a poll tax, and a grandfather clause. Hence, it granted suffrage to male citizens of the United States who had resided in the state for two years, in the county for six months, and in the precinct of the election for four months.<sup>576</sup> Voters were required to read and write any section of the constitution in English and to pay a poll tax. These qualifications applied neither to persons who had been entitled to vote under the previous constitution, nor to their lineal descendants.<sup>577</sup> The constitution explicitly denied suffrage to persons convicted of crimes punishable by imprisonment.<sup>578</sup>

North Carolina (1900)

Suffrage Qualifications

U.S. Citizens

Males

Residence

State: 2 years

County: 6 months

Precinct: 4 months

Pay a poll tax

Ability to read and write a section of the constitution in English

Except:

Persons who had been entitled to vote under the previous constitutional provision

Lineal descendants of persons who had been entitled to vote under the previous constitutional provision

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Persons convicted of crimes punishable by imprisonment

<sup>576</sup> Article VI; Section 1 & 2; <https://babel.hathitrust.org/cgi/pt?id=coo.31924030491843&view=1up&seq=21>

<sup>577</sup> Section 4

<sup>578</sup> Section 2

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North Carolina in 1919 removed the poll tax requirement and reduced the residence duration qualification to one year in the state and four months in the precinct.<sup>579</sup>

U.S. Citizens

Males

Residence

State: 1 year

Precinct: 4 months

Ability to read and write a section of the constitution in English

Except:

Persons who had been entitled to vote under the previous constitutional provision

Lineal descendants of persons who had been entitled to vote under the previous constitutional provision

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Persons convicted of crimes punishable by imprisonment  
Unless restored to civil rights

North Carolina adopted a new constitution in 1971. The new constitution finally enfranchised women. It granted the right of suffrage to U.S. citizens who were eighteen years of age or older, as long as the had resided in the state for one year, and in the precinct, ward or district for 30 days. Voters for presidential and vice-presidential elections did not have a minimum residence duration requirement.<sup>580</sup> The new constitution kept the English literacy test requirement, but removed the old

<sup>579</sup> Article VI; Section 2 <https://babel.hathitrust.org/cgi/pt?id=nc01.ark:/13960/t18k86k11&view=1up&seq=21>

<sup>580</sup> Article VI; Section 2 <https://www.ncleg.gov/EnactedLegislation/Constitution/NCCConstitution.html>

exceptions.<sup>581</sup> The only groups explicitly excluded from the polls were convicted felons (unless restored to civil rights).<sup>582</sup>

The image is a screenshot of a digital document titled "North Carolina (1971)". It is organized into two main columns. The left column, titled "Suffrage Qualifications", lists requirements for voting: "U.S. Citizens", "Residence for Non-Presidential Elections" (which includes "State: 1 year" and "Precinct: 30 days"), "Residence for Presidential Elections" (which includes "Residence in the state"), and "Ability to read and write a section of the constitution in English". The right column, titled "Groups Explicitly & Implicitly Excluded", lists "Non-citizens" and "Convicted felons Unless restored to civil rights".

North Carolina (1971)	
<b>Suffrage Qualifications</b>	<b>Groups Explicitly &amp; Implicitly Excluded</b>
U.S. Citizens	Non-citizens
<b>Residence for Non-Presidential Elections</b>	<b>Convicted felons</b> Unless restored to civil rights
State: 1 year	
Precinct: 30 days	
<b>Residence for Presidential Elections</b>	
Residence in the state	
Ability to read and write a section of the constitution in English	

North Carolina amended its constitution in 2018 to add as a suffrage qualification to present a photographic identification before voting.<sup>583</sup>

<sup>581</sup> Section 4

<sup>582</sup> Section 2

<sup>583</sup> Article VI; Section 2 <https://www.ncleg.gov/EnactedLegislation/Constitution/NCCConstitution.html>

▼ North Carolina (2018)

▼ Suffrage Qualifications

U.S. Citizens

▼ Residence for Non-Presidential Elections

State: 1 year

Precinct: 30 days

▼ Residence for Presidential Elections

Residence in the state

Ability to read and write a section of the constitution in English

Photographic identification

▼ Groups Explicitly & Implicitly Excluded

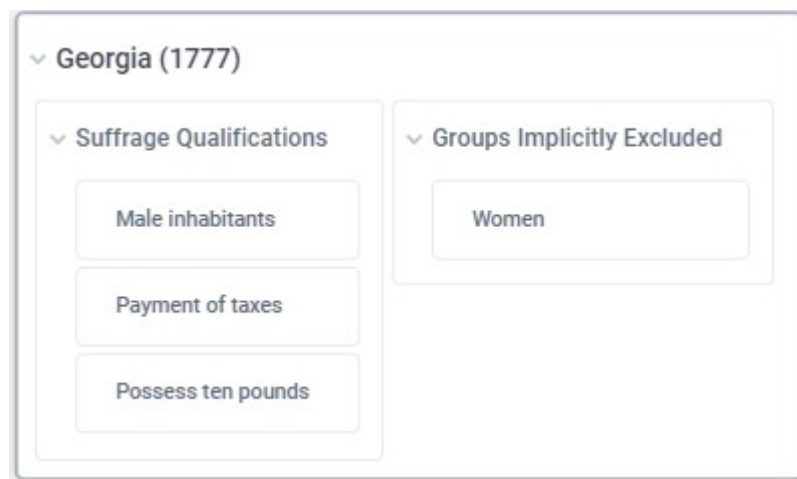
Non-citizens

Convicted felons  
Unless restored to civil rights

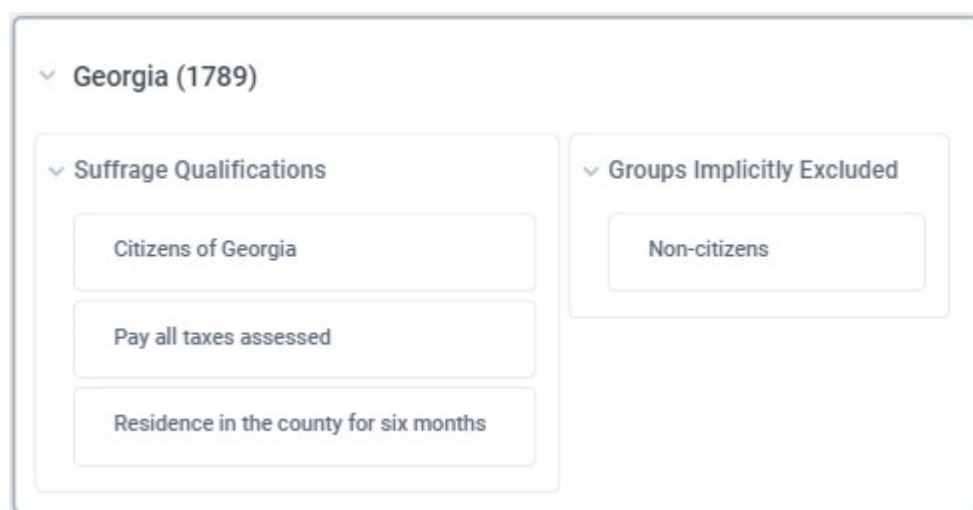
## Appendix 9

### Constitutional Evolution of Suffrage Qualifications in Georgia

Georgia adopted its first constitution in 1777. Its constitution granted the right to vote to male inhabitants who possessed ten pounds, paid taxes, and had resided in the state for six months.<sup>584</sup>



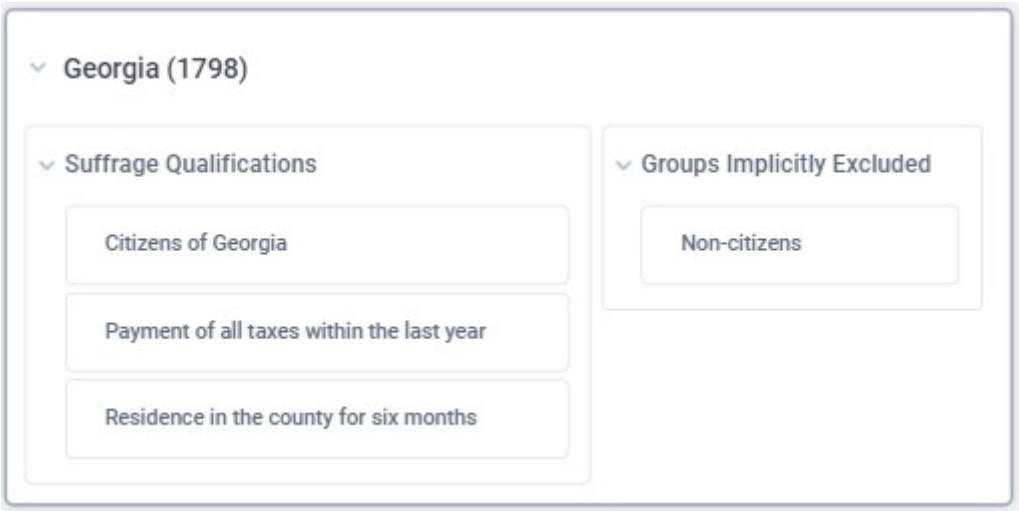
In 1789 Georgia adopted its second constitution. It granted suffrage to citizens of the state who had resided for six months in the county and who had paid all taxes required of them within the last year.<sup>585</sup>



<sup>584</sup> Article IX [https://avalon.law.yale.edu/18th\\_century/ga02.asp](https://avalon.law.yale.edu/18th_century/ga02.asp)

<sup>585</sup> Article IV; Section 1  
[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1789](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1789)

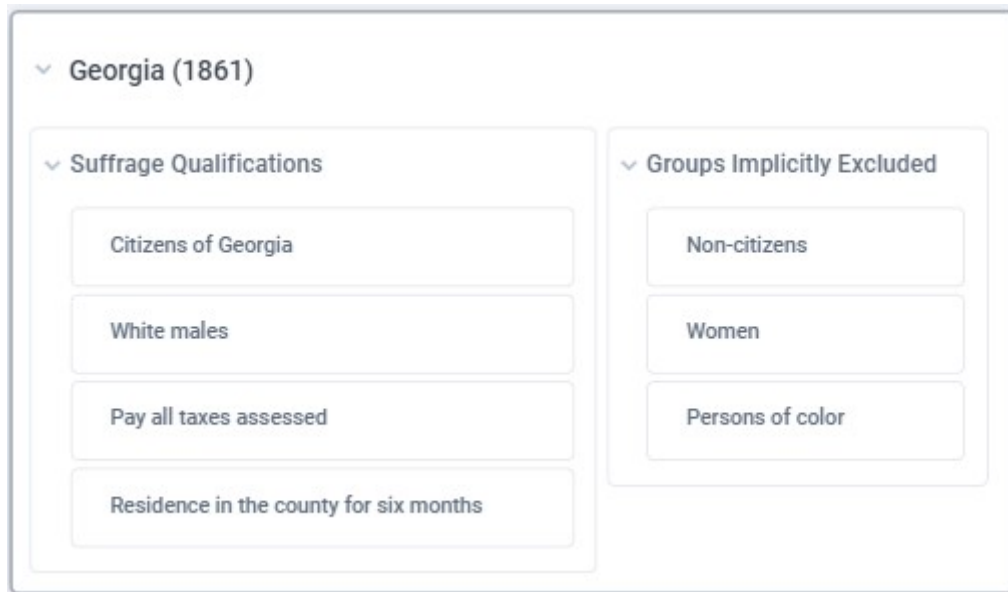
In 1798, Georgia adopted a new constitution that made no changes to the previous suffrage qualifications. It granted the right to vote to citizens of the state who had resided for six months in the county and who had paid all taxes required of them within the last year.<sup>586</sup>



Georgia in 1861 adopted a new constitution that denied the right to vote to persons of color. The new constitution granted suffrage to free white male citizens of Georgia who had resided for six months in the county, and who had paid all taxes within the last year.<sup>587</sup>

<sup>586</sup> Article IV; Section 1  
[https://infoweb-newsbank-com.proxy.library.cornell.edu/iw-search/we/Evans/?p\\_product=EAIX&p\\_theme=cai&p\\_nbid=O63N54XJMTU3MjAxNDU4OS4zMjMxNzI6MToxNDoxMzluMjM2LjI3LjExMQ&p\\_action=doc&p\\_queryname=page6&f\\_qdnum=1&f\\_qnum=1&f\\_qname=1&f\\_qnext=&f\\_qprev=&p\\_docref=v2:0F2B1FCB879B099B@EAIX-0F30193DEAA2B7F8@35541-1004F04706154FE0@27](https://infoweb-newsbank-com.proxy.library.cornell.edu/iw-search/we/Evans/?p_product=EAIX&p_theme=cai&p_nbid=O63N54XJMTU3MjAxNDU4OS4zMjMxNzI6MToxNDoxMzluMjM2LjI3LjExMQ&p_action=doc&p_queryname=page6&f_qdnum=1&f_qnum=1&f_qname=1&f_qnext=&f_qprev=&p_docref=v2:0F2B1FCB879B099B@EAIX-0F30193DEAA2B7F8@35541-1004F04706154FE0@27)

<sup>587</sup> Article V; Section 1  
[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1861#Article%20IV](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1861#Article%20IV)



Georgia in 1868 adopted a new constitution that re-enfranchised black citizens and granted the right to vote to non-citizens. The constitution granted suffrage to male citizens and non-citizens who had declared their intention to become citizens of the United States. The constitution established a six-month residence term in the state and thirty days in the county. Voters were also required to had paid their taxes and to take an oath of allegiance to the U.S. Constitution.<sup>588</sup> Soldiers, sailors, and marines were explicitly excluded from the polls as well as *non compos mentis*, persons engaged in duels, persons who had been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery.<sup>589</sup>

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<sup>588</sup> Article II; Section 2  
[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1868](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1868)  
<sup>589</sup> Article II; Sections 5 & 6

Georgia (1868)

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence of six months in the state and thirty days in the county

Pay all taxes assessed

Oath of allegiance to the U.S. Constitution

Groups Explicitly & Implicitly Excluded

Women

Soldiers, sailors, and marines

Non compos mentis

Persons engaged in duels

Persons who had been convicted of infamous crimes.

Georgia in 1877 held a constitutional convention that modified its suffrage qualifications. The new constitution granted the right to vote to male citizens of the United States who had resided in the state for one year and in the county for six months. Voters were required to pay all taxes, including a poll tax.<sup>590</sup> The new new constitutional provision explicitly excluded from the polls soldiers, sailors, marines, people who had been convicted of treason, embezzlement, malfeasance in office, bribery, larceny, or any other crime punishable by imprisonment.<sup>591</sup>

<sup>590</sup> Article II, Section I, Paragraph I; <https://babel.hathitrust.org/cgi/pt?id=mdp.39015030830536&view=1up&seq=586> (p. 586)

<sup>591</sup> Article II, Section II, Paragraph I

Georgia (1877)

Suffrage Qualifications

U.S. Citizens

Males

Residence of one year in the state and six months in the county

Pay all taxes assessed, including a poll tax

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Soldiers, sailors, and marines

Persons who had been convicted of infamous crimes.

People convicted of treason, embezzlement, malfeasance in office, bribery, larceny, or any other crime punishable by imprisonment.

Georgia adopted a new constitution in 1945 that granted suffrage to every citizen of Georgia who had resided in the state for one year and in the county for six months. Additionally, voters were required to have good character and understand the duties of obligations of citizenship. Voters were also required to read and write in English any paragraph of the constitution, unless they had a physical disability. Persons who had a physical disability were required to give a reasonable interpretation of any paragraph of the constitution when read to them.<sup>592</sup> The constitution explicitly excluded from polls *non compos mentis*, soldiers, sailors, marines, persons convicted of treason against the State, embezzlement of public funds, malfeasance in office, bribery or larceny, or any other crime punishable with imprisonment.<sup>593</sup>

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<sup>592</sup> Article II; Section 1  
[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1945-as-ratified-without-subsequent-amendments](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1945-as-ratified-without-subsequent-amendments)

<sup>593</sup> Article II; Section 2



Georgia (1945)

Suffrage Qualifications

Citizens of Georgia

Have a good character

Residence

State: 1 year

County: 6 months

Understand the duties and obligations of citizenship

Ability to read and write in English any paragraph of the constitution

Exception:

Persons with a physical disability

Ability to give a reasonable interpretation of any article of the constitution

Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason against the State, embezzlement of public funds, malfeasance in office, bribery or larceny, or any other crime punishable with imprisonment.

Georgia adopted a new constitution in 1976. The new constitution granted suffrage to every citizen of United States, eighteen years old or upwards, who had resided in the state for thirty days.<sup>594</sup> Voters were still required to have good character and understand the duties of obligations of citizenship. Voters were also required to read and write in English any paragraph of the constitution, unless they had a physical disability. Person who had a physical disability were required to give a reasonable interpretation of any paragraph of the constitution when read to them. It explicitly excluded from the polls *non compos mentis*, soldiers, sailors, marines, persons

<sup>594</sup> Article II; Section 1  
[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1976-as-ratified-without-subsequent-amendments](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1976-as-ratified-without-subsequent-amendments)

convicted of treason against the State, embezzlement of public funds, malfeasance in office, bribery or larceny, or any other crime punishable with imprisonment.<sup>595</sup>

Georgia (1976)

Suffrage Qualifications

Citizens of Georgia

Residence in the state for thirty days

Have a good character

Understand the duties and obligations of citizenship

Ability to read and write in English any paragraph of the constitution

Exception:

Persons with a physical disability

Ability to give a reasonable interpretation of any article of the constitution

Eighteen years of age

Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason against the State, embezzlement of public funds, malfeasance in office, bribery or larceny, or any other crime punishable with imprisonment.

Georgia in 1983 adopted a new constitution that granted the right to vote to citizens of the United States, eighteen years old and upwards, who reside in Georgia. It explicitly denied suffrage to *non compos mentis* and persons who had been convicted of a felony (unless they had completed their sentence).<sup>596</sup>

595

Section II

596

Article

II;

Section

1

[https://georgiainfo.galileo.usg.edu/topics/government/related\\_article/constitutions/georgia-constitution-of-1983-as-ratified-without-subsequent-amendments](https://georgiainfo.galileo.usg.edu/topics/government/related_article/constitutions/georgia-constitution-of-1983-as-ratified-without-subsequent-amendments)

▼ Georgia (1983)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

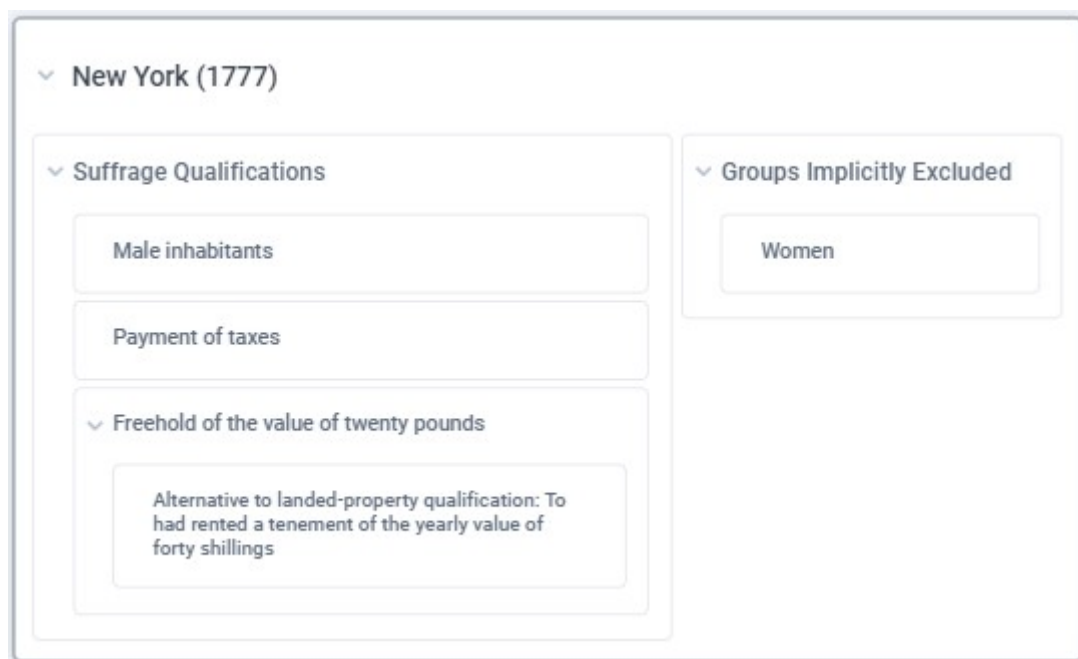
Non compos mentis

Persons convicted of a felony  
Unless they had completed their sentence

## Appendix 10

### Constitutional Evolution of Suffrage Qualifications in New York

New York adopted its first constitution in 1777. Its first constitution granted suffrage to male inhabitants who had paid taxes, resided in a county of the State for six months, and who possessed a freehold of the value of twenty pounds or had “rented a tenement therein of the yearly value of forty shillings.”<sup>597</sup>



New York adopted a new constitution in 1821 which enshrined a complex set of qualifications for suffrage. It granted the right to vote to every male citizen who had resided in the state for one year and in the county or town for six months. Additionally, in order to vote he also needed to had paid state or county taxes or perform military duty in the state militia. If the voter had neither paid taxes nor served in the militia, he was allowed to vote as long as he could prove a three year residence in the state and one year residence in the town or county. Additionally, he had to prove that he had worked on the public highways for at least one year. This second

<sup>597</sup> Article VII [https://avalon.law.yale.edu/18th\\_century/ny01.asp](https://avalon.law.yale.edu/18th_century/ny01.asp)

category of voters, however, were entitled to vote exclusively in the town where they resided, and not elsewhere.<sup>598</sup> This Constitution originally excluded from the franchise men of color who had not been citizens for at least three years prior to the election and who did not possess a freehold estate to the value of two hundred and fifty dollars.<sup>599</sup>

New York (1821)

Suffrage Qualifications

White Voters

Citizen

Male

Residence in the state for one year and in the county or town for six months

Pay state or county taxes

Alternative:

Military duty in the state militia

Alternatives:

Three year residence in the state and one year residence in the town or county

Work on the public highways for at least one year

Non-White Voters

Citizenship for at least three years prior to the election

Freehold estate to the value of two hundred and fifty dollars

Groups Explicitly & Implicitly Excluded

Women

Non-citizens

Persons who have been, or may be, convicted of infamous crimes

Five years later, in 1826, New York adopted an amendment to the constitution that significantly simplified the previous complex suffrage qualifications. It granted the

<sup>598</sup> Article II; Section 1  
[https://www.nycourts.gov/history/legal-history-new-york/documents/Publications\\_1821-NY-Constitution.pdf](https://www.nycourts.gov/history/legal-history-new-york/documents/Publications_1821-NY-Constitution.pdf)  
<sup>599</sup> Article II; Section 3

245

right to vote to all male citizens who had resided in the state for at least one year and in the county for at least six months.<sup>600</sup>

▼ New York (1826)

▼ Suffrage Qualifications

U.S. Citizen

Male

Residence of one year in the state and six months in the county

▼ Groups Explicitly & Implicitly Excluded

Women

Non-citizens

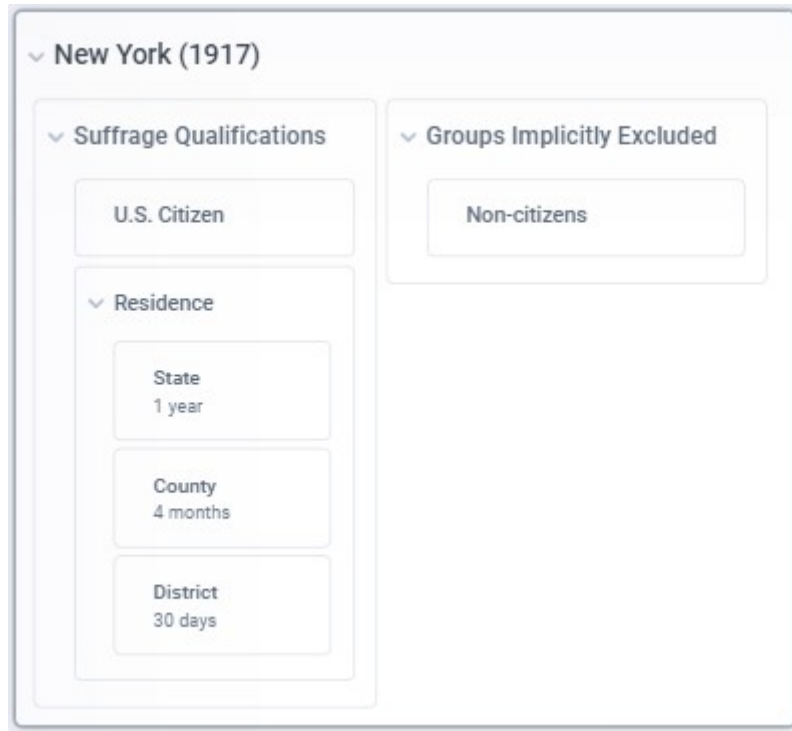
Persons convicted of infamous crimes

New York amended its constitution until 1917 to provide full suffrage for women and persons convicted of infamous crimes. The amendment also slightly modified the residence duration requirement. Voters were required to live for one year in the state, for four months in the county, and for thirty days at the district.<sup>601</sup> The new constitutional provision did not explicitly denied suffrage to any group of people.

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<sup>600</sup> Amendment of 1826; Article II; Section 1  
[https://www.nycourts.gov/history/legal-history-new-york/documents/Publications\\_1821-NY-Constitution.pdf](https://www.nycourts.gov/history/legal-history-new-york/documents/Publications_1821-NY-Constitution.pdf)

<sup>601</sup> Article II, Section 1 <https://babel.hathitrust.org/cgi/pt?id=hvd.hl3jlj&view=1up&seq=13>



In 1938, New York amended its constitution to explicitly list the groups of persons excluded from the right to suffrage. It denied access to the polls to soldiers, sailors, marines, students, persons living in almshouses, asylums or prisons, persons who had received or paid money or other valuable thing as a compensation for giving or withholding a vote in an election, persons who had become interested in any bet or wager depending upon the result of any election, and persons who had been convicted of bribery or other infamous crime.<sup>602</sup>

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<sup>602</sup> Article II, Sections 3 & 4

▼ New York (1938)

▼ Suffrage Qualifications

U.S. Citizen

▼ Residence

State  
1 year

County  
4 months

District  
30 days

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Students

Persons living in almshouses, asylums, or prison

Persons who had received or paid money or other valuable thing as a compensation for giving or withholding a vote in an election

Persons who had become interested in any bet or wager depending upon the result of any election

Persons convicted of bribery or infamous crimes

In 1945, New York amended its constitution to require voters to be able to read and write in English, unless they had a physical disability.<sup>603</sup>

<sup>603</sup> Article II; Section 1 <https://babel.hathitrust.org/cgi/pt?id=wu.89101006492&view=1up&seq=34>



New York (1945)	
<p><b>Suffrage Qualifications</b></p> <p>U.S. Citizen</p> <p><b>Residence</b></p> <p>State 1 year</p> <p>County 4 months</p> <p>District 30 days</p> <p><b>Ability to read and write in English</b> Unless the voter had a physical disability</p>	<p><b>Groups Explicitly &amp; Implicitly Excluded</b></p> <p>Non-citizens</p> <p>Soldiers, sailors, and marines</p> <p>Students</p> <p>Persons living in almshouses, asylums, or prison</p> <p>Persons who had received or paid money or other valuable thing as a compensation for giving or withholding a vote in an election</p> <p>Persons who had become interested in any bet or wager depending upon the result of any election</p> <p>Persons convicted of bribery or infamous crimes</p>

New York amended its constitution in 1966 to reduce the duration of the residence requirement to three months.<sup>604</sup>

<sup>604</sup> Article II; Section 1 <https://babel.hathitrust.org/cgi/pt?id=coo.31924000194351&view=1up&seq=21>

New York (1966)

U.S. Citizen

Residence in the state, city, county, or village for three months.

Ability to read and write in English  
Unless the voter had a physical disability

Non-citizens

Soldiers, sailors, and marines

Students

Persons living in almshouses, asylums, or prison

Persons who had received or paid money or other valuable thing as a compensation for giving or withholding a vote in an election

Persons who had become interested in any bet or wager depending upon the result of any election

Persons convicted of bribery or infamous crimes

In 1995 New York amended its constitutional suffrage qualifications. It removed the English literacy test, lowered the voting age requirement from twenty-one years of age to eighteen, and reduced the duration of residence requirement from three months to thirty days.<sup>605</sup>

<sup>605</sup> Article II; Section 1 <https://www.dos.ny.gov/INFO/pdfs/Constitution%20January%202015%20amd.pdf>

▼ New York (1995)

▼ Suffrage Qualifications

U.S. Citizen

Residence in the state, city, county, or village for thirty days.

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Students

Persons living in almshouses, asylums, or prison

Persons who had received or paid money or other valuable thing as a compensation for giving or withholding a vote in an election

Persons who had become interested in any bet or wager depending upon the result of any election

Persons convicted of bribery or infamous crimes

## Appendix 11

### Constitutional Evolution of Suffrage Qualifications in Massachusetts

Massachusetts adopted its first constitution in 1780. This constitution had different suffrage qualifications depending on the kind of election. For Senate elections, the constitution granted suffrage to male inhabitants who had a freehold estate of the value of sixty pounds.<sup>606</sup> For the election of Representatives, the constitution granted suffrage to male residents of any town of the commonwealth who had resided there for one year and who had a freehold estate in that town yielding an annual income of three pounds, or any estate of the value of sixty pounds.<sup>607</sup>



In Massachusetts, a Constitutional Convention was called to amend the old constitution in 1820. Suffrage was granted to every male citizen who had resided in the state for one year and in the town or district for six months. Additionally, voters were required to pay any state or county tax. Massachusetts explicitly excluded from the franchise paupers and persons under guardianship.<sup>608</sup>

<sup>606</sup> Article II <http://www.wordservice.org/State%20Constitutions/usa1018.htm>

<sup>607</sup> Article IV

<sup>608</sup> Article VI <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105213294&view=1up&seq=18>

Massachusetts (1820)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Women
Male	Non-citizens
Residence in the state for one year and in the town or district for six months	Paupers
Pay any state or county tax	Persons under guardianship

Massachusetts amended its constitution in 1857. The new provision incorporated a pre-qualification requirement for suffrage. It required voters to be able to read the constitution in English and write their own names. This amendment allowed two exceptions to the new requirement: 1) Persons who had a physical disability which prevented from complying were exempt from the requirement; and 2) persons who were over sixty years old at the time when the amendment was adopted were also exempt.<sup>609</sup>

<sup>609</sup> Amendment Article XX <https://malegislature.gov/laws/constitution>

Massachusetts (1857)	
<div><div><div>Suffrage Qualifications</div><div><div>U.S. Citizens</div><div>Male</div><div>Residence in the state for one year and in the town or district for six months</div><div>Pay any state or county tax</div></div></div><div><div>Ability to read the constitution in English and write their own names.</div><div>Exceptions:<div><div>Persons with physical disabilities to write or read</div><div>Persons over sixty years of age at the time of the amendment.</div></div></div></div></div>	<div><div>Groups Explicitly Excluded</div><div><div>Women</div><div>Non-citizens</div><div>Paupers</div><div>Persons under guardianship</div></div></div>

Two years after later, in 1859, Massachusetts passed a new amendment that imposed an additional requirement for naturalized citizens. They were qualified electors in the state after they had resided in the United States for at least two years after naturalization. This new restriction exempted naturalized citizens who already were qualified electors at the time of the amendment.<sup>610</sup>

<sup>610</sup> Amendment Article XXIII <https://malegislature.gov/laws/constitution#amendmentArticleXXIII>

▼ Massachusetts (1859)

▼ Suffrage Qualifications

- ▼ U.S. Citizens
  - ▼ Naturalized Citizens: Residence in the U.S. for at least two years after naturalization
    - Exception:
      - Naturalized citizens who already were qualified electors at the time of the amendment
- Male
- Residence in the state for one year and in the town or district for six months
- Pay any state or county tax
- ▼ Ability to read the constitution in English and write their own names.
  - Persons with physical disabilities to write or read
  - Persons over sixty years of age at the time of the amendment.

▼ Groups Explicitly Excluded

- Women
- Non-citizens
- Paupers
- Persons under guardianship

Four years later, in 1863, Massachusetts derogated the amendment of 1859. The suffrage requirements returned to the qualifications approved in 1857.<sup>611</sup>

<sup>611</sup> Amendment Article XXVI <https://malegislature.gov/laws/constitution#amendmentArticleXXVI>

▼ Massachusetts (1863)

▼ Suffrage Qualifications

U.S. Citizens

Male

Residence in the state for one year and in the town or district for six months

Pay any state or county tax

▼ Ability to read the constitution in English and write their own names.

Exceptions:

Persons with physical disabilities to write or read

Persons over sixty years of age at the time of the amendment.

▼ Groups Explicitly Excluded

Women

Non-citizens

Paupers

Persons under guardianship



In 1886 Massachusetts removed from its constitution the taxpayment requirement.<sup>612</sup>

▼ Massachusetts (1886)

▼ Suffrage Qualifications

U.S. Citizens

Male

Residence in the state for one year and in the town or district for six months

▼ Ability to read the constitution in English and write their own names.  
Exceptions:

Persons with physical disabilities to write or read

Persons over sixty years of age at the time of the amendment.

▼ Groups Explicitly & Implicitly Excluded

Women

Non-citizens

Paupers

Persons under guardianship

In 1912 Massachusetts amended its constitution to explicitly deny suffrage to persons convicted of corrupt practices in respect to elections.<sup>613</sup>

<sup>612</sup> Amendment Article XXVIII <https://malegislature.gov/laws/constitution#amendmentArticleXXVIII>

<sup>613</sup> Amendment Article XL <https://malegislature.gov/laws/constitution#amendmentArticleXL>

▼ Massachusetts (1912)

▼ Suffrage Qualifications

- U.S. Citizens
- Males
- Residence in the state for one year and in the town or district for six months

▼ Ability to read the constitution in English and write their own names.

Exceptions:

- Persons with physical disabilities to write or read
- Persons over sixty years of age at the time of the amendment.

▼ Groups Explicitly & Implicitly Excluded

- Non-citizens
- Women
- Paupers
- Persons under guardianship
- Persons convicted of corrupt practices in respect to elections

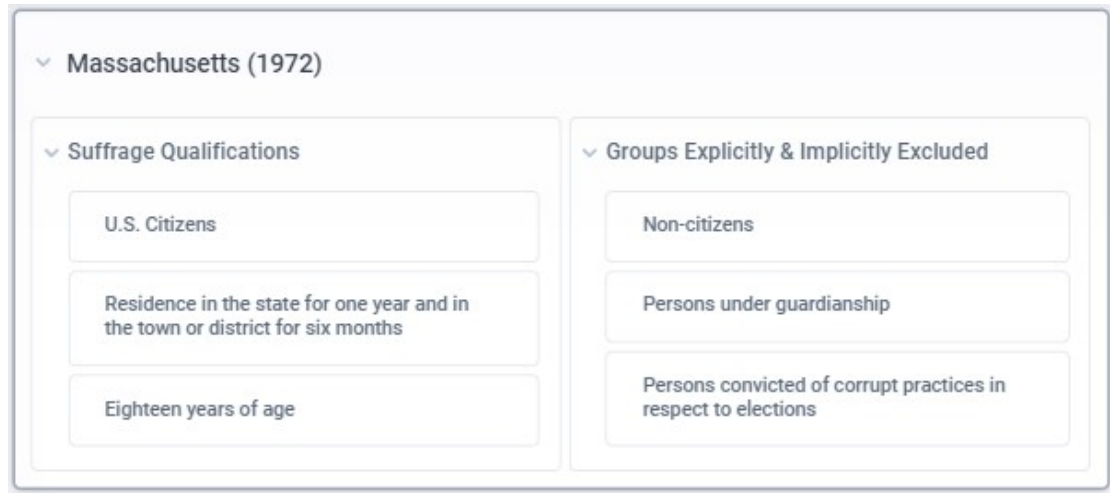
In 1921 Massachusetts amended its constitution to extend the right to vote to women.<sup>614</sup>

▼ Massachusetts (1921)

- ▼ Suffrage Qualifications
  - U.S. Citizens
  - Residence in the state for one year and in the town or district for six months
  - ▼ Ability to read the constitution in English and write their own names.
    - Exceptions:
      - Persons with physical disabilities to write or read
      - Persons over sixty years of age at the time of the amendment.
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-citizens
  - Paupers
  - Persons under guardianship
  - Persons convicted of corrupt practices in respect to elections

<sup>614</sup> Amendment Article LXVIII <https://malegislature.gov/laws/constitution#amendmentArticleLXVIII>

In 1972 Massachusetts amended its constitution to lower the minimum voting age from twenty one years to eighteen.<sup>615</sup> By that year, neither the literacy test qualification existed nor the pauper restriction existed in the constitution.



Massachusetts' constitution is a complex legal document full of amendments that is hard to read and follow. It is difficult to track all the constitutional changes to the qualifications of voters. Hence, I will make reference to the Massachusetts General Laws, Chapter 51, Section 1, to explain the qualifications of voters as of 2019. This chapter grants suffrage to U.S. citizens, eighteen years old or older, who resides in the state. This chapter explicitly excludes from suffrage persons under guardianship, persons convicted of a felony, and persons disqualified by law because of corrupt practices in respect to elections.<sup>616</sup>

<sup>615</sup> Amendment Article C <https://malegislature.gov/laws/constitution#amendmentArticleC>

<sup>616</sup> Mass. General Laws c.51 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter51/Section1>

▼ **Massachusetts (2019)**

Mass. General Laws c.51

▼ **Suffrage Qualifications**

U.S. Citizens

Residence in the state

Eighteen years of age

▼ **Groups Explicitly & Implicitly Excluded**

Non-citizens

Persons under guardianship

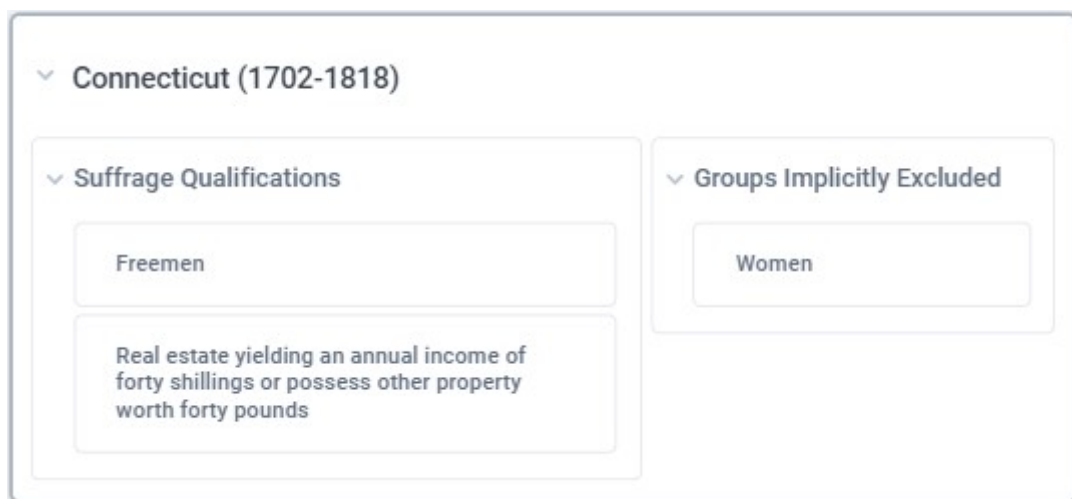
Persons convicted of a felony

Persons disqualified by law because of  
corrupt practices in respect to elections

## Appendix 12

### Constitutional Evolution of Suffrage Qualifications in Connecticut

The state of Connecticut operated under its colonial charter from 1662 until it adopted its first constitution in 1818. Even though the charter makes reference to elections in the colony, it does not make any reference to suffrage qualifications.<sup>617</sup> The qualifications to vote remained as they were determined in 1702 during the colonial period. Hence, voters were required to be freemen who owned real estate yielding an annual income of forty shillings or to possess property worth forty pounds. (McKinley, 415)<sup>618</sup>



Connecticut provided herself with a new constitution in the year of 1818. It kept the old landed-property requirement but it allowed a couple of alternatives. Voters required to possess a freehold estate of seven dollars yearly value, or else must have performed one year of military duty, or have paid a tax within a year. Suffrage was limited to white male citizens of the United States—of good moral character—who had resided in the town for at least 6 months prior to the election. The constitution explicitly excluded from suffrage persons convicted of bribery, perjury, forgery,

<sup>617</sup> Charter of Connecticut (1662) [https://avalon.law.yale.edu/17th\\_century/ct03.asp](https://avalon.law.yale.edu/17th_century/ct03.asp)

<sup>618</sup> McKinley, Albert E. 1870-1936. The Suffrage Franchise in the Thirteen English Colonies in America. United States: For the University, 1905 <https://babel.hathitrust.org/cgi/pt?id=nyp.33433081802278&view=1up&seq=427>

duelling, fraudulent bankruptcy, theft, or other offence for which an infamous punishment is inflicted.<sup>619</sup>

Connecticut (1818)

Suffrage Qualifications

U.S. Citizens

White males

Residence in the town for at least six months

Freehold estate of seven dollars yearly value

Alternatives:

Perform one year of military duty

Pay state taxes within a year of the election

Good moral character

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Persons of color

Persons convicted of bribery, perjury, forgery, duelling, fraudulent bankruptcy, or theft

Connecticut abolished her taxpaying and landed-property requirements in 1845 through a constitutional amendment.<sup>620</sup>

Connecticut (1845)

Suffrage Qualifications

White males

U.S. Citizens

Good moral character

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Persons of color

Persons convicted of bribery, perjury, forgery, duelling, fraudulent bankruptcy, or theft

<sup>619</sup> Article VI; Section 2 [https://www.cga.ct.gov/asp/Content/constitutions/1818\\_Constitution.pdf](https://www.cga.ct.gov/asp/Content/constitutions/1818_Constitution.pdf)

<sup>620</sup> Amendment Article VII [https://www.cga.ct.gov/asp/Content/constitutions/1818\\_Constitution.pdf](https://www.cga.ct.gov/asp/Content/constitutions/1818_Constitution.pdf)

Connecticut in 1855 amended its 1818 constitution to add one novel requirement for suffrage. It allowed prequalified electors to vote as long as they had the ability to read any article of the constitution or any section of the statutes of Connecticut.<sup>621</sup>

Connecticut (1855)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
White males	Women
U.S. Citizens	Non-Citizens
Good moral character	Persons of color
Ability to read any article of the constitution or any section of the statutes of Connecticut	Persons convicted of bribery, perjury, forgery, duelling, fraudulent bankruptcy, or theft

Connecticut in 1876 amended its constitution to extend suffrage to black citizens.<sup>622</sup>

Connecticut (1876)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
Males	Women
U.S. Citizens	Non-Citizens
Good moral character	Persons convicted of bribery, perjury, forgery, duelling, fraudulent bankruptcy, or theft
Ability to read any article of the constitution or any section of the statutes of Connecticut	

In 1902 Connecticut amended its constitution to explain what good moral character meant. This new interpretation excluded from the polls persons who during their minority had been convicted three or more times of any offense punishable with

<sup>621</sup> Amendment Article XI <https://www.cga.ct.gov/asp/Content/constitutions/1818Constitution.htm>

<sup>622</sup> Article XXIII, Adopted October 1876 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015011493585&view=1up&seq=76>

imprisonment, persons who had been convicted within twelve months before reaching their majority, and persons who had serve a term in prison for any offense during their majority. It also excluded from suffrage *non compos mentis*. Voters were required to reside in the state for one year and in the town for six months before the election.<sup>623</sup>

Connecticut (1902)

Suffrage Qualifications

Males

U.S. Citizens

Good moral character

Ability to read any article of the constitution or any section of the statutes of Conneticut

Residence in the state for one year and in the town for six months

Groups Explicitly & Implicitly Excluded

Women

Non-Citizens

Persons convicted of bribery, perjury, forgery, duelling, fraudulent bankruptcy, or theft

Non compos mentis

Persons lacking moral character

Persons who during their minority had been convicted three or more times of any offense punishable with imprisonment

Persons who had been convicted within twelve months before reaching their majority

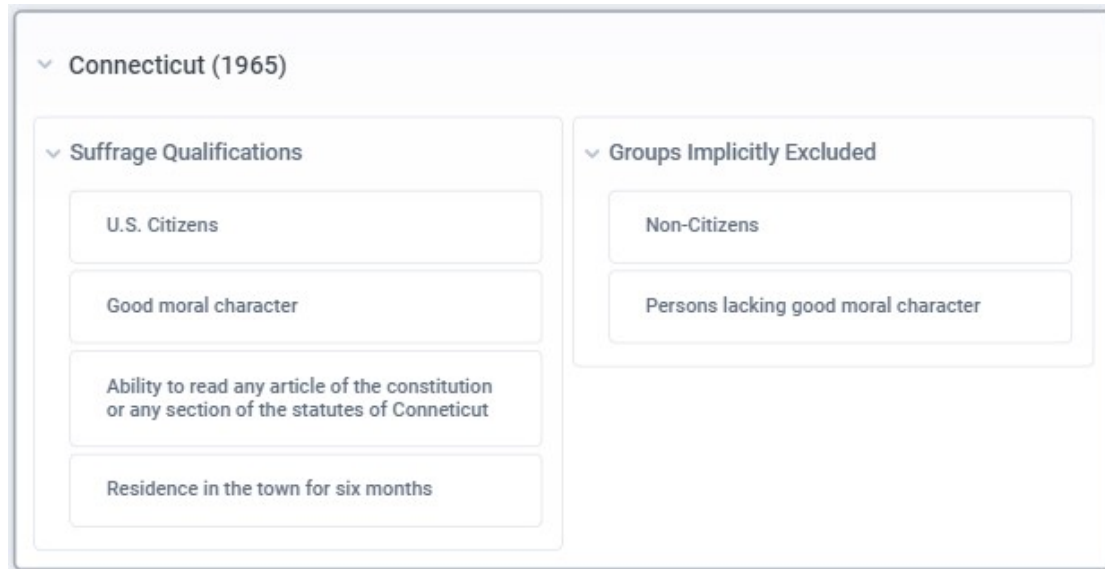
Persons who had serve a term in prison for any offense during their majority.

Connecticut adopted a new constitution in 1965. This constitution granted suffrage to all citizens of the United States who had resided in the town for at least six months, who is able to read in English the constitution or any statute, and who sustains good moral character.<sup>624</sup> Interestingly, this constitution did not explicitly exclude any group from the polls.

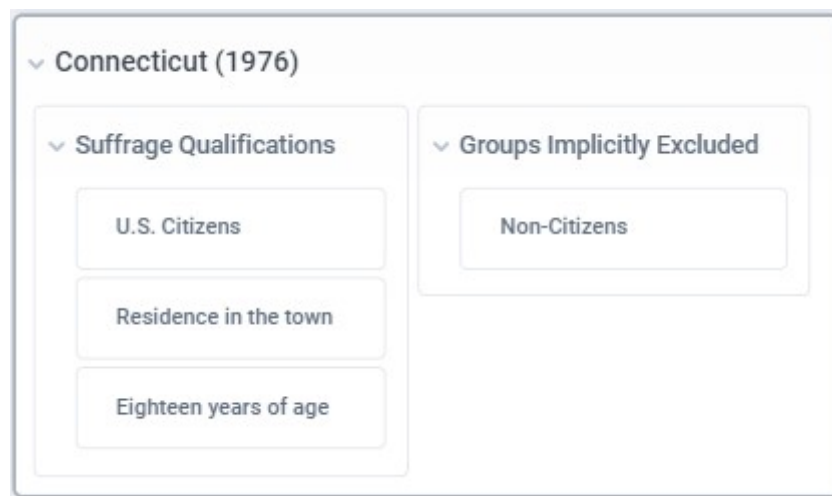
<sup>623</sup> Sections 535 & 536 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112104853520&view=1up&seq=219>

<sup>624</sup> Article Sixth; Section 1 <https://www.cga.ct.gov/asp/Content/constitutions/CTConstitution.htm>





In 1976, Connecticut removed the literacy test as well as the good-moral-character qualification. It also lowered the voting age requirement from twenty-one to eighteen years. It also lowered the residence requirement.<sup>625</sup>

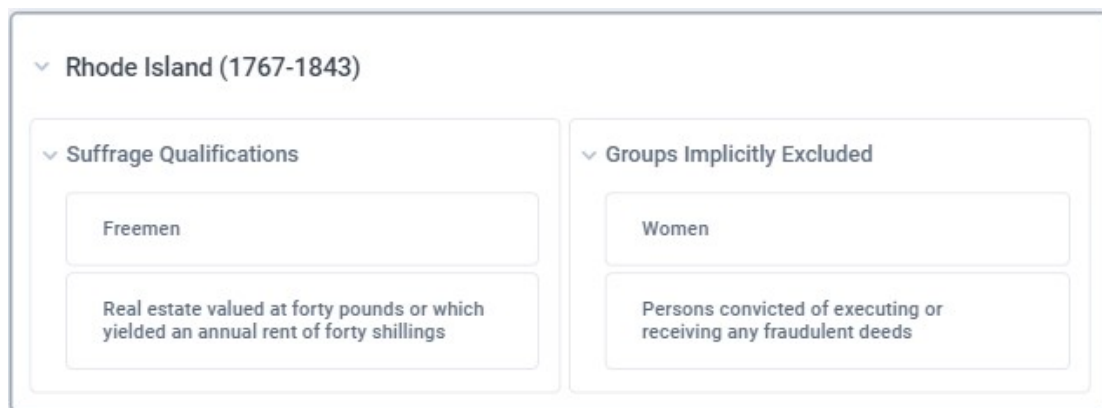


<sup>625</sup> Amendments; Article IX (Adopted November 24, 1976)  
<https://www.cga.ct.gov/asp/Content/constitutions/CTConstitution.htm>

## Appendix 13

### Constitutional Evolution of Suffrage Qualifications in Rhode Island

Rhode Island operated under its original 1663 charter until 1843 when it adopted a new constitution. The suffrage qualifications were not mentioned in the charter, but the voting law in the state since 1767 granted suffrage to freemen who possessed real estate valued at forty pounds or which yielded an annual rent of forty shillings. There were no minimum residence duration requirements but persons “convicted of executing or receiving any fraudulent deeds” were explicitly excluded from the polls. (McKinley, 461)<sup>626</sup>

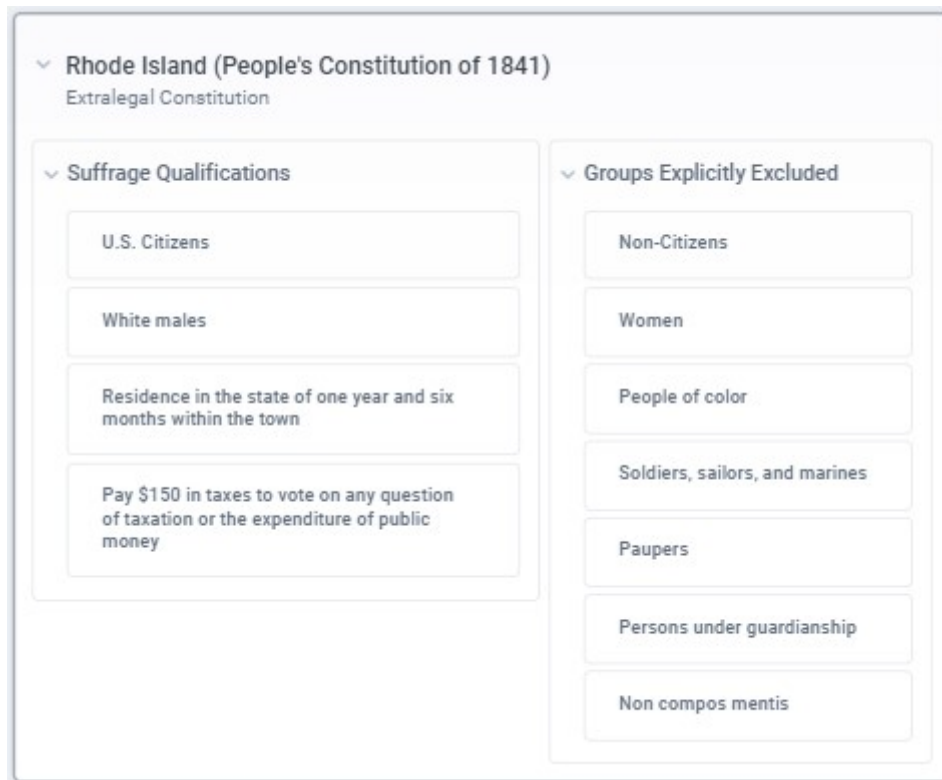


Rhode Island up to 1841 was still using its colonial charter as its state constitution. In that year, a group of politicians led by Thomas W. Dorr held an extralegal Constitutional Convention to broaden the electorate of the state and drafted a new constitution, known as the People's Constitution. This insurgence was called “The Dorr Rebellion”. (Porter, 94).<sup>627</sup> The People’s Constitution granted the vote to all white male citizens of the United States who had resided in the state for one year and in the town, city or district of the election for six months. Soldiers, sailors, marines,

<sup>626</sup> McKinley, Albert E. 1870-1936. The Suffrage Franchise in the Thirteen English Colonies in America. United States: For the University, 1905 <https://babel.hathitrust.org/cgi/pt?id=nyp.33433081802278&view=1up&seq=473> <https://babel.hathitrust.org/cgi/pt?id=mdp.49015000356684&view=1up&seq=110>

<sup>627</sup> Porter, Kirk H. A History of Suffrage in the United States. New York: Greenwood Press, 1918.

paupers, persons under guardianship, and non compos mentis were all explicitly excluded from the polls. Interestingly, the People's Constitution also denied the right to vote on any question of taxation or the expenditure of any public money to people who had not paid at least one hundred and fifty dollars in taxes.<sup>628</sup>



Despite its national popularity, the Dorr Rebellion collapsed in 1842 (Porter, 101). Hence, a new and legitimate constitution was put in force in 1842 in Rhode Island. It embodied some unusual suffrage alternatives. All male citizens of the United States who had resided in the state for one year and in the town of the election for six months, and who possessed a real estate worth one hundred and thirty four dollars or which yielded seven dollars of annual income. There was a special alternative for native citizens who did not possess a real estate. They were allowed to vote after paying a tax of no less than one dollar or after doing military service. Native citizens in the latter category had to satisfy a two-year residence requirement. The 1842

<sup>628</sup> Article II [http://sos.ri.gov/virtualarchives/archive/files/peo-con-1841-p2\\_7100abb1ca.jpg](http://sos.ri.gov/virtualarchives/archive/files/peo-con-1841-p2_7100abb1ca.jpg)

constitution explicitly excluded from suffrage soldiers, sailors, marines, Indians, paupers, non compos mentis, persons under guardianship or persons convicted of bribery, or of any crime deemed infamous at common law.<sup>629</sup>

Rhode Island (1842)	
<p>▼ Suffrage Qualifications</p> <div>U.S. Citizens</div> <div>Male</div> <div>Residence in the state of one year and six months within the town</div> <p>▼ Real estate valued at \$134 or yielding \$7 annual income</p> <p>Alternatives exclusive for native citizens:</p> <div>Pay a tax of no less than one dollar</div> <div>Military service</div>	<p>▼ Groups Explicitly Excluded</p> <div>Non-Citizens</div> <div>Women</div> <div>Sailors, soldiers and marines</div> <div>Indians</div> <div>Paupers</div> <div>Persons under guardianship</div> <div>Non compos mentis</div> <div>Persons convicted of bribery, or of any crime deemed infamous</div>

Rhode Island amended its constitution until 1886 to remove the distinction between native citizens and naturalized citizens.<sup>630</sup>

<sup>629</sup> Article II <http://www.wordservice.org/State%20Constitutions/usa1031.htm>

<sup>630</sup> Article of Amendment VI <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096327&view=1up&seq=34>

Rhode Island (1886)

Suffrage Qualifications

U.S. Citizens

Male

Residence in the state of one year and six months within the town

Real estate valued at \$134 or yielding \$7 annual income

Pay a tax of no less than one dollar

Military service

Groups Explicitly Excluded

Non-Citizens

Women

Sailors, soldiers and marines

Indians

Paupers

Persons under guardianship

Non compos mentis

Persons convicted of bribery, or of any crime deemed infamous

Rhode Island amended its constitution again in 1888 to abolish the property qualification for most elections. The ownership of \$134 dollars of personal property, however, remained as a requirement for voting on financial questions and in most city elections. The amendment also extended the residence duration requirement to two years in the state and imposed a one-dollar poll tax upon all qualified voters, whether they voted or not.<sup>631</sup>

<sup>631</sup> Article of Amendment VII <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096327&view=1up&seq=35>

Rhode Island (1888)

Suffrage Qualifications

U.S. Citizens

Male

Residence in the state of two years and six months within the town

Pay a one-dollar tax

Property valued at \$134  
Exclusively for voting on financial questions and in most city elections

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Sailors, soldiers and marines

Indians

Paupers

Persons under guardianship

Non compos mentis

Persons convicted of bribery, or of any crime deemed infamous

Rhode Island in 1928 amended its constitution to enfranchise women and abolish the property qualification for suffrage. It also remove the tax payment qualification for all elections (except for elections upon a proposition to impose taxes or for the expenditure of money of any town, in which case voters had to pay at least \$134 dollars in taxes).<sup>632</sup>

<sup>632</sup> Amendment Article XX <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096327&view=1up&seq=47>

Rhode Island (1928)	
<div>Suffrage Qualifications</div> <div>U.S. Citizens</div> <div>Residence in the state of two years and six months within the town</div> <div> <div>Pay at least \$134 dollars in taxes</div> <div>Just for the right to vote in the following elections:</div> <div>Imposition of a tax</div> <div>Expenditure of money of a town</div> </div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div>Non-Citizens</div> <div>Sailors, soldiers and marines</div> <div>Indians</div> <div>Paupers</div> <div>Persons under guardianship</div> <div>Non compos mentis</div> <div>Persons convicted of bribery, or of any crime deemed infamous</div>

Rhode Island amended its constitution in 1950 to extend the right of suffrage to Native American Indians and to lower the residence duration requirement from two years to just one.<sup>633</sup>

633                      Amendment                      Articles                      XXIV  
<https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096343&view=1up&seq=52>

Rhode Island (1950)	
<p>▼ Suffrage Qualifications</p> <p>U.S. Citizens</p> <p>Residence in the state of one year and six months within the town</p> <p>▼ Pay at least \$134 dollars in taxes Just for the right to vote in the following elections:</p> <p>Imposition of a tax</p> <p>Expenditure of money of a town</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-Citizens</p> <p>Sailors, soldiers and marines</p> <p>Paupers</p> <p>Persons under guardianship</p> <p>Non compos mentis</p> <p>Persons convicted of bribery, or of any crime deemed infamous</p>

Rhode Island in 1951 amended its constitution to exempt war veterans and war veterans' widows from the taxpayment requirement for suffrage.<sup>634</sup>

Rhode Island (1951)	
<p>▼ Suffrage Qualifications</p> <p>U.S. Citizens</p> <p>Residence in the state of one year and six months within the town</p> <p>▼ Pay at least \$134 dollars in taxes (Except war veterans and war veterans' widows)</p> <p>Just for the right to vote in the following elections:</p> <p>Imposition of a tax</p> <p>Expenditure of money of a town</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-Citizens</p> <p>Sailors, soldiers and marines</p> <p>Paupers</p> <p>Persons under guardianship</p> <p>Non compos mentis</p> <p>Persons convicted of bribery, or of any crime deemed infamous</p>

Rhode Island amended its constitution in 1973 to lower the minimum voting age from twenty-one years to eighteen, to reduce the residence duration qualification to thirty

<sup>634</sup> Amendment Article XXX <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096343&view=1up&seq=65>



days, to remove the taxpayment requirement, and to remove most of its obsolete suffrage disqualifications.<sup>635</sup>

▼ Rhode Island (1973)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state for thirty days

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Sailors, soldiers and marines

Rhode Island adopted a new constitution in 1986. The new constitution kept the previous suffrage qualifications but it denied the right to vote to convicted felons (unless restored to civil rights).

▼ Rhode Island (1986)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state for thirty days

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Sailors, soldiers and marines

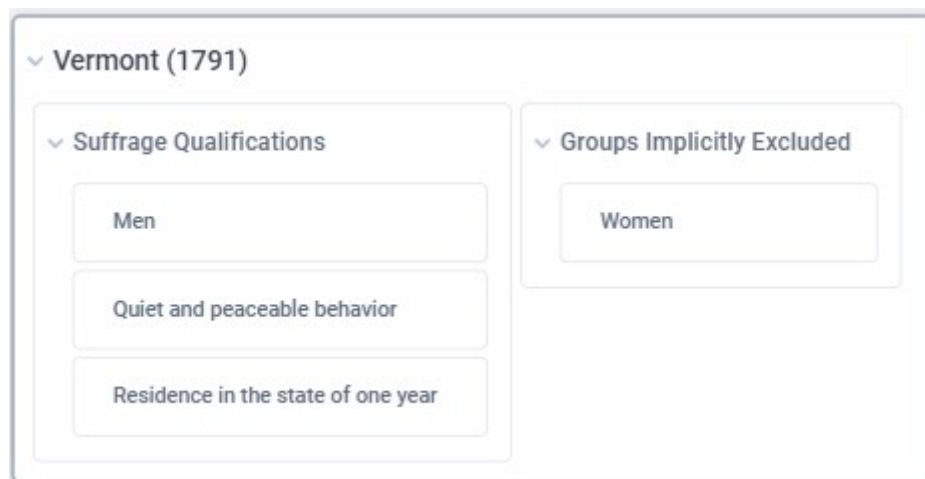
Convicted felons  
Unless restored to civil rights

<sup>635</sup> Amendment Article  
<https://babel.hathitrust.org/cgi/pt?id=uiug.30112068096343&view=1up&seq=72>

## Appendix 14

### Constitutional Evolution of Suffrage Qualifications in Vermont

In 1791, Vermont joined the Union with a constitution adopted in 1786. This new constitution granted the right of suffrage to men who had resided in the state for one year and who had a quiet and peaceable behavior.<sup>636</sup>



In 1793 Vermont adopted new constitution. The new constitution made only two changes to the previous suffrage qualifications: 1) Non-citizens were implicitly disenfranchised, and 2) It added an oath of suffrage.<sup>637</sup>

<sup>636</sup> Chapter 2; Article XVIII [https://avalon.law.yale.edu/18th\\_century/vt02.asp](https://avalon.law.yale.edu/18th_century/vt02.asp)

<sup>637</sup> Section 34 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105045548&view=1up&seq=40>

Vermont amended its constitution in 1924 to extend the right of suffrage to women.<sup>638</sup>

Vermont amended its constitution in 1974 to lower the voting age from twenty-one years to eighteen, and to reduce the residence duration requirement.<sup>639</sup>

<sup>639</sup> Section 42 <https://legislature.vermont.gov/statutes/constitution-of-the-state-of-vermont/>

▼ Vermont (1974)

▼ Suffrage Qualifications

U.S. Citizens

Quiet and peaceable behavior

Residence in the state

Oath of suffrage

Eighteen years of age

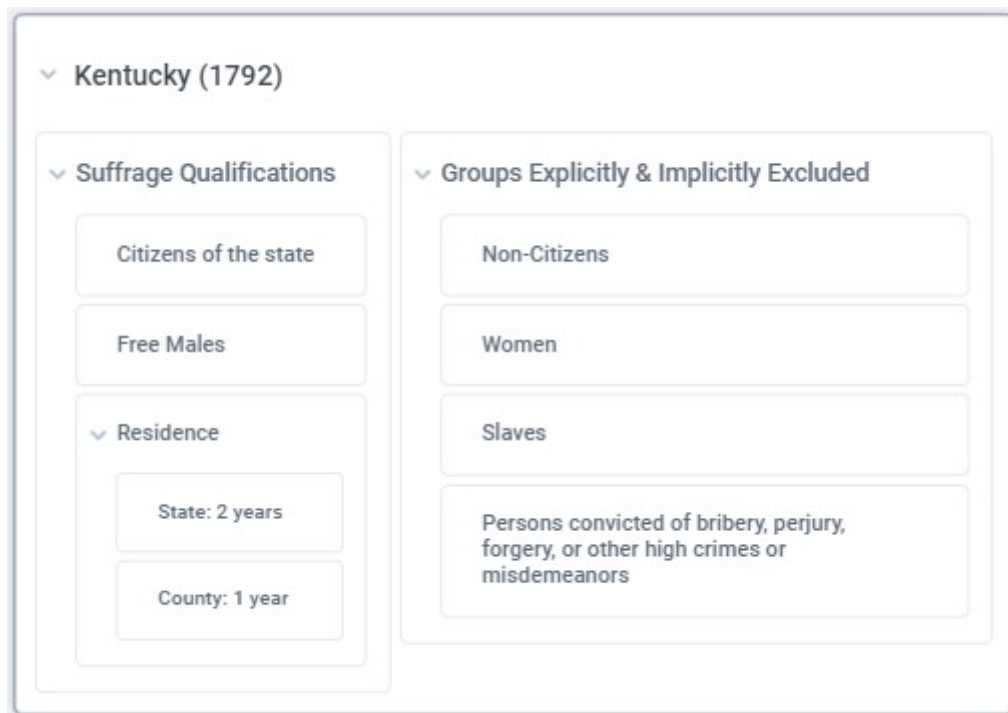
▼ Groups Implicitly Excluded

Non-citizens

## Appendix 15

### Constitutional Evolution of Suffrage Qualifications in Kentucky

Kentucky joined the Union in 1792. Its first constitution admitted to the polls all free males who had lived in the state two years and in the county one year.<sup>640</sup> It only explicitly denied suffrage to convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.<sup>641</sup>



Seven years later, in 1799, Kentucky adopted a second constitution that explicitly denied suffrage to blacks, mulattoes, and Indians<sup>642</sup>, as well as persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.<sup>643</sup>

<sup>640</sup> Article III; Section 1 <http://www.wordservice.org/State%20Constitutions/usa1038.htm>

<sup>641</sup> Article VIII; Section 2

<sup>642</sup> Article II; Section 8 <http://www.kyhistory.com/cdm/ref/collection/MS/id/9964>

<sup>643</sup> Article VI; Section 4

Kentucky (1799)

U.S. Citizens

Free Males

Residence

State: 2 years

County: 1 year

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Slaves

Blacks

Mulattoes

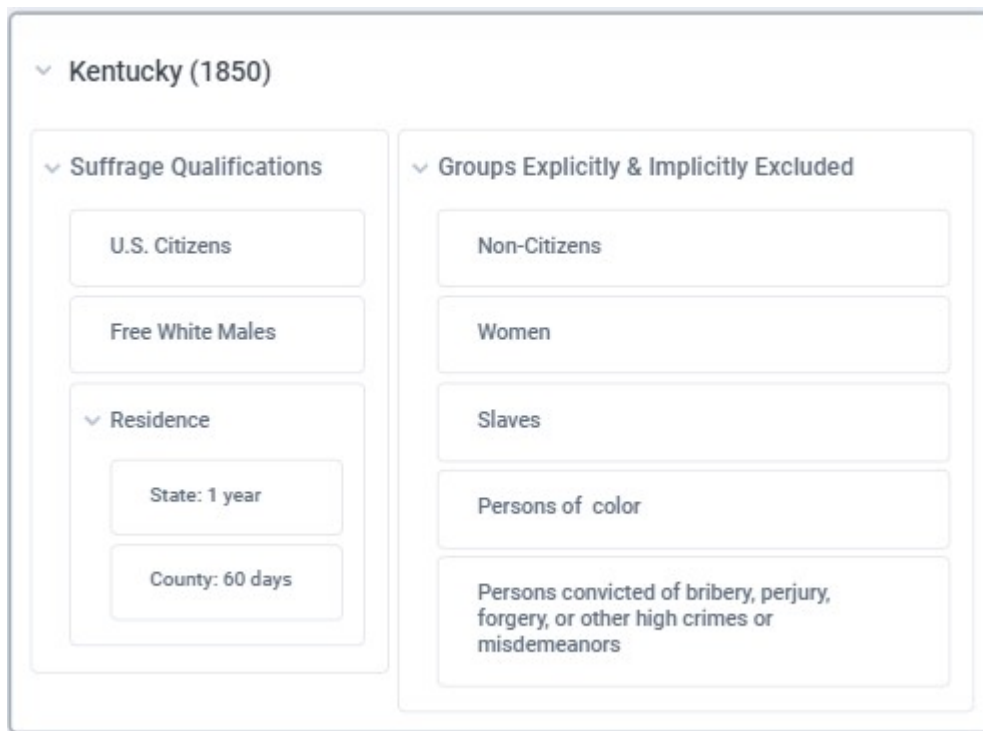
Indians

Persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors

Kentucky adopted a third constitution in 1850. The new constitution did not change much the previous suffrage qualifications. It removed the explicit disqualification of Blacks, Mulattoes, and Indians, but it still limited suffrage to free white male citizens. The new constitution also reduced the residence duration requirement to one year in the state and sixty days in the county.<sup>644</sup> It only explicitly denied suffrage to persons convicted of bribery, perjury, forgery, or other crimes or high misdemeanors.<sup>645</sup>

<sup>644</sup> Article II; Section 8 <http://www.wordservice.org/State%20Constitutions/usa1040.htm>

<sup>645</sup> Article VIII; Section 4



Kentucky adopted its fourth constitution in 1891. The new constitution granted suffrage to male citizens of the United States who had resided in the state for one year, in the county for six months, and in the precinct for sixty days. It explicitly denied the right to vote to persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors (unless restored to civil rights by executive pardon), *non compos mentis*, soldiers, sailors, and marines.<sup>646</sup>

<sup>646</sup> Suffrage and Elections; Sections 145 & 146  
<https://babel.hathitrust.org/cgi/pt?id=uiug.30112071877366&view=1up&seq=55>

- ✓ Kentucky (1891)

### ✓ Suffrage Qualifications

### U.S. Citizens

Males

▼ Residence

State: 1 year

County: 6 months

Precinct: 60 days

### Groups Explicitly & Implicitly Excluded

### Non-Citizens

## Women

Persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors  
Unless restored to civil rights by executive pardon

### Non compos mentis

## Soldiers, sailors, and marines

Kentucky amended its constitution in 1955 to enfranchise women and to lower the minimum voting age from twenty-one years to eighteen.<sup>647</sup>

- ✓ Kentucky (1955)

### ▼ Suffrage Qualifications

### U.S. Citizens

Residence

State: 1 year

County: 6 months

Precinct: 60 days

### Eighteen years of age

### Groups Explicitly & Implicitly Excluded

### Non-Citizens

Persons convicted of bribery, perjury,  
forgery, or other high crimes or  
misdemeanors  
Unless restored to civil rights by executive pardon

Non compos mentis

## Soldiers, sailors, and marines

<sup>647</sup> Section 145 <https://apps.legislature.ky.gov/Law/Constitution/Constitution/ViewConstitution?rsn=166>



## Appendix 16

### Constitutional Evolution of Suffrage Qualifications in Tennessee

Tennessee joined the Union in 1796 with a constitution that granted suffrage to every freeman who possessed a freehold and who had lived for six months in any county of the state.<sup>648</sup>

Tennessee (1796)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
Freemen	Women
Possess a freehold	Slaves
Residence in any county for six months	Persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors

Tennessee adopted a new constitution in 1834 that granted the right to vote to free white men being citizens of the United States who had resided for six months in the county of the election. People of color were exceptionally allowed to vote if they were competent witnesses in a court of justice against a white man. It excluded from the polls persons who were convicted of infamous crimes.<sup>649</sup>

<sup>648</sup> Article III; Section 1 <http://www.wordservice.org/State%20Constitutions/usa1041.htm>

<sup>649</sup> Article IV; Section 1 [https://felonvoting.procon.org/sourcefiles/1834\\_Tenn\\_Constitution.pdf](https://felonvoting.procon.org/sourcefiles/1834_Tenn_Constitution.pdf)

The diagram illustrates the Tennessee Constitution of 1834, specifically focusing on the suffrage provisions. It is organized into two main columns. The left column, titled 'Tennessee (1834)', contains a section for 'Suffrage Qualifications'. This section is divided into two sub-sections: 'White Voters' and 'Non-White Voters'. Under 'White Voters', three criteria are listed: 'U.S. Citizen', 'White male', and 'Residence for six months in the county of the election'. Under 'Non-White Voters', one criterion is listed: 'Competent witnesses in a court of justice against a white man'. The right column, titled 'Groups Explicitly Excluded', lists four groups: 'Women', 'Non-citizens', 'Persons who have been convicted of infamous crimes', and 'People of color (General rule)'.

```
graph TD; A[Tennessee (1834)] --> B[Suffrage Qualifications]; A --> C[Groups Explicitly Excluded]; B --> D[White Voters]; B --> E[Non-White Voters]; D --> F[U.S. Citizen]; D --> G[White male]; D --> H[Residence for six months in the county of the election]; E --> I[Competent witnesses in a court of justice against a white man]; C --> J[Women]; C --> K[Non-citizens]; C --> L[Persons who have been convicted of infamous crimes]; C --> M[People of color (General rule)];
```

▼ Tennessee (1834)

▼ Suffrage Qualifications

▼ White Voters

- U.S. Citizen
- White male
- Residence for six months in the county of the election

▼ Non-White Voters

- Competent witnesses in a court of justice against a white man

▼ Groups Explicitly Excluded

- Women
- Non-citizens
- Persons who have been convicted of infamous crimes
- People of color (General rule)

Tennessee did not adopt a new constitution until 1870. On June 5, 1865, however, the state legislature passed a franchise act that granted suffrage to white male citizens of the United States who had resided for six months in the county of the election and who had entertained unconditional Union sentiments since the outbreak of the Rebellion. It specifically excluded from the polls men who were in armed rebellion (unless conscripted), men who would not subscribe to an oath of allegiance to the federal government, men who had been officers or agents of the Confederate States, and men who had violated the rules of civilized warfare.<sup>650</sup>

<sup>650</sup> McPherson, Edward, p. 27, *The Political History of the United States of America During the Period of Reconstruction: From April 15, 1865 to July 15, 1870*; Second Edition, Solomon & Chapman, Washington, 1875.

	<p>▼ Tennessee (1865)</p> <p>Franchise Act (Not Constitutional)</p>
	<p>▼ Suffrage Qualifications</p> <p>U.S. Citizens</p> <p>White males</p> <p>Residence for six months in the county of the election</p> <p>Entertain unconditional Union sentiments since the outbreak of the Rebellion</p>
	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Women</p> <p>Non-citizens</p> <p>People of color</p> <p>Men who were in armed rebellion (unless conscripted)</p> <p>Men who would not subscribe to an oath of allegiance to the federal government</p> <p>Men who had been officers or agents of the Confederate States</p> <p>Men who had violated the rules of civilized warfare</p>

Tennessee in 1870 adopted a new constitution that granted suffrage to male citizens of the United States who had resided in the state for twelve months and in the county or district for six months before the election. Voters were required to pay a poll tax before in order to vote.<sup>651</sup> The only group explicitly excluded from suffrage were persons convicted of infamous crimes.<sup>652</sup>

<sup>651</sup> Article IV; Section 1 <https://tsla.tnsosfiles.com/digital/teva/transcripts/39417.pdf>

Article I; Section 5

Tennessee (1870)

Suffrage Qualifications

U.S. Citizens

Male

Residence in the state of one year and six months within the county

Pay a poll tax

Groups Explicitly Excluded

Non-citizens

Women

Persons convicted of infamous crimes

Tennessee did not amend its 1870 constitution until 1953 when it extended suffrage for women, lowered the minimum voting age from twenty-one years to eighteen, and removed the poll tax requirement.<sup>653</sup>

Tennessee (1953)

Suffrage Qualifications

U.S. Citizens

Residence in the state of one year and six months within the county

Eighteen years of age

Groups Explicitly Excluded

Non-citizens

Persons convicted of infamous crimes

The Tennessee constitution as of 2019 remains virtually the same, except for the residence duration qualification, which was reduced to a simple residence in the state.<sup>654</sup>

<sup>653</sup> Article IV; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015069624966&view=1up&seq=665>

<sup>654</sup> Article IV; Section 1 <http://www.capitol.tn.gov/about/docs/tn-constitution.pdf>

284

▼ Tennessee (2019)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state of one year and six months within the county

Eighteen years of age

▼ Groups Explicitly Excluded

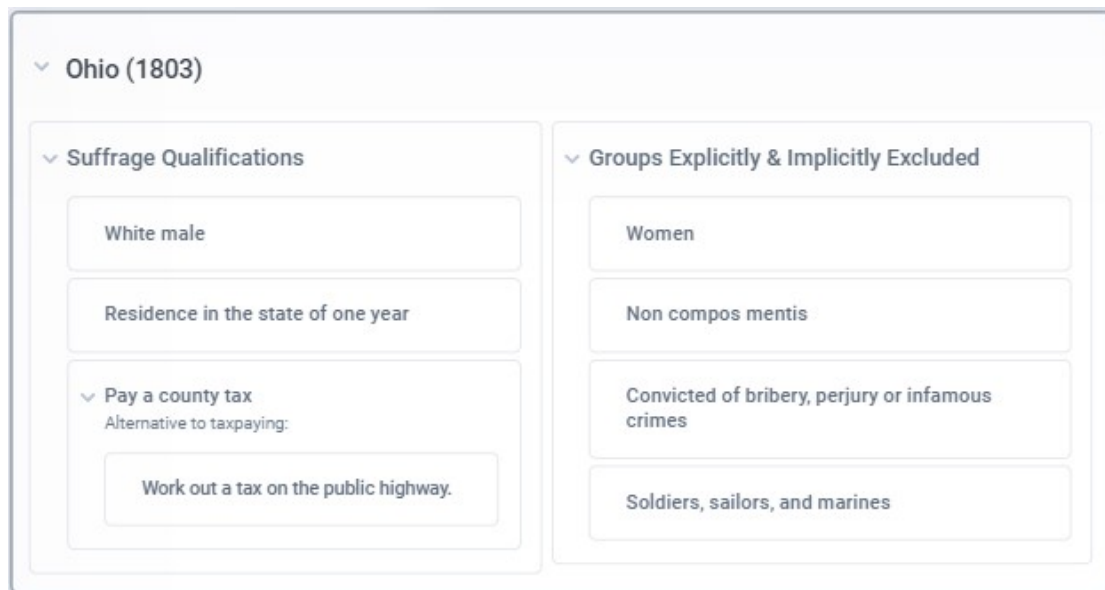
Non-citizens

Persons convicted of infamous crimes

## Appendix 17

### Constitutional Evolution of Suffrage Qualifications in Ohio

Ohio's joined the Union in 1803. Its first constitution limited suffrage to white male inhabitants who had resided in the state for one year and who had paid a county tax or who had worked out a tax on the public highway. Ohio's Constitution explicitly excluded persons convicted of bribery, perjury, or any infamous crime.<sup>655</sup>



Ohio adopted a new constitution in 1851 which dropped the old taxpayment requirement. It granted suffrage to white male citizens of the United States who had resided in the state for one year. It explicitly excluded soldiers, sailors, marines, non compos mentis, and persons convicted of bribery, perjury, or other infamous crimes.<sup>656</sup>

<sup>655</sup> Article IV; Sections 1 & 4 [https://ohiohistorycentral.org/w/Ohio\\_Constitution\\_of\\_1803\\_\(Transcript\)](https://ohiohistorycentral.org/w/Ohio_Constitution_of_1803_(Transcript))

<sup>656</sup> <http://www.twinsburg.k12.oh.us/Downloads/Constitution%20Of%20the%20state%20Of%20Ohio%201851-%20with%20History.pdf>

Ohio (1851)

Suffrage Qualifications

U.S. Citizen

White male

Residence in the state of one year

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

People of color

Non compos mentis

Convicted of bribery, perjury or infamous crimes

Soldiers, sailors, and marines

Ohio did not amend its 1851 constitution to explicitly enfranchise women and people of color until 1977 when it also lowered the voting age from twenty-one years to eighteen. Through such amendment, Ohio reduced the residence requirement period from one year to thirty days and derogated the voting restriction of soldiers, sailors, and marines.<sup>657</sup>

Ohio (1977)

Suffrage Qualifications

U.S. Citizen

Residence in the state for thirty days

Eighteen years of age

Groups Explicitly and Implicitly Excluded

Non-citizens

Non compos mentis

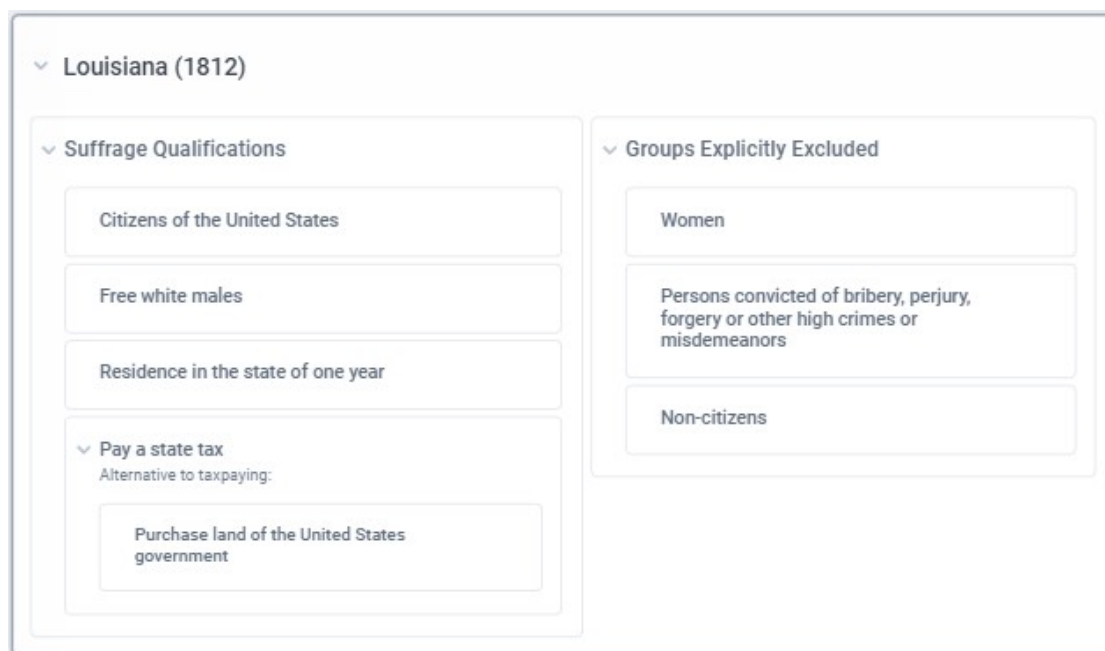
Persons convicted of a felony

<sup>657</sup> Article V <https://www.legislature.ohio.gov/laws/ohio-constitution/section?const=5.01>

## Appendix 18

### Constitutional Evolution of Suffrage Qualifications in Louisiana

Louisiana joined the Union in 1812. Its first constitution granted suffrage to free white male citizens of the United States who had lived at least for one year in the county. Voters qualified as such as long as they had paid state taxes within a year of the election. Interestingly, Louisiana exempted from the taxpaying requirement people who had purchased land of the United States government.<sup>658</sup> The constitution explicitly excluded from the polls persons who had been convicted of bribery, perjury, forgery or other high crimes or misdemeanors.<sup>659</sup>



Louisiana adopted a new constitution in 1845 which enshrined novel suffrage qualifications. It granted suffrage—as a general rule—to free white males who had been citizens of the United States for the last two years and who had resided in the state for the last two consecutive years and in the parish of the election for the last

<sup>658</sup> Article I; Concerning the Legislative Department; Section 8  
<http://www.wordservice.org/State%20Constitutions/usa%201046.htm>

<sup>659</sup> Article IV; Section 4



year. It recognized the right to vote of those electors who were previously qualified for suffrage before the adoption of the 1845 constitution. It explicitly excluded from the polls soldiers, sailors, marines, paupers, persons under interdiction, and persons convicted for infamous crimes.<sup>660</sup>

▼ Louisiana (1845)

▼ Suffrage Qualifications

- U.S. Citizens for at least two years
- Free white male
- Residence in the state for two years and in the parish for one year

▼ Retroactive Suffrage Qualification Alternative

Electors who were previously qualified for suffrage before the adoption of the 1845 constitution

▼ Groups Explicitly Excluded

- Non-citizens
- Naturalized citizens  
Less than two years as U.S. citizens
- Women
- People of color
- Soldiers, sailors, and marines
- Paupers
- Persons under interdiction
- Persons convicted of infamous crimes

Louisiana got a new constitution in 1864 that granted suffrage to white, male, citizens of the United States who had been residents in the state for one year and in the parish for three months.<sup>661</sup> This Constitution only explicitly excluded paupers, persons under interdiction, and persons convicted for crimes punishable with hard labor.<sup>662</sup>

<sup>660</sup> [https://en.wikisource.org/wiki/Louisiana\\_State\\_Constitution\\_of\\_1845](https://en.wikisource.org/wiki/Louisiana_State_Constitution_of_1845)

661 [https://en.wikisource.org/wiki/Louisiana\\_State\\_Constitution\\_of\\_1845](https://en.wikisource.org/wiki/Louisiana_State_Constitution_of_1845) (Art. 14)  
<http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&locID=cornell&d1=LP2L0029700&srchtp=a&c=1&an=LP2L0029700&df=f&d2=633&docNum=DT4206913257&h2=1&vrsn=1.0&af=RN&d6=633&d3=633&ste=10&stp=Author&d4=0.33&d5=d6&ae=DT106912625>

662 (Art. 18)

<http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&locID=cornell&d1=LP2L0029700&srchtp=a&c=1&an=LP2L0029700&df=f&d2=633&docNum=DT4206913257&h2=1&vrsn=1.0&af=RN&d6=633&d3=633&ste=10&stp=Author&d4=0.33&d5=d6&ae=DT106912625>

▼ Louisiana (1864)

▼ Suffrage Qualifications

- U.S. Citizens
- White males
- Residence in the country for one year and in the parish for three months

▼ Groups Explicitly & Implicitly Excluded

- Non-citizens
- Women
- People of color
- Paupers
- Persons under interdiction
- Persons convicted of crimes punishable by hard labor

Louisiana in 1867 adopted a new constitution that extended suffrage to all male citizens of the United States who had resided in the state for one year and in the parish ten days.<sup>663</sup> It explicitly excluded from suffrage, persons under interdiction, persons convicted of treason, perjury, forgery, bribery, or any other crime punishable with imprisonment, agents and officers of the Confederate States of America, persons who acted as leaders of guerrilla bands during the rebellion, persons who had voted for the secession.<sup>664</sup>

<sup>663</sup> Art. 98 <https://archive.org/details/officialjournalo00loui/page/304>

664 Art. 99

Louisiana (1868)	
<div>Suffrage Qualifications</div> <div>U.S. Citizens</div> <div>Males</div> <div>Residence in the state for one year and in the parish for ten days</div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div>Non-citizens</div> <div>Women</div> <div>Persons under interdiction</div> <div>Persons convicted of treason, perjury, forgery, bribery, or any other crime punishable with imprisonment</div> <div>Agents and officers of the Confederate States of America</div> <div>Persons who acted as leaders of guerrilla bands during the rebellion</div> <div>Persons who had voted for the secession</div>

Louisiana in 1898 adopted a new constitution that granted suffrage to male citizens of the United States who had resided in the state for two years and in the parish for one year. Voters were required to be able to read and write in any language, unless he proved that he owned at least three hundred dollars worth of property.<sup>665</sup> These qualifications applied exclusively for voters registering for the first time. The persons who were entitled to vote under the previous constitution, as well as the sons and grandsons of such persons, were exempted from the previous suffrage qualifications.<sup>666</sup> These exceptions are commonly known as Grandfather Clauses. All kind of voters were required to pay a one-dollar poll tax.<sup>667</sup> The constitution

665	Art.	197;	Section	1
<a href="http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&amp;locID=cornell&amp;d1=LP2L0048900&amp;srchpt=a&amp;c=1&amp;an=LP2L0048900&amp;df=f&amp;d2=71&amp;docNum=DT4206288590&amp;h2=1&amp;af=RN&amp;d6=71&amp;d3=71&amp;ste=10&amp;tp=Author&amp;d4=0.33&amp;d5=d6&amp;ac=DT106288520">http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&amp;locID=cornell&amp;d1=LP2L0048900&amp;srchpt=a&amp;c=1&amp;an=LP2L0048900&amp;df=f&amp;d2=71&amp;docNum=DT4206288590&amp;h2=1&amp;af=RN&amp;d6=71&amp;d3=71&amp;ste=10&amp;tp=Author&amp;d4=0.33&amp;d5=d6&amp;ac=DT106288520</a>				

<sup>666</sup> Art. 197; Section 5

667 Art. 198

explicitly denied the right to vote to soldiers, sailors, marines<sup>668</sup>, persons convicted for a crime punishable with imprisonment, paupers, and non compos mentis.<sup>669</sup>

Louisiana (1898)	
<p>▼ Suffrage Qualifications</p> <p>▼ General Rule</p> <p>U.S. Citizens</p> <p>Males</p> <p>Residence in the state for two years and in the parish for one year</p> <p>▼ Literate in any language</p> <p>Unless he proved that he owned \$300 worth of property</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-citizens</p> <p>Women</p> <p>Persons convicted of a crime punishable with imprisonment</p> <p>Soldiers, sailors, and marines</p> <p>Paupers</p> <p>Non compos mentis</p>
<p>▼ Exception</p> <p>Persons who were registered voters under the previous constitution</p> <p>Sons of persons who were registered voters under the previous constitution</p> <p>Grandsons of persons who were registered voters under the previous constitution</p> <p>Pay a \$1 poll tax</p>	

Louisiana amended its constitution in 1912 to make small changes to its suffrage qualifications. It camouflaged the grandfather clause, it changed the residence duration requirement, and it denied suffrage to persons living in almshouses or prisons. It also enfranchised soldiers, sailors, and marines.<sup>670</sup>

668 Art. 175

669 Art. 202

<sup>670</sup> Art. 197 <https://babel.hathitrust.org/cgi/pt?id=nyp.33433034030076&view=1up&seq=176>

Louisiana (1912)	
<div>Suffrage Qualifications</div> <div>U.S. Citizens</div> <div>Males</div> <div>Residence <div>State: 2 years</div> <div>Parish: 1 year</div> <div>Precinct: 6 months</div> </div> <div>Pay a \$1 poll tax</div> <div>Literate in any language <div>Unless he proved that he owned \$300 worth of property</div> </div> <div>Exception to New Suffrage Qualifications <div>Persons who were registered voters under the previous constitutional provision</div> </div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div>Non-citizens</div> <div>Women</div> <div>Persons convicted for a crime punishable with imprisonment <div>Unless pardoned with express restoration of suffrage</div> </div> <div>Persons who lived in public almshouses or prisons</div> <div>Non compos mentis</div>

Louisiana adopted a new constitution in 1921 which granted suffrage to citizens of the United States who had resided in the state for two years, in the parish for one year, in the municipality for four months, and in the precinct for three months. Voters were required to be of good character and understand the duties and obligations of citizenship. They were also required to read and write in any language. If voters did not know how to read or write they could be excepted from the rule if they could understand and give a reasonable interpretation of any section of the constitution when read to them.<sup>671</sup> Voters under sixty years of age were required to pay a

<sup>671</sup> Article VIII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=hvd.hl4474&view=1up&seq=202>

one-dollar poll tax.<sup>672</sup> The new constitution explicitly excluded from the polls persons convicted of any crime punishable with imprisonment (unless restored to civil rights), *non compos mentis*, and persons living in public almshouses and prisons.<sup>673</sup>

Louisiana (1912)	
<div>Suffrage Qualifications</div> <div>U.S. Citizens</div> <div> <div>Residence</div> <div>State: 2 years</div> <div>Parish: 1 year</div> <div>Municipality: 4 months</div> <div>Precinct: 3 months</div> </div> <div>Pay a \$1 poll tax Except persons over sixty years of age</div> <div> <div>Literate in any language</div> <div>Unless the voter could understand and give a reasonable interpretation of any section of the constitution when read to them</div> </div> <div>Good character</div> <div>Understand the duties and obligations of citizenship</div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div>Non-citizens</div> <div>Persons convicted for a crime punishable with imprisonment Unless pardoned with express restoration of suffrage</div> <div>Persons who lived in public almshouses or prisons</div> <div>Non compos mentis</div>

In 1960 Louisiana amended its constitution to lower the residence requirement and to define the meaning of good character for suffrage. Pursuant to the new constitutional provision, persons who had been convicted of a felony who had not been pardoned and restored to franchise, persons who had been sentenced to a term of six months or more in jail (except for traffic or game law violations), persons who had lived with

<sup>672</sup> Article VIII; Section 2

673 Article VIII; Section 6

another in common law marriage for five years, and persons who had given birth to an illegitimate child within the last five years (unless they were victims of rape). Voters were still required to be able to read and write in any language. Louisiana removed the poll tax requirement and explicitly excluded from the polls persons convicted of any crime punishable with imprisonment (unless restored to civil rights), *non compos mentis*, and persons living in public almshouses and prisons.<sup>674</sup>

The image is a screenshot of a digital document titled "Louisiana (1960)". It is divided into two main sections: "Suffrage Qualifications" and "Groups Explicitly & Implicitly Excluded".

**Suffrage Qualifications:**

- U.S. Citizens
- Residence:**
  - State: 1 year
  - Parish: 6 months
  - Municipality: 4 months
  - Precinct: 3 months
- Literate in any language
- Understand the duties and obligations of citizenship
- Good character

**Groups Explicitly & Implicitly Excluded:**

- Non-citizens
- Persons who lived in public almshouses or prisons
- Non compos mentis
- Persons lacking good character:**
  - Persons who had been sentenced to a term of six months or more in jail  
Except for traffic or game law violations
  - Persons convicted for a crime punishable with imprisonment  
Unless pardoned with express restoration of suffrage
  - Persons who had lived with another in common law marriage for five years
  - Persons who had given birth to an illegitimate child within the last five years  
Unless they were victims of rape

Louisiana adopted a new constitution in 1972. The new constitution did not provide the specific qualifications for suffrage. Instead, it gave authority to the state legislature to adopt an election code that would enshrine the suffrage qualifications.<sup>675</sup> That was the last amendment to the state constitution regarding suffrage. As of 2019,

<sup>674</sup> Article VIII <https://babel.hathitrust.org/cgi/pt?id=uiug.30112063348814&view=1up&seq=14>

<sup>675</sup> Article XI; Section 1 <https://babel.hathitrust.org/cgi/pt?id=uiug.30112068098489&view=1up&seq=30>

the Election Code of the State of Louisiana grants the right to vote to citizens of the state of Louisiana who are at least eighteen years old and who reside in the state, parish, municipality, and precinct where they intend to vote.<sup>676</sup> The Louisiana Election Code explicitly denies the right to vote to persons under an order of imprisonment, persons convicted of a felony offense of election fraud or any other election offense, and persons under guardianship.<sup>677</sup>

<div><div>▼ Louisiana (1972)</div><div><div>▼ Louisiana State Constitution</div><div>Article XI. Elections: "The legislature shall adopt an election code which shall provide for permanent registration of voters and for the conduct of all elections."</div></div></div>	<div><div>▼ Louisiana Election Code</div><div>2019</div><div><div>▼ Suffrage Qualifications</div><div><div>U.S. Citizens</div><div>Residence in the state, parish, municipality, and precinct</div><div>Eighteen years of age</div></div><div><div>▼ Groups Explicitly &amp; Implicitly Excluded</div><div><div>Non-citizens</div><div>Persons under an order of imprisonment</div><div>Persons convicted of a felony offense of election fraud or any other election offense</div><div>Persons under guardianship</div></div></div></div></div>
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676 Election Code of the State of Louisiana; Section 101  
<https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionCode.pdf>

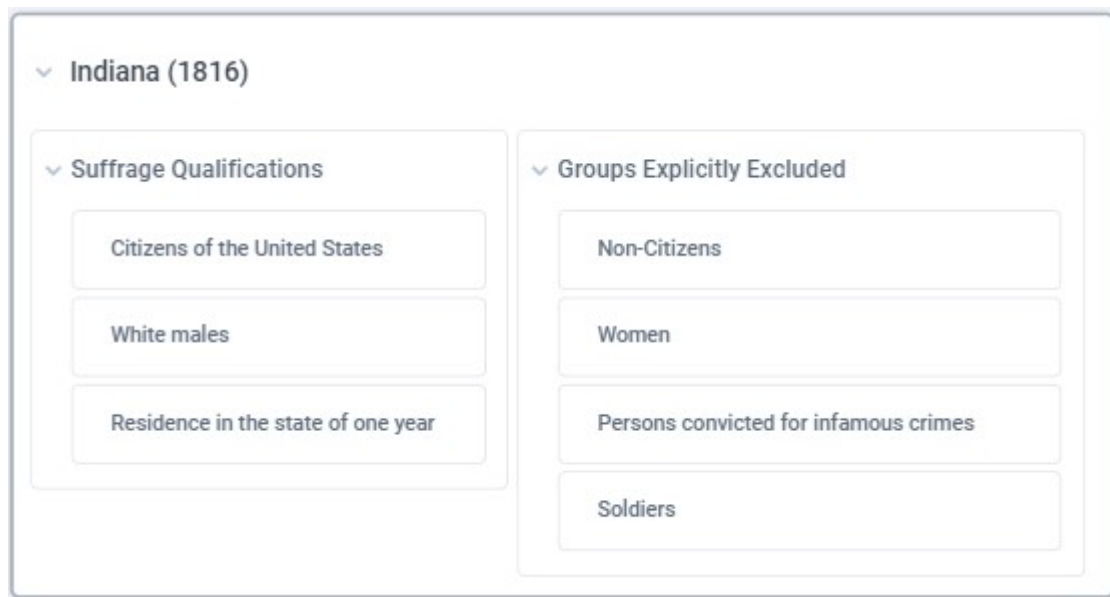
<sup>677</sup> Election Code of the State of Louisiana; Section 102



## Appendix 19

### Constitutional Evolution of Suffrage Qualifications in Indiana

Indiana joined the Union in 1816. Its first constitution admitted to the polls white male citizens of the United States who had lived in the state for one year. It explicitly excluded from the right of suffrage persons convicted for infamous crimes and soldiers.<sup>678</sup>



Indiana adopted a new constitution in 1851. It enfranchised white, male citizens of the United States who had resided in the state for six months, as well as aliens who had resided in the United States for one year and in the state for six months. It explicitly excluded soldiers, sailors, marines, blacks, mulattoes, and persons convicted of infamous crimes.<sup>679</sup>

<sup>678</sup> Article VI; <http://www.wordservice.org/State%20Constitutions/usa1011.htm>

<sup>679</sup> Article II; Sections 2, 3 & 8; (P. 6)  
<http://ulib.iupuidigital.org/cdm/compoundobject/collection/ISC/id/7494/rec/32>

▼ **Indiana (1851)**

- ▼ **Suffrage Qualification Alternatives**
  - ▼ **White, male U.S. Citizens**
    - Residence in the state of six months
  - ▼ **White, male aliens**
    - Residence in the United States for one year and in the state for six months
- ▼ **Groups Explicitly & Implicitly Excluded**
  - Women
  - Blacks
  - Mulattoes
  - Soldiers, sailors, and marines
  - Persons convicted of infamous crimes

Indiana amended its constitution in 1881 to extend suffrage to black voters and to elaborate on the residence duration requirements.<sup>680</sup>

<sup>680</sup> Article II; Section 2 <https://babel.hathitrust.org/cgi/pt?id=umn.319510022852341&view=1up&seq=41>

Indiana (1881)

Male U.S. Citizens

Residence

State: 6 months

Township: 60 days

Precinct: 30 days

Male non-citizens

Residence

Country: 1 year

State: 6 months

Township: 60 days

Precinct: 30 days

Groups Explicitly & Implicitly Excluded

Women

Soldiers, sailors, and marines

Persons convicted of infamous crimes

Indiana amended its constitution again in 1921 to enfranchise women and disenfranchise non-citizens.<sup>681</sup>

<sup>681</sup> Article II; Section 2 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015038179118&view=1up&seq=4>

The diagram illustrates the suffrage qualification alternatives in Indiana for 1921. It is structured as follows:

- Indiana (1921)**
  - Suffrage Qualification Alternatives**
    - U.S. Citizens
    - Residence**
      - State: 6 months
      - Township: 60 days
      - Precinct: 30 days
  - Groups Explicitly & Implicitly Excluded**
    - Non-citizens
    - Soldiers, sailors, and marines
    - Persons convicted of infamous crimes

Indiana amended once more its constitution in 1976 to lower the voting age requirement from twenty-one years of age to eighteen, and to reduce the residence duration qualification to thirty days in the precinct.<sup>682</sup>

▼ Indiana (1976)

- ▼ Suffrage Qualification Alternatives
  - U.S. Citizens
  - Residence in the precinct for thirty days
  - Eighteen years of age
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-citizens
  - Soldiers, sailors, and marines
  - Persons convicted of infamous crimes

Indiana amended its constitution in 1998 to extend suffrage to soldiers, sailors, and marines.<sup>683</sup>

682	Indiana	Amendment	1	(1976)
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<sup>683</sup> Article II; Section 3 [Repealed] (1998) <https://www.law.indiana.edu/uslawdocs/inconst/art-2.html#sec-2>

▼ **Indiana (1998)**

▼ **Suffrage Qualification Alternatives**

U.S. Citizens

Residence in the precinct for thirty days

Eighteen years of age

▼ **Groups Explicitly & Implicitly Excluded**

Non-citizens

Persons convicted of infamous crimes

## Appendix 20

### Constitutional Evolution of Suffrage Qualifications in Illinois

Illinois joined the Union in 1818. Its constitution admitted to the polls white male citizens who had lived in the state for six months and they explicitly excluded from the polls persons convicted for infamous crimes.

The image is a screenshot of a digital interface, likely from a historical database or encyclopedia, showing the 1818 Illinois constitution's suffrage qualifications and exclusions. The interface is organized into a main container with a dropdown menu labeled "Illinois (1818)". Below this, there are two main sections: "Suffrage Qualifications" and "Groups Explicitly & Implicitly Excluded". The "Suffrage Qualifications" section lists three criteria: "U.S. Citizens", "White males", and "Residence in the state of six months". The "Groups Explicitly & Implicitly Excluded" section lists four groups: "Non-citizens", "Women", "People of color", and "Infamous crimes". Each item is presented in a light blue box with a thin border.

Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	Women
Residence in the state of six months	People of color
	Infamous crimes

Illinois adopted a new constitution in 1848. The state granted the right of suffrage to white male citizens who had resided in the state for one year. White male inhabitants, regardless of their citizenship status, were allowed to vote in the district or county where they resided.<sup>684</sup> Soldiers, sailors, and marines were the only group explicitly excluded from the polls.<sup>685</sup>

<sup>684</sup> Article VI; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015025115513&view=1up&seq=130>

<sup>685</sup> Article VI; Section 6

▼ Illinois (1848)

- ▼ Suffrage Qualifications
  - ▼ Full Suffrage Qualifications
    - U.S. Citizens
    - White males
    - Residence in the state for one year
  - ▼ District & County Suffrage Qualifications
    - Inhabitants of the district and county
    - White males
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-citizens  
Except for district and county elections
  - Women
  - People of color
  - Soldiers, sailors, and marines

Illinois adopted a new constitution in 1870. It granted full suffrage to male citizens of the United States who had resided in the state for one year, in the county ninety days, and in the district thirty days. This constitution granted the right to vote to non-citizens who were qualified electors before the adoption of the 1848 constitution.<sup>686</sup> Soldiers, sailors, marines, and persons convicted of infamous crimes were denied the right of suffrage.<sup>687</sup>

<sup>686</sup> Article VII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015025115513&view=1up&seq=195>

687 Article VII; Sections 5 & 7

Illinois (1870)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
Full Suffrage Qualifications	Non-citizens Except for district and county elections as long as they were qualified electors before the adoption of the 1848 constitution
U.S. Citizens	Women
Males	Persons convicted of infamous crimes
Residence	Soldiers, sailors, and marines
State: 1 year	
County: 90 days	
District: 30 days	
District & County Suffrage Qualifications	
Inhabitants of the district and county who were qualified electors before the adoption of the 1848 constitution.	

In 1913, Illinois took an interesting halfway step toward women suffrage. The state legislature passed an act that enfranchised women just for presidential elections and for offices created by the legislature (members of the State Board of Equalization, clerk of the Appellate Court, county collector, county surveyor, members of board of assessors, members of board of review, sanitary district trustees, school officers, and for all officers of cities, villages, and towns).<sup>688</sup> The qualifications for electors of state assemblymen were fixed in the Illinois constitution and could not be altered by the state legislature. This created the “anomalous situation of Illinois women voting for Presidential electors and yet not voting for congressmen and state assemblymen.” (Porter, 247)

688 Illinois Elections Laws, 1913; Article IX; Section 9  
<https://babel.hathitrust.org/cgi/pt?id=njp.32101038096689&view=1up&seq=50>



Illinois (1913)	
<div>Suffrage Qualifications</div> <div> <div>Constitutional Suffrage Qualifications</div> <div> <div>U.S. Citizens</div> <div>Males</div> <div>Residence <div>State: 1 year</div> <div>County: 90 days</div> <div>District: 30 days</div> </div> <div>District &amp; County Suffrage Qualifications <div>Inhabitants of the district and county who were qualified electors before the adoption of the 1848 constitution.</div> </div> <div>Illinois Elections Laws Additional Qualifications <div>Women <div>Presidential elections and elections for offices created by the legislature</div> </div> </div> </div> </div> <td> <div>Groups Explicitly &amp; Implicitly Excluded</div> <div> <div>Non-citizens <div>Except for district and county elections as long as they were qualified electors before the adoption of the 1848 constitution</div> </div> <div>Women <div>Except for presidential elections and elections for offices created by the legislature</div> </div> <div>Persons convicted of infamous crimes</div> <div>Soldiers, sailors, and marines</div> </div> </td>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div> <div>Non-citizens <div>Except for district and county elections as long as they were qualified electors before the adoption of the 1848 constitution</div> </div> <div>Women <div>Except for presidential elections and elections for offices created by the legislature</div> </div> <div>Persons convicted of infamous crimes</div> <div>Soldiers, sailors, and marines</div> </div>

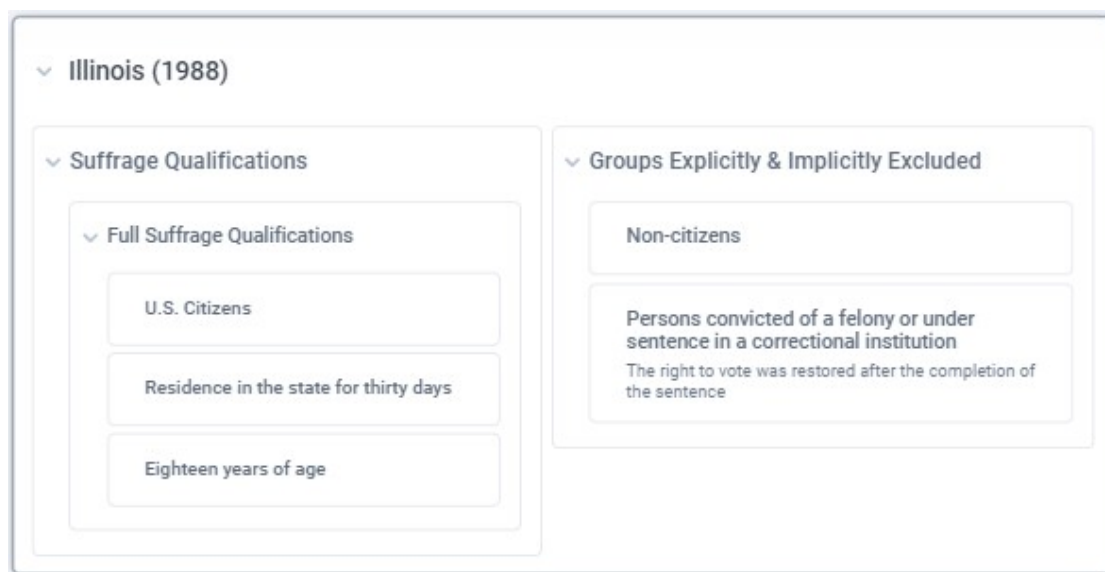
In 1970 Illinois adopted its latest constitution. The new constitution granted suffrage to every United States citizen who had resided in the state for six months.<sup>689</sup> It explicitly denied suffrage to persons convicted of a felony or under sentence in a correctional institution. The right to vote was restored after the completion of the sentence.<sup>690</sup>

<sup>689</sup> Article III; Section 1 <http://www.ilga.gov/commission/lru/ILConstitution.pdf>

690 Article II; Section 2



Illinois amended its constitution in 1988 to lower the voting age qualification from twenty-one to eighteen years of age, and to reduce the minimum residence duration to thirty days.<sup>691</sup>



<sup>691</sup> Article III; Section 1 <http://www.ilga.gov/commission/lru/ILConstitution.pdf>

## Appendix 21

### Constitutional Evolution of Suffrage Qualifications in Missouri

Missouri entered the Union in 1821. Its first constitution, adopted the previous year, admitted to the polls white male citizens who had lived in the county for three months. It explicitly excluded from the polls persons convicted for infamous crimes.

The image shows a digital interface with a dropdown menu set to "Missouri (1820)". Below this, there are two columns of information. The left column, titled "Suffrage Qualifications", lists three criteria: "U.S. Citizens", "White males", and "Residence in the county of three months". The right column, titled "Groups Explicitly Excluded", lists four groups: "Non-citizens", "Women", "People of color", and "Infamous crimes". Each item is contained within a light gray rectangular box.

Missouri in 1865 adopted a new constitution. This constitution granted suffrage to white male citizens of the United States and non-citizens who had declared their intention to become American citizens, and who had resided in the state for six months and in the county for sixty days.<sup>692</sup> Voters were also required to take an Oath of allegiance to the U.S. Constitution.<sup>693</sup> The right to vote was denied to persons convicted of bribery during an election,<sup>694</sup> soldiers, sailors, marines,<sup>695</sup> persons interested in any bet or wager depending upon the result of the election,<sup>696</sup> persons who had ever been in armed hostility to the United States, persons who had been in the service of the Confederate States, persons who had engaged in guerrilla warfare

<sup>692</sup> Article II; Section 18 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105061263&view=1up&seq=22>

<sup>693</sup> Article II, Section 6

<sup>694</sup> Article II, Section 15

<sup>695</sup> Article II; Section 16

<sup>696</sup> Article II; Section 17

against inhabitants of the United States, and persons who had left the state to avoid being drafted into the military service of the United States.<sup>697</sup>

Missouri (1865)

Suffrage Qualifications

White males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence in the state for six months and in the county for sixty days

Take an oath to support the Constitution of the United States

Groups Explicitly & Implicitly Excluded

Women

Persons of color

Persons convicted of bribery in election

Soldiers, sailors, and marines

Persons interested in any bet or wager depending upon the result of the election

Persons who had borne arms against the United States under the Confederate States

Persons who had been in the service of the Confederate States

Persons who had engaged in guerrilla warfare against inhabitants of the U.S.

Persons who had left the state to avoid being drafted into the military service of the United States

Ten years later, in 1875, Missouri adopted a new constitution. It granted suffrage to all male citizens of the United States and non-citizens who had declared their intention to become American citizens, and who had resided in the state for six months and in the county for sixty days.<sup>698</sup> The new constitution denied suffrage to soldiers, sailors, marines,<sup>699</sup> students,<sup>700</sup> persons who lived in public almshouses,

<sup>697</sup> Article II; Section 3

<sup>698</sup> Article VIII; Section 2 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105061735&view=1up&seq=50>

<sup>699</sup> Article VIII; Section 11 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105061735&view=1up&seq=51>

<sup>700</sup> Article VIII; Section 7

asylums, or prisons<sup>701</sup>, persons convicted of felony, infamous crime, or other misdemeanor connected with the exercise of the right of suffrage.<sup>702</sup> Even though non-citizens were allowed to vote, they were not entitled to hold office.<sup>703</sup>

The image is a screenshot of a digital archive interface, likely from the University of Missouri's digital library. It displays the 1875 Missouri constitution's provisions for suffrage. The interface is organized into a hierarchical structure with expandable sections. At the top, a section titled 'Missouri (1875)' is expanded. Below it, two main categories are visible: 'Suffrage Qualifications' and 'Groups Explicitly & Implicitly Excluded'. Under 'Suffrage Qualifications', a sub-section 'Males' is expanded, showing three categories: 'U.S. Citizens', 'Non-citizens who had declared their intention to become U.S. citizens', and 'Residence in the state for six months and in the county for sixty days'. Under 'Groups Explicitly & Implicitly Excluded', there are five categories: 'Women', 'Persons convicted of bribery in election', 'Soldiers, sailors, and marines', 'Students', and 'Persons who lived in public almshouses, asylums, or prisons'. The last category, 'Persons convicted of felony, infamous crime, or other misdemeanor connected with the exercise of the right of suffrage', is partially visible at the bottom of the list.

Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
<ul style="list-style-type: none"><li>U.S. Citizens</li><li>Non-citizens who had declared their intention to become U.S. citizens</li><li>Residence in the state for six months and in the county for sixty days</li></ul>	<ul style="list-style-type: none"><li>Women</li><li>Persons convicted of bribery in election</li><li>Soldiers, sailors, and marines</li><li>Students</li><li>Persons who lived in public almshouses, asylums, or prisons</li><li>Persons convicted of felony, infamous crime, or other misdemeanor connected with the exercise of the right of suffrage</li></ul>

In 1924, Missouri amended its constitution to enfranchise women and disenfranchise non-citizens. It also changed the state-residence requirement from six months to one year.<sup>704</sup>

<sup>701</sup> Article VIII; Section 8

<sup>702</sup> Article VIII; Section 10

<sup>703</sup> Article VIII; Section 12

<sup>704</sup> Article VIII; Section 2 <https://babel.hathitrust.org/cgi/pt?id=umn.31951d02568241e&view=1up&seq=121>

▼ Missouri (1924)

▼ Suffrage Qualifications

- U.S. Citizens
- Residence in the state for one year and in the county for sixty days

▼ Groups Explicitly & Implicitly Excluded

- Non-citizens
- Soldiers, sailors, and marines
- Students
- Persons who lived in public almshouses, asylums, or prisons
- Persons convicted of felony or crime connected with the exercise of the right of suffrage

In 1945 Missouri adopted a new constitution that changed the suffrage qualifications in form, but not in substance. The first substantial changes to suffrage in the state arrived until 1974 when they lowered the voting age from twenty-one years to eighteen, and changed the residence requirements. It also denied suffrage to persons under guardianship.<sup>705</sup>

Missouri (1974)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state and in the county for sixty days	Soldiers, sailors, and marines
	Students
	Persons who lived in mental institutions
	Persons convicted of felony or crime connected with the exercise of the right of suffrage

<sup>705</sup> Article VIII; Section 2 [https://www.sos.mo.gov/cmsimages/publications/missouriconstitution\\_05.13.2015.pdf](https://www.sos.mo.gov/cmsimages/publications/missouriconstitution_05.13.2015.pdf)

## Appendix 22

### Constitutional Evolution of Suffrage Qualifications in Mississippi

Mississippi joined the Union in 1817 limiting the franchise to free, white, U.S. citizens who had resided in the state for one year prior to the election. Voters were also required to either pay state or county taxes, or to do military service in the state militia. (Porter, 50)

The screenshot displays a digital interface for Mississippi's 1817 suffrage qualifications. It is organized into three main sections under the heading "Mississippi (1817)".

- Suffrage Qualifications:** This section lists four criteria:
  - U.S. Citizens
  - Residence in the state of one year
  - Free white males
  - Paid state or county taxes
- Alternative to taxpaying:** This section lists one alternative:
  - Military service in state militia
- Groups Explicitly Excluded:** This section lists three groups:
  - Non-citizens
  - Women
  - People of color

Mississippi in 1832 provided herself with a new constitution. It enshrined simple suffrage qualifications that allowed all white male citizens who had resided in the state for one year and in the county for six months. The constitution did not create any further restrictions for electors.<sup>706</sup>

<sup>706</sup> <http://mshistorynow.mdah.state.ms.us/articles/101/index.php?s=extra&id=268>

Mississippi (1832)

Suffrage Qualifications

U.S. Citizens

White males

Residence in the state for one year and in the county for six months

Groups Explicitly Excluded

Non-citizens

Women

People of color

Mississippi in 1868 adopted a new constitution. It granted suffrage to male citizens of the United States who had resided in Mississippi for six months and in the county for one month. It also required voters to take an oath to support and obey the constitution of the United States. The constitution explicitly excluded from the polls Indians not taxed, *non compos mentis*<sup>707</sup>, and persons convicted of bribery, perjury, forgery, or other high crimes.<sup>708</sup>

Mississippi (1868)

Suffrage Qualifications

U.S. Citizens

Males

Residence in the state for six months and in the county for one month

Take an oath to support and obey the constitution of the United States

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Indians not taxed

• Non compos mentis

Persons convicted of bribery, perjury, forgery, or other high crimes

<sup>707</sup> Article VII; Section 2 <http://www.mshistorynow.mdah.ms.gov/articles/102/index.php?s=extra&id=269>

<sup>708</sup> Article XII; Section 2 <http://www.mshistorynow.mdah.ms.gov/articles/102/index.php?s=extra&id=269>



Mississippi in 1890 adopted a new constitution which granted suffrage to male citizens of the United States who had resided in the state for two years and in the district or town for one year before the election. Voters were also required to pay all taxes (including a two-dollar poll tax)<sup>709</sup> and to take an oath of allegiance to the U.S. Constitution. It explicitly denied the right to vote to persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy.<sup>710</sup>

Mississippi (1890)

Suffrage Qualifications

U.S. Citizens

Males

Residence in the state for six months and in the county for one month

Take an oath to support and obey the constitution of the United States

Pay taxes, including a poll tax

Oath of allegiance to the U.S. Constitution

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy

Mississippi amended this constitutional provision in 1935 to grant women suffrage and to explicitly disenfranchise Indians not taxed as well as *non compos mentis*.<sup>711</sup>

<sup>709</sup> Article 12, Section 243, <http://mshistorynow.mdah.state.ms.us/articles/103/index.php?s=extra&id=270>

<sup>710</sup> Article 12, Section 241, <http://mshistorynow.mdah.state.ms.us/articles/103/index.php?s=extra&id=270>

<sup>711</sup> Page 187. <https://babel.hathitrust.org/cgi/pt?id=mdp.39015055355963&view=1up&seq=187>

Mississippi (1935)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months and in the county for one month

Take an oath to support and obey the constitution of the United States

Pay taxes, including a poll tax

Oath of allegiance to the U.S. Constitution

Groups Explicitly & Implicitly Excluded

Non-citizens

Indians not taxed

Non compos mentis

Persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy.

In 1960, Mississippi added—in addition to all the suffrage qualifications—that voters were required to be of good moral character.<sup>712</sup>

Mississippi (1960)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months and in the county for one month

Take an oath to support and obey the constitution of the United States

Pay taxes, including a poll tax

Oath of allegiance to the U.S. Constitution

Good moral character

Groups Explicitly & Implicitly Excluded

Non-citizens

Indians not taxed

Non compos mentis

Persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy.

<sup>712</sup> <https://law.justia.com/constitution/mississippi/>

Five years later, in 1965, Mississippi repealed good moral character as a qualification for suffrage.<sup>713</sup>

Mississippi (1965)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for six months and in the county for one month	Indians not taxed
Take an oath to support and obey the constitution of the United States	Non compos mentis
Pay taxes, including a poll tax	Persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy.

In 1972, Mississippi amended its constitution again to lower the voting age from twenty-one years of age to eighteen.<sup>714</sup>

Mississippi (1972)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for six months and in the county for one month	Indians not taxed
Take an oath to support and obey the constitution of the United States	Non compos mentis
Pay taxes, including a poll tax	Persons convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy.
Eighteen years of age	

<sup>713</sup> SECTION 241-A. Repealed. (Available at [https://www.sos.ms.gov/Education-Publications/Documents/Downloads/Mississippi\\_Constitution.pdf](https://www.sos.ms.gov/Education-Publications/Documents/Downloads/Mississippi_Constitution.pdf); on January 14, 2020)

<sup>714</sup> Mississippi Voting Age, Amendment 2 (1972) [https://ballotpedia.org/Mississippi\\_Voting\\_Age\\_Amendment\\_2\\_\(1972\)](https://ballotpedia.org/Mississippi_Voting_Age_Amendment_2_(1972))

In 1975, Mississippi amended its constitution to remove the poll tax<sup>715</sup> and the voter literacy requirement.<sup>716</sup>



<sup>715</sup> Mississippi Poll Tax, Amendment 3 (1975) (Available at [https://ballotpedia.org/Mississippi\\_Poll\\_Tax,\\_Amendment\\_3\\_\(1975\)](https://ballotpedia.org/Mississippi_Poll_Tax,_Amendment_3_(1975)); Accessed on January 14, 2020)

<sup>716</sup> Mississippi Voter Literacy, Amendment 2 (1975) (Available at [https://ballotpedia.org/Mississippi\\_Voter\\_Literacy,\\_Amendment\\_2\\_\(1975\)](https://ballotpedia.org/Mississippi_Voter_Literacy,_Amendment_2_(1975)); Accessed on January 14, 2020)

## Appendix 23

### Constitutional Evolution of Suffrage Qualifications in Maine

Maine joined the Union in 1819 and its constitution granted the right to vote to male citizens of the United States who had resided in the state for three months. It denied suffrage to paupers and persons under guardianship, as well as to soldiers, sailors, marines, students, and Indian-Americans who were not taxed. Interestingly, Maine did not explicitly denied suffrage to blacks and American-Indians.

▼ Maine (1819)

▼ Suffrage Qualifications

U.S. Citizens

Males

Residence in the state of three months

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Paupers

Persons under guardianship

Soldiers, sailors, and marines

Students

American-Indians not taxed

Maine amended its constitution in 1893 to impose a new voting qualification on the electorate. Voters were required to be able to read the constitution in English and write their names. The only persons who were exempt from this requirement were

those with physical disabilities, persons who already had the right to vote before this amendment, and persons over sixty years of age.<sup>717</sup>

U.S. Citizens

Males

Residence in the state of three months

Ability to read constitution in English and write their name

Exceptions:

Persons with physical disabilities

Persons who already had the right to vote before this amendment

Persons over sixty years of age

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Paupers

Persons under guardianship

Soldiers, sailors, and marines

Students

American-Indians not taxed

In 1919, Maine granted full suffrage for women after the Nineteenth Amendment to the U.S. Constitution was adopted. It was not until 1953, however, that the state amended its constitution to enfranchise women and Indians.<sup>718</sup> In 1935, Maine raised the residence requirement to six months.<sup>719</sup>

<sup>717</sup> Maine Res. 1891, C. 109. [http://lldc.mainelegislature.org/Open/Laws/1891/1891\\_RES\\_c109.pdf](http://lldc.mainelegislature.org/Open/Laws/1891/1891_RES_c109.pdf)

<sup>718</sup> Maine Res. 1953, c. 97 [http://lldc.mainelegislature.org/Open/Laws/1953/1953\\_RES\\_c097.pdf](http://lldc.mainelegislature.org/Open/Laws/1953/1953_RES_c097.pdf)

<sup>719</sup> Maine Res. 1935, c. 81 [http://lldc.mainelegislature.org/Open/Laws/1935/1935\\_RES\\_c081.pdf](http://lldc.mainelegislature.org/Open/Laws/1935/1935_RES_c081.pdf)

▼ **Maine (1953)**

▼ **Suffrage Qualifications**

- U.S. Citizens
- Residence in the state of three months
- ▼ **Ability to read constitution in English and write their name**  
Exceptions:
  - Persons with physical disabilities
  - Persons who already had the right to vote before this amendment
  - Persons over sixty years of age

▼ **Groups Explicitly & Implicitly Excluded**

- Non-citizens
- Paupers
- Persons under guardianship
- Soldiers, sailors, and marines
- Students

In 1971, Maine lowered the voting age from twenty-one years to eighteen. It also lowered the residence duration qualification.<sup>720</sup>

Maine (1971)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state	Persons under guardianship
Eighteen years of age	Soldiers, sailors, and marines
	Students

<sup>720</sup> Maine Con. Res. 1971, c. 1 [http://ldc.mainelegislature.org/Open/Laws/1971/1971\\_CR\\_c001.pdf](http://ldc.mainelegislature.org/Open/Laws/1971/1971_CR_c001.pdf)

## Appendix 24

### Constitutional Evolution of Suffrage Qualifications in Alabama

Alabama joined the Union in 1819. Its constitution required voters to be white males, citizens of the United States who had resided at least one year in the state and three months within the county. The constitution explicitly excluded from suffrage soldiers, sailors, and marines, as well as persons convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.

Alabama (1819)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	People of color
Residence in the state of one year and three months within the county	Women
	Soldiers, sailors, and marines
	Persons convicted of bribery, perjury, forgery, or other high crimes

Alabama in 1865 adopted a new constitution which changed neither any of the previous suffrage qualifications nor the explicit groups excluded. It granted suffrage to white, male, citizens of the United States who had resided in the state for one year and in the county for three months. Soldiers, sailors, marines, persons convicted of bribery, forgery, perjury, or other high crimes were explicitly excluded from the polls.<sup>721</sup>

<sup>721</sup> Article VIII; Section <http://digital.archives.alabama.gov/cdm/compoundobject/collection/legislature/id/213599/rec/155>



Alabama (1865)

Suffrage Qualifications

U.S. Citizens

White males

Residence in the state of one year and three months within the county

Groups Explicitly & Implicitly Excluded

Non-citizens

People of color

Women

Soldiers, sailors, and marines

Persons convicted of bribery, perjury, forgery, or other high crimes

Alabama in 1867 became the first southern state to adopt a new constitution to align with the Thirteenth and Fourteenth Amendment to the U.S. Constitution. Its new constitution granted suffrage to every male citizen of the United States as well as to male non-citizens who had declared their intention to become U.S. citizens. It also required a six-month residence in the state and three months in the county prior to the election.<sup>722</sup> Additionally, voters needed to take an oath of allegiance to the Constitution of the U.S. and repudiation of southern doctrine.<sup>723</sup> The new constitution explicitly excluded from suffrage soldiers, sailors, marines, *non compos mentis*, persons who had been convicted of treason, embezzlement of public funds, malfeasance in office, bribery or crime punishable by law with imprisonment, and persons who had violated the rules of civilized warfare.<sup>724</sup>

<sup>722</sup> Article 7; Section 2 <http://www.legislature.state.al.us/aliswww/history/constitutions/1868/1868all.html>

<sup>723</sup> Article 7; Section 4

<sup>724</sup> Article 7; Section 3

Alabama (1867)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Oath of allegiance to the U.S. Constitution

Residence in the state of six months and three months within the county

Groups Explicitly & Implicitly Excluded

Women

Soldiers, sailors, and marines

Persons convicted of infamous crimes

Non compos mentis

Persons who had violated the rules of civilized warfare

Alabama in 1901 adopted a new constitution which granted suffrage to male citizens of the United States and non-citizens who had declared their intention of becoming U.S. citizens before the adoption of such constitution, who had resided in the state for two years and in the county for one year.<sup>725</sup> The constitution allowed a residence-qualification exception to all males who had served for the U.S. Armed Forces in the war with Mexico, war with Indians, war with Spain, or war between the states. This exception was extended to all legal descendants of men who had served in any of these wars, and to men of good character who understood the duties and obligations of citizenship who could also read and write any article of the constitution in English. The literacy test was exempted for men who possessed forty acres of land or three hundred dollars worth of property.<sup>726</sup> All voters were required to pay a poll tax.<sup>727</sup> The constitution explicitly excluded from the polls *non compos mentis*, persons convicted of treason, murder, arson, embezzlement, malfeasance in office,

<sup>725</sup> Article 7; Section 177, <http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&locID=cornell&d1=LP2L0025100&srchtp=a&c=1&an=LP2L0025100&df=f&d2=116&docNum=DT4206465169&h2=1&vrsn=1.0&af=RN&d6=116&d3=116&ste=10&stp=Author&d4=0.33&d5=d6&ae=DT106465054>

<sup>726</sup> Section 180

<sup>727</sup> Section 178

larceny, receiving stolen property, obtaining money or property under false pretenses, robbery, assault and battery on the wife, bigamy, adultery, sodomy, incest, rape, or any other crime punishable by imprisonment.<sup>728</sup>

Alabama (1901)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Pay a poll tax

Residence in the state of one year and in the county for one year

Exceptions:

Males who had served for the U.S. Armed Forces in the war with Mexico, war with Indians, war with Spain, or war between the states

Legal descendants of men who had served in any of these wars

Men of good character who understood the duties and obligations of citizenship

Who could also read and write any article of the constitution in English OR

Who possessed forty acres of land or three hundred dollars worth of property

Groups Explicitly & Implicitly Excluded

Women

Non compos mentis

Persons convicted for infamous crimes

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<sup>728</sup> Section 182

## Appendix 25

### Constitutional Evolution of Suffrage Qualifications in Arkansas

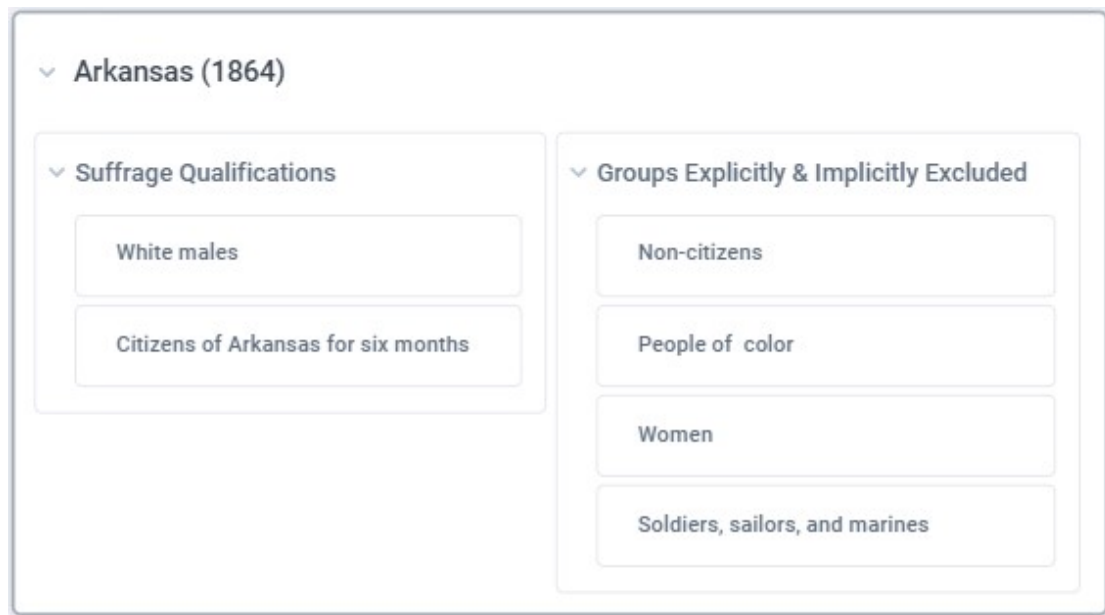
Arkansas joined the Union in 1836 with a constitution that had very simple suffrage qualifications. White male citizens residents in the state for six months were all welcomed at the polls. It only explicitly excluded sailors and soldiers.<sup>729</sup>

Arkansas (1836)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	People of color
Residence in the state for six months	Women
	Soldiers and sailors

On March 14, 1864 Arkansas adopted a new constitution that denied the right to vote to black citizens. Only free white males who had been citizens of Arkansas for six months were admitted to the polls. The Constitution explicitly excluded soldiers, sailors and marines.<sup>730</sup>

<sup>729</sup> <http://ahc.digital-ar.org/cdm/ref/collection/p16790coll1/id/8>

<sup>730</sup> Article IV; Section 2: <http://ahc.digital-ar.org/cdm/ref/collection/p16790coll1/id/158>



Arkansas in 1868 adopted a new constitution that granted suffrage to all male citizens of the United States who had resided in the state for six months and in the county for any time.<sup>731</sup> Voters were also required to take an oath of allegiance in support of the United States Constitution.<sup>732</sup> It explicitly excluded soldiers, sailors, marines, persons who gave aid, comfort or countenance to those engaged in armed hostility to the government of the United States, persons who violated the rules of civil warfare, and persons who had been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery.<sup>733</sup>

<sup>731</sup> Article VII; Section 2 <http://ahc.digital-ar.org/cdm/ref/collection/p16790coll1/id/192>

<sup>732</sup> Article VII; Section 5

<sup>733</sup> Article VII; Section 3

Arkansas (1868)

Suffrage Qualifications

U.S. Citizens

Males

Oath of allegiance to the U.S. Constitution

Residence in the state for six months and in the county for any time.

Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Soldiers, sailors, and marines

Persons who gave aid, comfort or countenance to those engaged in armed hostility to the government of the U.S.

Persons who violated the rules of civil warfare

Persons who had been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery.

In 1874 Arkansas gave herself a new constitution. Its original version granted suffrage to male citizens of the United States and non-citizens who had declared their intention of becoming citizens. It demanded a one-year residence in the state and a six-month residence in the county before the election.<sup>734</sup> It explicitly excluded sailors, soldiers, marines, and *non compos mentis*.<sup>735</sup>

<sup>734</sup> Article III, Section 1 <https://babel.hathitrust.org/cgi/pt?id=uiug.30112032789759&view=lup&seq=37> )

<sup>735</sup> Article III, Sections 5 & 7

Arkansas (1874)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence in the state for one year and in the county for six months.

Groups Explicitly & Implicitly Excluded

Women

Soldiers, sailors, and marines

Non compos mentis

On January 14, 1909, Arkansas adopted Amendment 9 to its constitution. This amendment required voters to show a poll tax receipt when casting their votes. It still limited suffrage to male citizens and non-citizens who had declared their intention of becoming citizens. It kept the one-year residence in the state and the six-month residence in the county before the election. Soldiers, sailors, marines and persons who had been convicted of certain felonies were explicitly restricted from voting.<sup>736</sup>

Arkansas (1909)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Payment of poll tax

Residence in the state for one year and in the county for six months.

Groups Explicitly & Implicitly Excluded

Non-citizens

Persons who had been convicted for certain felonies

Soldiers, sailors, and marines

<sup>736</sup> OFFICE OF THE STATE OF THE SECRETARY OF STATE. ARKANSAS; *Biennial Report*; Tunnah & Pittard Printers; Little Rock, 1913. (p. 67)

In 1920 Arkansas, the state legislature passed Amendment number 6 to the constitution of Arkansas that enfranchised women and disenfranchised non-citizens. It granted the right to vote to all U.S. citizens who had resided for one year in the state and for six months in the county of the election. Voters were required to show a poll tax receipt. It explicitly denied suffrage to non-citizens, persons convicted of certain felonies, and soldiers, sailors and marines.<sup>737</sup>

Arkansas (1920)

Suffrage Qualifications

U.S. Citizens

Payment of poll tax

Residence in the state for one year and in the county for six months.

Groups Explicitly & Implicitly Excluded

Non-citizens

Persons who had been convicted for certain felonies

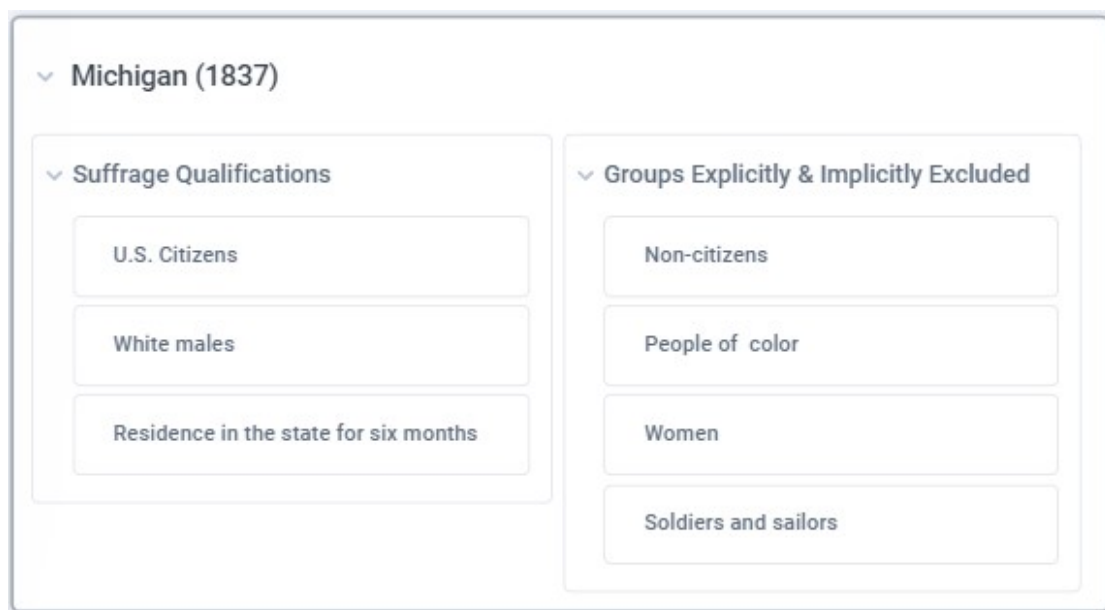
Soldiers, sailors, and marines



## Appendix 26

### Constitutional Evolution of Suffrage Qualifications in Michigan

Michigan joined the Union in 1837 with a constitution—adopted two years earlier—that had very simple suffrage qualifications. White male citizens residents in the state for six months were all welcomed at the polls. It only explicitly excluded sailors and soldiers.<sup>738</sup>



Michigan put in force a new constitution in 1850 which enshrined very complex suffrage qualifications. It granted the right to vote to the following categories of people as long as they had resided in the state for six months and in the township of the election for twenty days:

- A. All white male citizens of the United States;
- B. Male inhabitants residing in the state on June 24, 1835;
- C. Male inhabitants residing in the state on January 1, 1850;

<sup>738</sup> <http://www.legislature.mi.gov/documents/historical/miconstitution1835.htm>

D. Male aliens who had resided in the state thirty months prior to November 8, 1894, and who had declared their intention to become a citizen of the United States two years and six months prior to the election;

E. Civilized male inhabitants of Indian descent who were natives of the United States and not members of any tribe.<sup>739</sup>

Michigan's 1850 constitution explicitly excluded soldiers, sailors, marines, students, persons who were engaged in a duel, and persons kept in public almshouses, asylums or prisons.<sup>740</sup>

The screenshot displays a digital interface for the Michigan (1850) constitution. It is organized into two main columns under the heading 'Michigan (1850)'. The left column, titled 'Suffrage Qualification Alternatives', contains a sub-section 'Residence in the state of six months and in the township for twenty days' which lists five categories: 'White, male U.S. Citizens', 'Male inhabitants residing in the state on June 24, 1835', 'Male inhabitants residing in the state on January 1, 1850', 'Male aliens who had resided in the state thirty months prior to November 8, 1894, and who had declared their intention to become a citizen of the United States two years and six months prior to the election', and 'Civilized male inhabitants of Indian descent who were natives of the United States and not members of any tribe'. The right column, titled 'Groups Explicitly & Implicitly Excluded', lists six categories: 'Women', 'People of color', 'Soldiers, sailors, and marines', 'Students', 'Persons kept in public almshouses, asylums or prisons', and 'Persons engaged in duels'.

Michigan amended its constitution in 1869 to extend suffrage to black citizens and Indians. It also reduced the residence duration requirement to three months in the township.<sup>741</sup>

<sup>739</sup> Article VII; Section 1 <https://www.legislature.mi.gov/documents/historical/miconstitution1850.htm>

<sup>740</sup> Article VII; Sections 5, 7, & 8

<sup>741</sup> Article VII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=nnc1.cu56794126&view=1up&seq=32>

Michigan (1869)

Suffrage Qualifications

Males

Residence in the state for three months and in the township for ten days

U.S. Citizens

Male inhabitants who had resided in the country for thirty months and had declared their intention of becoming U.S. citizens

Male inhabitants residing in the state on June 24, 1835

Groups Explicitly & Implicitly Excluded

Women

Soldiers, sailors, and marines

Students

Persons kept in public almshouses, asylums or prisons

Persons engaged in duels

Michigan adopted a new constitution in 1908 that granted suffrage to all citizens of the United States who had resided in the state for six months and in the township for thirty days.<sup>742</sup> Only taxpayers were allowed to vote in elections upon questions regarding direct expenditure of public money or the issue of bonds.<sup>743</sup> The constitution explicitly disqualified from suffrage soldiers, sailors, marines, students, and persons living in almshouses, asylums or prisons.<sup>744</sup>

742

Article III; Section 1

[http://www.legislature.mi.gov/\(S\(dmrnkg1zvpiy4nwi4obtlw30\)\)/documents/historical/miconstitution1908.htm](http://www.legislature.mi.gov/(S(dmrnkg1zvpiy4nwi4obtlw30))/documents/historical/miconstitution1908.htm)

743

Article III; Section 4

744

Article III; Sections 2 & 3

Michigan (1908)

Suffrage Qualification Alternatives

U.S. Citizens

Residence

State: 6 months

Township: 30 days

Taxpayer

Elections upon questions regarding direct expenditure of public money or the issue of bonds

Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Students

Persons kept in public almshouses, asylums or prisons

Non-taxpayers

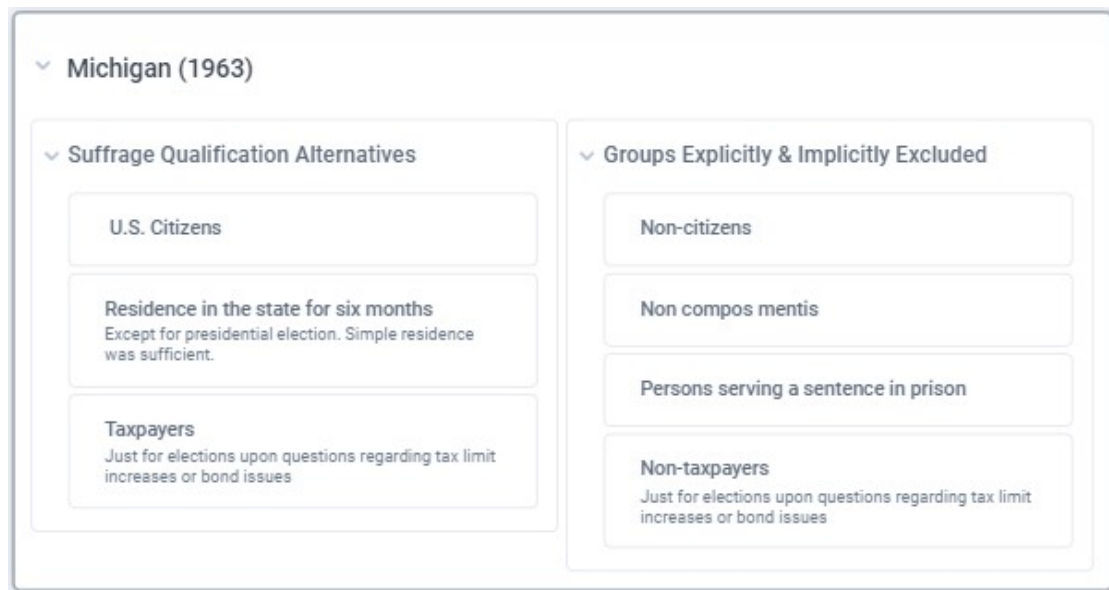
Elections upon questions regarding direct expenditure of public money or the issue of bonds

Michigan adopted a new constitution in 1963 that granted suffrage to all citizens of the United States who had resided in the state for six months (except for presidential elections for which a simple residence was sufficient).<sup>745</sup> The new constitution explicitly denied suffrage to *non compos mentis* and persons serving a sentence in jail.<sup>746</sup> Only taxpayers were allowed to vote in elections upon questions regarding tax limit increases or bond issues.<sup>747</sup>

<sup>745</sup> Article II; Section 1  
[http://www.legislature.mi.gov/\(S\(dmrnkg1zvpiy4nwi4obtlw30\)\)/documents/mcl/pdf/michiganconstitution1963asratified.pdf](http://www.legislature.mi.gov/(S(dmrnkg1zvpiy4nwi4obtlw30))/documents/mcl/pdf/michiganconstitution1963asratified.pdf)

<sup>746</sup> Article II; Section 2

<sup>747</sup> Article II; Section 6



Michigan's constitution as of 2019, still sets the minimum voting age in twenty-one years, even though the Twenty Sixth Amendment to the United States Constitution superseded and trumped that constitutional provision.<sup>748</sup>

<sup>748</sup> Article II; Section [http://www.legislature.mi.gov/\(S\(dmrnkg1zvpiy4nwi4obtlw30\)\)/documents/mcl/pdf/mcl-chap1.pdf](http://www.legislature.mi.gov/(S(dmrnkg1zvpiy4nwi4obtlw30))/documents/mcl/pdf/mcl-chap1.pdf)

## Appendix 27

### Constitutional Evolution of Suffrage Qualifications in Texas

Texas joined the Union in 1845 with a constitution that granted suffrage to free male citizens of the United States—or who at the time of the adoption were citizens of the Republic of Texas—who had resided in the state for one year and in the county, city or town for at least six months. It explicitly disqualified Indians who were not taxed, Africans, descendants of Africans, sailors, soldiers, and marines.<sup>749</sup>



Texas adopted a new constitution in 1866. It granted suffrage to free, white, male, citizens of the United States who had resided in the state for one year and in the county for six months. It explicitly excluded Indians not taxed, Africans, descendants of Africans, soldiers, sailors, and marines from the polls.<sup>750</sup>

<sup>749</sup>

<sup>750</sup> Article III; Section 1 <http://tarlton.law.utexas.edu/c.php?g=810765&p=5785177>

Texas (1866)

Suffrage Qualifications

U.S. Citizens

White male

Residence in the state for one year and in the county, city or town for at least six months

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Africans

Descendants of Africans

Indians not taxed

Soldiers, sailors, and marines

Texas in 1869 adopted a new constitution. It granted suffrage to every male citizen of the United States who had resided in the state for one year and in the county for sixty days before the election. It explicitly denied the right to vote to *non compos mentis*, persons kept in asylums, persons confined in prison, and persons who had been convicted of a felony.<sup>751</sup>

Texas (1869)

Suffrage Qualifications

U.S. Citizens

Males

Residence in the state for one year and in the county for at least sixty days

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Non compos mentis

Persons kept in asylums or prisons

Persons who had been convicted of a felony

<sup>751</sup> Article VI; Section 9 <https://tarltonapps.law.utexas.edu/constitutions/texas1869/a6>

Texas adopted a new constitution in 1876 that enfranchised male persons of foreign birth who had declared their intention to become American citizens, and who had resided in the state for one year and in the district or county for six months.<sup>752</sup> It explicitly denied the right of suffrage to persons under twenty-one years of age, *non compos mentis*, paupers, persons convicted of any felony, as well as soldiers, sailors, and marines.<sup>753</sup> The right to vote in elections regarding expenditure of money or assumption of debt was an exclusive prerogative for taxpayers.<sup>754</sup>

Texas (1876)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
U.S. Citizens	Women
Non-citizens who had declared their intention to become U.S. citizens	Non compos mentis
Male	Persons convicted of a felony
Residence in the state for one year and in the district or county for six months	Paupers
Taxpayers Just for elections upon questions regarding expenditure of money or assumption of debt	Soldiers, sailors, and marines
	Non-taxpayers Just for elections upon questions regarding expenditure of money or assumption of debt

Texas amended its constitution in 1902 to establish the payment of a poll tax as a requirement to exercise the right of suffrage.<sup>755</sup>

<sup>752</sup> Article VI; Section 2  
[https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/histx0001&id=217&men\\_tab=srchresults](https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/histx0001&id=217&men_tab=srchresults)

<sup>753</sup> Article VI; Section 1  
[https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/histx0001&id=217&men\\_tab=srchresults](https://heinonline-org.proxy.library.cornell.edu/HOL/Page?collection=cow&handle=hein.cow/histx0001&id=217&men_tab=srchresults)

<sup>754</sup> Article VI; Section 3

<sup>755</sup> Article VI; Section 2 [https://lrl.texas.gov/scanned/sessionLaws/27-0/SJR\\_3.pdf](https://lrl.texas.gov/scanned/sessionLaws/27-0/SJR_3.pdf)



▼ Texas (1902)

- ▼ Suffrage Qualifications
  - U.S. Citizens
  - Non-citizens who had declared their intention to become U.S. citizens
  - Male
  - Residence in the state for one year and in the district or county for six months
  - Payment of poll tax
  - Taxpayers
    - Just for elections upon questions regarding expenditure of money or assumption of debt
- ▼ Groups Explicitly and Implicitly Excluded
  - Women
  - Non compos mentis
  - Persons convicted of a felony
  - Paupers
  - Soldiers, sailors, and marines
  - Non-taxpayers
    - Just for elections upon questions regarding expenditure of money or assumption of debt

Non-citizens were allowed to vote in Texas until 1921 when the state amended its constitution to provide that only American citizens, including women, would be allowed to vote.<sup>756</sup>

<sup>756</sup> Article VI; Section 2 [https://lrl.texas.gov/scanned/sessionLaws/37-0/SJR\\_1.pdf](https://lrl.texas.gov/scanned/sessionLaws/37-0/SJR_1.pdf)

▼ Texas (1921)

▼ Suffrage Qualifications

- U.S. Citizens
- Residence in the state for one year and in the district or county for six months
- Payment of poll tax
- Taxpayers  
Just for elections upon questions regarding expenditure of money or assumption of debt

▼ Groups Explicitly and Implicitly Excluded

- Non-citizens
- Non compos mentis
- Persons convicted of a felony
- Paupers
- Soldiers, sailors, and marines
- Non-taxpayers  
Just for elections upon questions regarding expenditure of money or assumption of debt

The poll tax requirement was derogated in 1966 in Texas through a constitutional amendment.<sup>757</sup>

▼ Texas (1966)

▼ Suffrage Qualifications

- U.S. Citizens
- Residence in the state for one year and in the district or county for six months
- Taxpayers  
Just for elections upon questions regarding expenditure of money or assumption of debt

▼ Groups Explicitly and Implicitly Excluded

- Non-citizens
- Non compos mentis
- Persons convicted of a felony
- Paupers
- Soldiers, sailors, and marines
- Non-taxpayers  
Just for elections upon questions regarding expenditure of money or assumption of debt

<sup>757</sup> Article VI; Section 2 [https://lrl.texas.gov/scanned/sessionLaws/59-0/HJR\\_13.pdf](https://lrl.texas.gov/scanned/sessionLaws/59-0/HJR_13.pdf)

Suffrage qualifications did not change in Texas until 1997 when the state lowered the minimum voting age from twenty-one to eighteen years and reduced the residence requirement. In that year, paupers and non-taxpayers stopped being explicitly excluded from the right of suffrage.<sup>758</sup>

Texas (1997)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
U.S. Citizens	Non-citizens
Eighteen years of age	Non compos mentis
Residence in the state	Persons convicted of a felony

<sup>758</sup> Article VI; Section 1 [https://lrl.texas.gov/scanned/sessionLaws/75-0/HJR\\_104.pdf](https://lrl.texas.gov/scanned/sessionLaws/75-0/HJR_104.pdf)

## Appendix 28

### Constitutional Evolution of Suffrage Qualifications in Florida

Florida joined the Union in 1845 with a Constitution that had been in force since 1838. It granted suffrage to white, male citizens of the United States, who had resided in the state for two years and in the county for six months. It also required electors to be enrolled in the militia. Soldiers, sailors, and marines were explicitly excluded from the polls.<sup>759</sup>

Florida (1845)	
Suffrage Qualifications	Groups Explicitly Excluded
U.S. Citizens	Non.Citizens
White male	Women
Residence in the state for two years and in the county for at least six months	Africans
Enrollment in the militia	Descendants of Africans
	Soldiers, sailors, and marines

Florida in 1868 adopted a new constitution. It granted suffrage to all male citizens—regardless of their race, color, or previous condition—who had resided in the state for one year and in the county for six months. The constitution also allowed to vote non-citizens who had declared their intention to become U.S. citizens. Voters were required to take an oath of allegiance to the Constitution of the United States.<sup>760</sup>

<sup>759</sup> <https://fall.fsulawrc.com/crc/conhist/1838con.html>

<sup>760</sup> Article XIV; Section 1 <https://fall.fsulawrc.com/crc/conhist/1868con.html>

The new constitution explicitly restricted *non compos mentis*, persons under guardianship, and persons convicted of any felony (unless restored to civil rights).<sup>761</sup>

▼ Florida (1868)

▼ Suffrage Qualifications

▼ Males

U.S. Citizens

Non-Citizens had to declare their intention to become U.S. citizens

Oath of allegiance to the U.S. Constitution

Residence in the state for one year and in the county for at least six months

▼ Groups Explicitly Excluded

Women

Non compos mentis

Persons under guardianship

Persons convicted of any felony  
(unless restored to civil rights)

Florida adopted a new constitution in 1885 that legitimized poll taxes as a prerequisite for voting.<sup>762</sup>

▼ Florida (1885)

▼ Suffrage Qualifications

▼ Males

U.S. Citizen

Non-citizens who had declared their intention to become U.S. citizens

Residence in the state for one year and in the county for six months

Payment of poll tax

▼ Groups Explicitly and Implicitly Excluded

Women

Non compos mentis

Persons convicted of a felony

Persons under guardianship

<sup>761</sup> Article XIV; Section 2

<sup>762</sup> Article VI; Section 7 <https://www.floridamemory.com/items/show/189169?id=28>

In 1894, Florida amended its constitution to exclude non-citizens from the right of suffrage.<sup>763</sup>

▼ Florida (1894)	
▼ Suffrage Qualifications	▼ Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Males	Women
Residence in the state for one year and in the county for six months	Non compos mentis
Payment of poll tax	Persons convicted of a felony
	Persons under guardianship

Florida adopted a new constitution in 1968 that granted suffrage to citizens of the United States who had resided in the state for one year and in a county for six months.<sup>764</sup> It explicitly excluded from the right of suffrage persons convicted of a felony and *non compos mentis*.<sup>765</sup>

▼ Florida (1968)	
▼ Suffrage Qualifications	▼ Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Residence in the state for one year and in the county for six months	Non compos mentis
	Persons convicted of a felony

<sup>763</sup> Florida Voting Eligibility, Amendment 2 (October 1894) (Available at

<sup>764</sup> Article VI; Section 2 <https://ufdc.ufl.edu/AA00007510/00001/101j>

<sup>765</sup> Article VI; Section 4 <https://ufdc.ufl.edu/AA00007510/00001/103j>

In 1998 Florida amended its constitution to lower the minimum voting age from twenty-one years to eighteen, and reduced the minimum residence requirement.<sup>766</sup>

▼ Florida (1998)	
▼ Suffrage Qualifications	▼ Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Residence in the state	Non compos mentis
Eighteen years of age	Persons convicted of a felony

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<sup>766</sup> Article VI; Section 2 <https://dos.myflorida.com/media/693801/florida-constitution.pdf>

## Appendix 29

### Constitutional Evolution of Suffrage Qualifications in Iowa

Iowa was admitted to the Union in 1846. Its constitution deemed as qualified electors white male citizens of the United States who had resided in Iowa for at least six months and in the county for at least twenty-one days prior to the election. The constitution explicitly excluded sailors, soldiers, marines, non compos mentis, and persons convicted of any infamous crime.<sup>767</sup>

Iowa (1846)	
Suffrage Qualifications	Groups Explicitly Excluded
U.S. Citizens	Non.Citizens
White male	Women
Residence in the state for six months and in the county for at least twenty one days	People of color
	Soldiers, sailors, and marines
	Non compos mentis
	Persons convicted of infamous crimes

Iowa adopted a new constitution in 1857 that brought a very slight change on suffrage qualifications. It allowed to the polls white male citizens of the United States who had been residents of the state for six months and in the county for sixty days. It explicitly denied the right to vote to soldiers, sailors, marines, *non compos mentis*, and persons who had been convicted of any infamous crime.<sup>768</sup>

<sup>767</sup> <https://www.legis.iowa.gov/docs/publications/ICNST/780453.pdf>

<sup>768</sup> (Article 2) [http://publications.iowa.gov/9996/1/iowa\\_constitution\\_1857002.pdf](http://publications.iowa.gov/9996/1/iowa_constitution_1857002.pdf)





The language in the constitution of Iowa did not change to enfranchise women until 1967.<sup>770</sup>

Iowa (1967)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Residence in the state for six months and in the county for at least sixty days	Non compos mentis
	Persons convicted of infamous crimes
	Soldiers, sailors, and marines

Iowa amended again its constitution in 2006 to enfranchise soldiers, sailors, and marines.<sup>771</sup> Iowa never amended its constitution to lower the voting age from twenty-one years to eighteen.

Iowa (2006)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Residence in the state for six months and in the county for at least sixty days	Non compos mentis
	Persons convicted of infamous crimes

<sup>770</sup> Article II; Section 1 <https://www.legis.iowa.gov/docs/publications/iactc/62.1/CH0465.pdf>

<sup>771</sup> Article II; Section 5 <https://www.legis.iowa.gov/docs/publications/iactc/81.2/CH1188.pdf>

## Appendix 30

### Constitutional Evolution of Suffrage Qualifications in Wisconsin

Wisconsin joined the Union in 1848. Its original constitution granted suffrage to any male person who fell into one of the following categories:

- A. White citizens of the United States
- B. White aliens who had declared their intention to become citizens of the U.S.
- C. Persons of Indian blood who had been declared to be citizens of the U.S.
- D. Civilized persons of Indian descent who did not belong to any tribe.

Wisconsin's constitution explicitly excluded from the polls soldiers, sailors, marines, persons under guardianship, non compos mentis, and persons convicted of bribery, larceny, or any infamous crime.<sup>772</sup>

The screenshot displays a digital interface for Wisconsin's 1848 constitution. It features two main sections: 'Suffrage Qualification Alternatives' and 'Groups Explicitly Excluded'. The 'Suffrage Qualification Alternatives' section lists four categories: 'White, male U.S. Citizens', 'White, male aliens who had declared their intention to become citizens of the U.S.', 'Males of Indian blood who had been declared to be citizens of the U.S.', and 'Civilized males of Indian descent who did not belong to any tribe.' The 'Groups Explicitly Excluded' section lists six categories: 'Women', 'Blacks', 'Soldiers, sailors, and marines', 'Non compos mentis', 'Persons under guardianship', and 'Persons convicted of infamous crimes'.

Suffrage Qualification Alternatives	Groups Explicitly Excluded
White, male U.S. Citizens	Women
White, male aliens who had declared their intention to become citizens of the U.S.	Blacks
Males of Indian blood who had been declared to be citizens of the U.S.	Soldiers, sailors, and marines
Civilized males of Indian descent who did not belong to any tribe.	Non compos mentis
	Persons under guardianship
	Persons convicted of infamous crimes

<sup>772</sup> <http://content.wisconsinhistory.org/cdm/ref/collection/tp/id/71796>

Wisconsin enfranchised persons of color in 1882 by striking out the word “white” from the suffrage qualifications.<sup>773</sup>

Wisconsin (1882)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
<div>Males</div> <div>U.S. Citizen</div> <div>Civilized Indians who did not belong to any tribe</div> <div>Non-citizens who had declared their intention to become U.S. citizens</div>	<div>Women</div> <div>Non compos mentis</div> <div>Persons convicted of infamous crimes</div>

Wisconsin disenfranchised non-citizens in 1912 through a constitutional amendment adopted in 1908. It also set a minimum residence requirement in the state of one year and in the district of thirty days.<sup>774</sup> Soldiers, sailors, and marines were explicitly disenfranchised.<sup>775</sup>

Wisconsin (1912)	
Suffrage Qualifications	Groups Explicitly and Implicitly Excluded
<div>Males</div> <div>U.S. Citizen</div> <div>Civilized Indians who did not belong to any tribe</div> <div>Residence in the state for one year and in the district for thirty days</div>	<div>Non-citizens</div> <div>Women</div> <div>Non compos mentis</div> <div>Persons convicted of infamous crimes</div> <div>Soldiers, sailors, and marines</div>

<sup>773</sup> Article III; Section 1 <https://babel.hathitrust.org/cgi/pt?id=umn.31951d024260110&view=1up&seq=12>

<sup>774</sup> Article III; Section 1 <https://babel.hathitrust.org/cgi/pt?id=umn.31951d024260110&view=1up&seq=12>

<sup>775</sup> Article III; Section 5 <https://babel.hathitrust.org/cgi/pt?id=umn.31951d024260110&view=1up&seq=13>

Wisconsin granted the right of suffrage to women until 1934 through a constitutional amendment.<sup>776</sup>

▼ Wisconsin (1934)	
▼ Suffrage Qualifications	▼ Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Civilized Indians who did not belong to any tribe	Non compos mentis
Residence in the state for one year and in the district for thirty days	Persons convicted of infamous crimes
	Soldiers, sailors, and marines

In 1986, Wisconsin amended its constitution to lower the minimum voting age from twenty-one years to eighteen, reduce the residence requirement period, enfranchise Indians regardless of their membership to any tribe, and enfranchise soldiers, sailors, and marines.<sup>777</sup>

▼ Wisconsin (1986)	
▼ Suffrage Qualifications	▼ Groups Explicitly and Implicitly Excluded
U.S. Citizen	Non-citizens
Residence in the state	Non compos mentis
Eighteen years of age	Persons convicted of infamous crimes Unless restored to civil rights

<sup>776</sup> Article III; Section 1 <https://www.wisconsinhistory.org/Records/Article/CS419>

<sup>777</sup> Article III; Sections 1 and [https://ballotpedia.org/Wisconsin\\_Modernizing\\_Constitutional\\_Text\\_Amendment,\\_Question\\_2\\_\(April\\_1986\)](https://ballotpedia.org/Wisconsin_Modernizing_Constitutional_Text_Amendment,_Question_2_(April_1986))

## Appendix 31

### Constitutional Evolution of Suffrage Qualifications in California

California joined the Union in 1850 after the Mexican-American War. The peace treaty between Mexico and the United States—also known as the Treaty of Guadalupe Hidalgo<sup>778</sup>—granted to all of the 80,000 Mexicans, who suddenly found themselves subjects of a different country, citizenship and suffrage. California's first constitution, however, denied voting rights to non-white Mexicans. California argued (backed by American courts) that local laws trumped provisions of the treaty. (Rana, 119)

California's constitution—which was enacted one year prior to its admission to the Union—granted suffrage to white male citizens of the United States as well as to white male citizens of Mexico who had elected to become citizens of the United States, who had resided in the state for six months and in the county for thirty days. It explicitly excluded from the polls soldiers, sailors, marines, students, non compos mentis, persons convicted of any infamous crime and persons kept in public almshouses, asylums or prisons.<sup>779</sup>

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<sup>778</sup> Signed in Queretaro, Mexico, on May 30, 1848.

<sup>779</sup> <http://www.defendruralamerica.com/files/CAConstitution1849.pdf>

California (1850)

U.S. Citizens or Mexican citizens who had elected to become citizens of the U.S.

White males

Residence in the state for six months and in the county for thirty days

Non Citizens

Women

People of color

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of infamous crimes

Persons kept in public almshouses, asylums or prisons

California amended its constitution in 1894 to remove the distinction between white and non-white Mexicans who had become American citizens, disenfranchised persons of Chinese descent, denied suffrage to persons who could not read the Constitution in English and write their names (except for persons with physical disabilities and persons over sixty years of age), and extended the residence requirement from six months to one year in the state.<sup>780</sup>

<sup>780</sup> Article II; Section 1 (Amendment of 1894)  
<https://babel.hathitrust.org/cgi/pt?id=uc1.c025402113&view=1up&seq=36>

California (1894)

Suffrage Qualifications

U.S. Citizens

Males

Residence in the state for one year and in the county for ninety days

Ability to read the constitution in English and write their own names.

Exceptions:

Persons with physical disabilities

Persons over sixty years of age

Groups Explicitly & Implicitly Excluded

Non Citizens

Women

Persons of Chinese descent

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of infamous crimes

Persons kept in public almshouses, asylums or prisons

California amended its constitution in 1911 to enfranchise women.<sup>781</sup>

<sup>781</sup> Article II, Section 1 (Amendment of 1911)  
<https://babel.hathitrust.org/cgi/pt?id=uc1.c025402113&view=1up&seq=35>



California (1911)

Suffrage Qualifications

U.S. Citizens

Residence in the state for one year and in the county for ninety days

Ability to read the constitution in English and write their own names.

Exceptions:

Persons with physical disabilities

Persons over sixty years of age

Groups Explicitly & Implicitly Excluded

Non Citizens

Persons of Chinese descent

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of infamous crimes

Persons kept in public almshouses, asylums or prisons

In 1950 California amended its constitution to remove obsolete language about persons of Chinese descent. The disqualification for Chinese still remained legal, but they switched the word Chinese to “alien ineligible to citizenship”.<sup>782</sup>

<sup>782</sup> Article II; Section 1 (Amendment of 1950)  
<https://babel.hathitrust.org/cgi/pt?id=uiug.30112071756289&view=1up&seq=35>

California (1950)

Suffrage Qualifications

U.S. Citizens

Residence in the state for one year and in the county for ninety days

Ability to read the constitution in English and write their own names.
Exceptions:

Persons with physical disabilities

Persons over sixty years of age

Groups Explicitly & Implicitly Excluded

Non Citizens

Aliens ineligible to citizenship

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of infamous crimes

Persons kept in public almshouses, asylums or prisons

California amended its constitution in 1958 to allow voters to participate in presidential and vice-presidential elections, as long as they had resided in the state for fifty four days.<sup>783</sup>

<sup>783</sup> Article II; Section 1 1/2 (Amendment of 1958)  
<https://babel.hathitrust.org/cgi/pt?id=uiug.30112071756289&view=1up&seq=36>

California (1958)

Suffrage Qualifications

U.S. Citizens

Residence in the state for one year and in the county for ninety days

Presidential and Vice-Presidential Elections  
54 days

Ability to read the constitution in English and write their own names.  
Exceptions:

Persons with physical disabilities

Persons over sixty years of age

Groups Explicitly & Implicitly Excluded

Non Citizens

Aliens ineligible to citizenship

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of infamous crimes

Persons kept in public almshouses, asylums or prisons

California amended its constitution in 1976 to lower the voting age from twenty-one to eighteen years of age and reduced the residence requirement. It also removed the restriction on aliens ineligible to vote, students, soldiers, sailors, marines, and persons kept in almshouses and asylums. The literacy test was also removed in this amendment.<sup>784</sup>

California (1976)

Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

Groups Explicitly & Implicitly Excluded

Non Citizens

Non compos mentis

Persons convicted of infamous crimes

Persons kept in public prisons

<sup>784</sup> Article II; Sections 1 & 2 (Amendment of 1976)  
[https://www.senate.ca.gov/sites/senate.ca.gov/files/the\\_constitutions\\_of\\_california\\_and\\_the\\_united\\_states2.pdf](https://www.senate.ca.gov/sites/senate.ca.gov/files/the_constitutions_of_california_and_the_united_states2.pdf)

## Appendix 32

### Constitutional Evolution of Suffrage Qualifications in Minnesota

Minnesota joined the Union in 1857. Its constitution restricted suffrage to male persons who had resided in the United States for one year and in the state for four months, and who belonged to any of the following groups: 1. White citizens of the United States; 2. Non-citizens who had declared their intention to become U.S. citizens; 3. Persons of mixed white and Indian blood who had “adopted the customs and habits of civilization”; 4. Indians who had adopted the language, customs and habits of civilization after examination before any District Court. The Minnesota constitution explicitly denied the right to vote to soldiers, sailors, marines, students, *non compos mentis*, persons convicted of treason or felony (unless restored to civil rights), and persons under guardianship.<sup>785</sup>

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<sup>785</sup> (Article 7) <http://www.mnhs.org/library/constitution/pdf/democraticversion.pdf>

Minnesota (1857)

Suffrage Qualifications

Residence in the country for one year and in the state for four months

White U.S. citizens

Non-citizens who had declared their intention to become U.S. citizens

Persons of mixed white and Indian blood who had "adopted the customs and habits of civilization"

Indians who had adopted the language, customs and habits of civilization after examination before any District Court

Groups Explicitly & Implicitly Excluded

Non-Citizens who had not declared their intention to become U.S. citizens

Women

Blacks

Indians who hadn't assimilated to the U.S. culture

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

Persons of color in Minnesota were not allowed to vote until 1868, after the adoption of a constitutional amendment in that year.<sup>786</sup>

<sup>786</sup> Article VII; Section 1 <https://www.revisor.mn.gov/laws/1868/0/General+Laws/Chapter/106/pdf/>

Minnesota (1868)

Suffrage Qualifications

Residence in the country for one year and in the state for four months

Male

U.S. citizens

Non-citizens who had declared their intention to become U.S. citizens

Persons of mixed white and Indian blood who had "adopted the customs and habits of civilization"

Indians who had adopted the language, customs and habits of civilization after examination before any District Court

Groups Explicitly & Implicitly Excluded

Non-Citizens who had not declared their intention to become U.S. citizens

Women

Indians who hadn't assimilated to the U.S. culture

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

Minnesota in 1875, extended limited voting rights for women. The state amended its constitution to enfranchise women in school affairs.<sup>787</sup>

<sup>787</sup> An act to authorize the legislature to grant women suffrage in school affairs (1875) <https://www.revisor.mn.gov/laws/1875/0/General+Laws/Chapter/2/pdf/>

Minnesota (1875)

Suffrage Qualifications

Residence in the country for one year and in the state for four months

Males

U.S. citizens

Non-citizens who had declared their intention to become U.S. citizens

Persons of mixed white and Indian blood who had "adopted the customs and habits of civilization"

Indians who had adopted the language, customs and habits of civilization after examination before any District Court

Groups Explicitly & Implicitly Excluded

Non-Citizens who had not declared their intention to become U.S. citizens

Women  
Except in school elections

Indians who hadn't assimilated to the U.S. culture

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

In 1896, Minnesota amended its constitution to disenfranchise non-citizens and to extend the residence requirement in the state from four to six months.<sup>788</sup> Two years later, in 1898, the state extended the limited suffrage for women allowing them to vote for library boards.<sup>789</sup>

<sup>788</sup> An Act to prohibit aliens from voting. (1896)  
<https://www.revisor.mn.gov/laws/1895/0/General+Laws/Chapter/3/pdf/>

<sup>789</sup> An Act To permit women to vote for and serve on library boards (1898)  
<https://www.revisor.mn.gov/laws/1897/0/General+Laws/Chapter/175/pdf/>

Minnesota (1898)

Suffrage Qualifications

Residence in the state for six months

Males

U.S. citizens

Persons of mixed white and Indian blood who had "adopted the customs and habits of civilization"

Indians who had adopted the language, customs and habits of civilization after examination before any District Court

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women  
Except in school elections & library boards

Indians who hadn't assimilated to the U.S. culture

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

In 1960, Minnesota amended its constitution to remove the obsolete prohibitions against Indian and women suffrage.<sup>790</sup>

<sup>790</sup> An Act eliminating obsolete provisions on the voting rights of persons of Indian blood. (1960) <https://www.revisor.mn.gov/laws/1959/0/Session+Law/Chapter/696/pdf/>



Minnesota (1960)

Suffrage Qualifications

U.S. citizens

Residence in the state for six months

Groups Explicitly & Implicitly Excluded

Non-Citizens

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

In 1970, Minnesota reduced the voting age qualification from twenty-one to nineteen years of age.<sup>791</sup> Four years later, in 1974, the state amended its constitution to reduce the voting age to eighteen years of age. It also reduced the residence requirement to thirty days.<sup>792</sup>

<sup>791</sup> An Act to reduce voting age requirement from 21 to 19 years (1970) <https://www.revisor.mn.gov/laws/1969/0/Session+Law/Chapter/996/pdf/>

<sup>792</sup> An Act to revise organization and language of constitution (1974) <https://www.revisor.mn.gov/laws/1974/0/Session+Law/Chapter/409/pdf/>

▼ Minnesota (1974)

▼ Suffrage Qualifications

U.S. citizens

Residence in the state for thirty days

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Students

Persons under guardianship

## Appendix 33

### Constitutional Evolution of Suffrage Qualifications in Oregon

Oregon in 1859 became the last state to join the Union in that decade. Oregon's constitution—which was drafted two years earlier—granted suffrage to white male citizens who had resided in the state for six months. It also allowed white, male, non-citizens who had resided in the United States for one year and in the Oregon for six months as long as they had declared their intention to become citizens of the United States at least one year prior to the election. Oregon became the first state to explicitly exclude Chinese from the polls along with blacks, mulattoes, soldiers, sailors, marines, students, *non compos mentis*, or persons convicted for a crime punishable by imprisonment.<sup>793</sup>

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<sup>793</sup> (Article 2)  
<https://sos.oregon.gov/archives/exhibits/constitution/Documents/transcribed-1857-oregon-constitution.pdf>

▼ **Oregon (1859)**  
Constitution adopted in 1857

▼ **Suffrage Qualifications**

- ▼ **White males**
  - ▼ **U.S. Citizens**
    - Residence in the state for six months
  - ▼ **Non-Citizens**
    - Residence in the U.S. for one year
    - Residence in the state for six months
    - Declare intention to become a U.S. citizen one year previous to the election.

▼ **Groups Explicitly Excluded**

- Non-Citizens who had not declared their intention to become U.S. citizens
- Women
- Blacks
- Mulattoes
- Chinese
- Non compos mentis
- Soldiers, sailors, and marines
- Students
- Persons convicted of a crime punishable by imprisonment

Oregon amended its constitution in 1912 to enfranchise women in the state.<sup>794</sup>

<sup>794</sup> Article II; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015030797412&view=1up&seq=6>

Oregon (1912)	
Suffrage Qualifications	White U.S. Citizens
	Residence in the state for six months
	White Non-citizens
	Residence in the U.S. for one year Residence in the state for six months Declare intention to become a U.S. citizen one year previous to the election.
Groups Explicitly Excluded	
Blacks	
Mulattoes	
Chinese	
Non compos mentis	
Soldiers, sailors, and marines	
Students	
Persons convicted of a crime punishable by imprisonment	

Two years later, in 1914, Oregon amended its constitution to disenfranchise non-citizens.<sup>795</sup>

795	Article	II;	Section
	<a href="https://ballotpedia.org/Oregon_American_Citizenship_Required_to_Vote,_Measure_1_(1914)">https://ballotpedia.org/Oregon_American_Citizenship_Required_to_Vote,_Measure_1_(1914)</a>		

Oregon (1914)

Suffrage Qualifications

White U.S. Citizens

Residence in the state for six months

Groups Explicitly Excluded

Non-citizens

Blacks

Mulattoes

Chinese

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of a crime punishable by imprisonment

Oregon’s constitution did not allow Blacks, mulattoes, and Chinese to the polls until 1927, when the state amended its constitution.<sup>796</sup>

<sup>796</sup> Article II; Section 6  
[https://ballotpedia.org/Oregon\\_Suffrage\\_for\\_%22Negroes,\\_Chinamen\\_and\\_Mulattoes%22,\\_Measure\\_1\\_\(June\\_1927\)](https://ballotpedia.org/Oregon_Suffrage_for_%22Negroes,_Chinamen_and_Mulattoes%22,_Measure_1_(June_1927))

Oregon (1927)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months

Groups Explicitly Excluded

Non-citizens

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of a crime punishable by imprisonment

In 1972, Oregon lowered the minimum voting age from twenty-one years to eighteen, reduced the state residency requirement from six months to thirty days and eliminated the requirement that every voter should be able to read and write the English language.<sup>797</sup>

Oregon (1972)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months

Eighteen years of age

Groups Explicitly Excluded

Non-citizens

Non compos mentis

Soldiers, sailors, and marines

Students

Persons convicted of a crime punishable by imprisonment

<sup>797</sup> Oregon State Voter Qualifications Conform with Federal Qualifications, Measure 10 (1974) (Available at [https://ballotpedia.org/Oregon\\_State\\_Voter\\_Qualifications\\_Conform\\_with\\_Federal\\_Qualifications\\_Measure\\_10\\_\(1974\)](https://ballotpedia.org/Oregon_State_Voter_Qualifications_Conform_with_Federal_Qualifications_Measure_10_(1974)); Accessed on January 13, 2020)

## Appendix 34

### Constitutional Evolution of Suffrage Qualifications in Kansas

Kansas joined the Union in 1861 with a Constitution drafted in 1859. This constitution restricted suffrage to white males who had resided in Kansas for at least six months and in the township at least thirty days. It granted suffrage to non-citizens who had declared their intention to become citizens of the United States. It explicitly denied the right to vote to soldiers, sailors, marines, persons under guardianship, *non compos mentis*, and persons convicted of treason or felony (unless restored to civil rights).<sup>798</sup>

<b>▼ Kansas (1861)</b> Constitution adopted in 1859	
<b>▼ Suffrage Qualifications</b>	<b>▼ Groups Explicitly Excluded</b>
White males	Non-Citizens who had not declared their intention to become U.S. citizens
Residence in the state for six months and in the township for thirty days	Women
Non-citizens citizens required to declare their intention to become U.S. citizens.	People of color
	Non compos mentis
	Soldiers, sailors, and marines
	Persons convicted of treason or felony Exception: Unless restored to civil rights

In 1867, Kansas amended its constitution to extend the groups explicitly excluded from suffrage. After such amendment, persons dishonorably discharged from the

<sup>798</sup> (Article V) <https://archive.org/details/kansasconstituti00kans/page/582>



service of the United States, students, and persons guilty of giving, receiving, or offering a bribe were denied access to the polls.<sup>799</sup>

▼ Kansas (1872)

▼ Suffrage Qualifications

White males

Residence in the state for six months and in the township for thirty days

Non-citizens citizens required to declare their intention to become U.S. citizens.

▼ Groups Explicitly Excluded

Non-Citizens who had not declared their intention to become U.S. citizens

Women

People of color

Non compos mentis

Soldiers, sailors, and marines

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Persons dishonorably discharged from the service of the United States

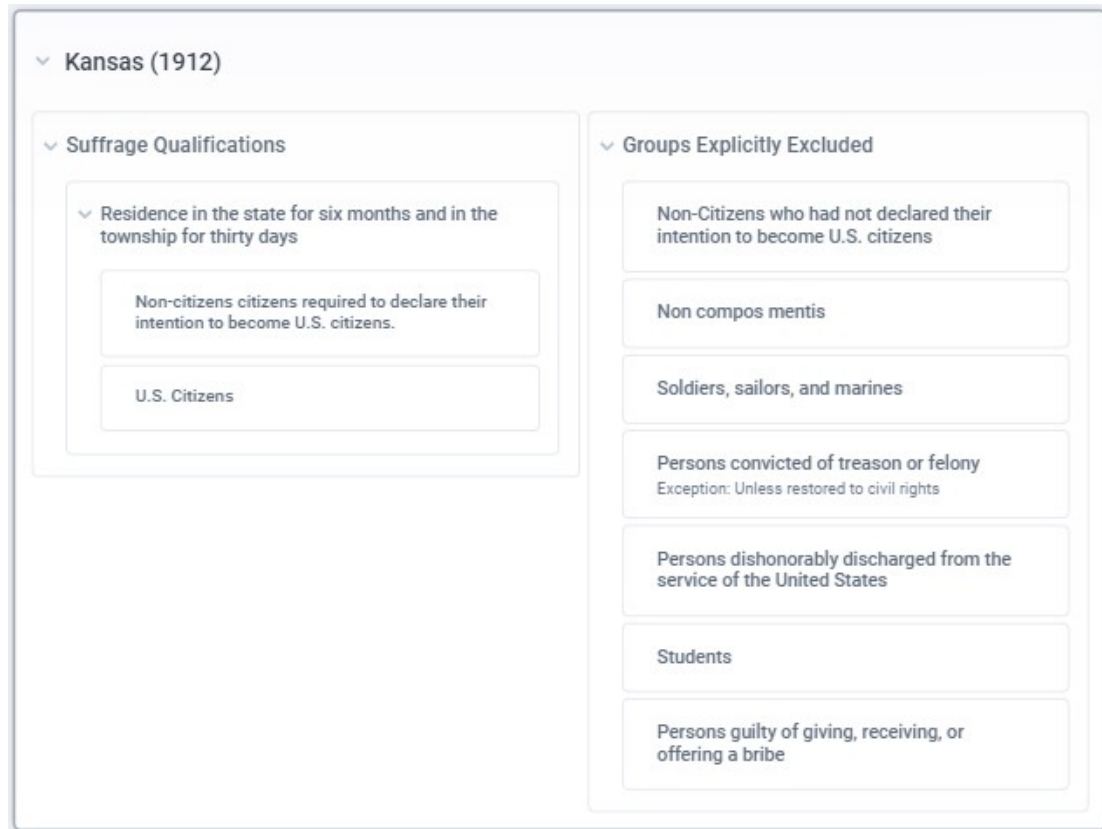
Students

Persons guilty of giving, receiving, or offering a bribe

In 1912, Kansas amended its constitution to grant full suffrage to women and people of color.<sup>800</sup>

<sup>799</sup> Article V; Sections 2 & 3 <https://babel.hathitrust.org/cgi/pt?id=nyp.33433009412077&view=1up&seq=75>

<sup>800</sup> Article V; Section 2 <https://www.kshs.org/kansapedia/women-s-suffrage/14524>



Non-citizens in Kansas were disenfranchised in 1918 after the state adopted an amendment to its constitution.

Kansas (1918)	
<div>Suffrage Qualifications</div> <div>U.S. Citizens</div> <div>Residence in the state for six months and in the township for thirty days</div>	<div>Groups Explicitly Excluded</div> <div>Non-Citizens</div> <div>Non compos mentis</div> <div>Soldiers, sailors, and marines</div> <div>Persons convicted of treason or felony Exception: Unless restored to civil rights</div> <div>Persons dishonorably discharged from the service of the United States</div> <div>Students</div> <div>Persons guilty of giving, receiving, or offering a bribe</div>

In 1971, Kansas amended its constitution to lower the voting age from twenty-one years to eighteen, and reduce the minimum residence requirement to vote.<sup>801</sup>

<sup>801</sup> Kansas Voter Qualifications, Amendment 1 (1971); [https://ballotpedia.org/Kansas\\_Voter\\_Qualifications\\_Amendment\\_1\\_\(1971\)](https://ballotpedia.org/Kansas_Voter_Qualifications_Amendment_1_(1971))



Three years later, in 1974, Kansas amended its constitution to reduce the legitimate reasons to disqualify a person from the right of suffrage. After such amendment, only *non compos mentis*, and persons convicted of a felony, unless restored to civil rights, were prohibited from voting.<sup>802</sup>

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<sup>802</sup> Kansas Right to Vote, Amendment 3 (1974) (Available at [https://ballotpedia.org/Kansas\\_Right\\_to\\_Vote,\\_Amendment\\_3\\_\(1974\)](https://ballotpedia.org/Kansas_Right_to_Vote,_Amendment_3_(1974)); Accessed on January 14, 2020)



## Appendix 35

### Constitutional Evolution of Suffrage Qualifications in West Virginia

In 1863 West Virginia seceded from Virginia to join the Union as an independent state. Its constitution, which was adopted two years earlier, granted suffrage to white male citizens of the State who had resided in West Virginia for one year and in the county for thirty days. The only group of people explicitly excluded from the polls were *non compos mentis*, paupers, and persons convicted of treason, bribery or felony.<sup>804</sup>

West Virginia (1863)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	Women
Residence in the state for one year and in the county for thirty days	Persons of color
	Non compos mentis
	Paupers
	Persons convicted of treason, bribery or felony

West Virginia adopted a second constitution in 1872. This constitution granted suffrage to male citizens of West Virginia who had resided in the state for one year and in the county for sixty days. It explicitly denied access to the polls to *non compos mentis*, paupers, soldiers, sailors, marines, persons convicted of treason, felony, or

<sup>804</sup> Article III; <https://babel.hathitrust.org/cgi/pt?id=mdp.35112203916012&view=1up&seq=12>

It simply denied suffrage to minors.<sup>805</sup>

West Virginia (1872)	
<p>▼ Suffrage Qualifications</p> <p>Citizens of the state</p> <p>Male</p> <p>▼ Residence</p> <p>State: 1 year</p> <p>County: 60 days</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-Citizens</p> <p>Women</p> <p>Non compos mentis</p> <p>Persons convicted of treason, felony, or bribery in an election</p> <p>Soldiers, sailors, and marines</p> <p>Paupers</p>

West Virginia did not amend the state's constitution suffrage qualifications until 1994 when it extended suffrage to women and paupers. It also reduced the residence duration requirement from one year to thirty days.<sup>806</sup>

<sup>805</sup> Article IV; Section 1 <https://babel.hathitrust.org/cgi/pt?id=hvd.32044032338360&view=1up&seq=15>

806	West Virginia	Repeal	Archaic Language, Amendment 1	(1994)
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[https://ballotpedia.org/West\\_Virginia\\_Repeal\\_Archaic\\_Language, Amendment 1 \(1994\)](https://ballotpedia.org/West_Virginia_Repeal_Archaic_Language,_Amendment_1_(1994))

▼ West Virginia (1994)

▼ Suffrage Qualifications

Citizens of the state

Residence in the state for thirty days

▼ Groups Explicitly & Implicitly Excluded

Non-Citizens

Non compos mentis

Persons convicted of treason, felony, or  
bribery in an election

Soldiers, sailors, and marines



## Appendix 36

### Constitutional Evolution of Suffrage Qualifications in Nevada

Nevada joined the Union in 1864. Its first constitution granted suffrage to white male citizens of the United States who had resided in the state for six months and in the county for thirty days.<sup>807</sup> Voters were also required to pay an annual poll tax of no less than two nor exceeding four dollars.<sup>808</sup> It explicitly denied suffrage to sailors, soldiers, marines, *non compos mentis*, persons living in almshouses, asylums or prisons, persons convicted of treason or felony (unless restores to civil rights), and to persons who had borne arms against the United States under the Confederate States.

Nevada (1864)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
White males	Women
Residence in the state for six months and in the county for thirty days	Persons of color
Pay a poll tax (\$2 - \$4)	Non compos mentis
	Persons convicted of treason or felony Exception: Unless restored to civil rights
	Soldiers, sailors, and marines
	Persons living in almshouses, asylums or prisons
	Persons who had borne arms against the United States under the Confederate States

<sup>807</sup> Article II, Sections 1 & 2  
<https://babel.hathitrust.org/cgi/pt?id=uc2.ark:/13960/t9w097t2c&view=1up&seq=857>

<sup>808</sup> Article II; Section 7

Sixteen years later, in 1880, Nevada amended its constitution by striking the word *white* before the word *male* in the first section of Article II.<sup>809</sup> Interestingly, it also added a new article to the constitution that forbid to withheld the rights of suffrage and office-holding from any male citizen of the United States by reason of his color or previous condition of servitude.<sup>810</sup>

Nevada (1880)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Males	Women
Residence in the state for six months and in the county for thirty days	Non compos mentis
Pay a poll tax (\$2 - \$4)	Persons convicted of treason or felony Exception: Unless restored to civil rights
	Persons living in almshouses, asylums or prisons
	Students
	Soldiers, sailors, and marines

It was not until the XX century that Nevada amended its constitution again to modify the qualifications for suffrage. In 1914 Nevada's constitution extended suffrage to women.<sup>811</sup>

<sup>809</sup> Article II, Section 1 <https://babel.hathitrust.org/cgi/pt?id=njp.32101068099231&view=1up&seq=13>

<sup>810</sup> Article XVIII, Section 1

<sup>811</sup> Article II; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015030831450&view=1up&seq=35>

Nevada (1914)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for six months and in the county for thirty days	Non compos mentis
Pay a poll tax (\$2 - \$4)	Persons convicted of treason or felony Exception: Unless restored to civil rights
	Soldiers, sailors, and marines
	Persons living in almshouses, asylums or prisons
	Students

In 1971 Nevada amended its constitution again to lower the voting age from twenty-one years of age to eighteen.<sup>812</sup> In that year, Nevada repealed the poll tax requirement.<sup>813</sup>

Nevada (1971)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for six months and in the county for thirty days	Non compos mentis
Eighteen years of age	Persons convicted of treason or felony Exception: Unless restored to civil rights
	Soldiers, sailors, and marines
	Persons living in almshouses, asylums or prisons
	Students

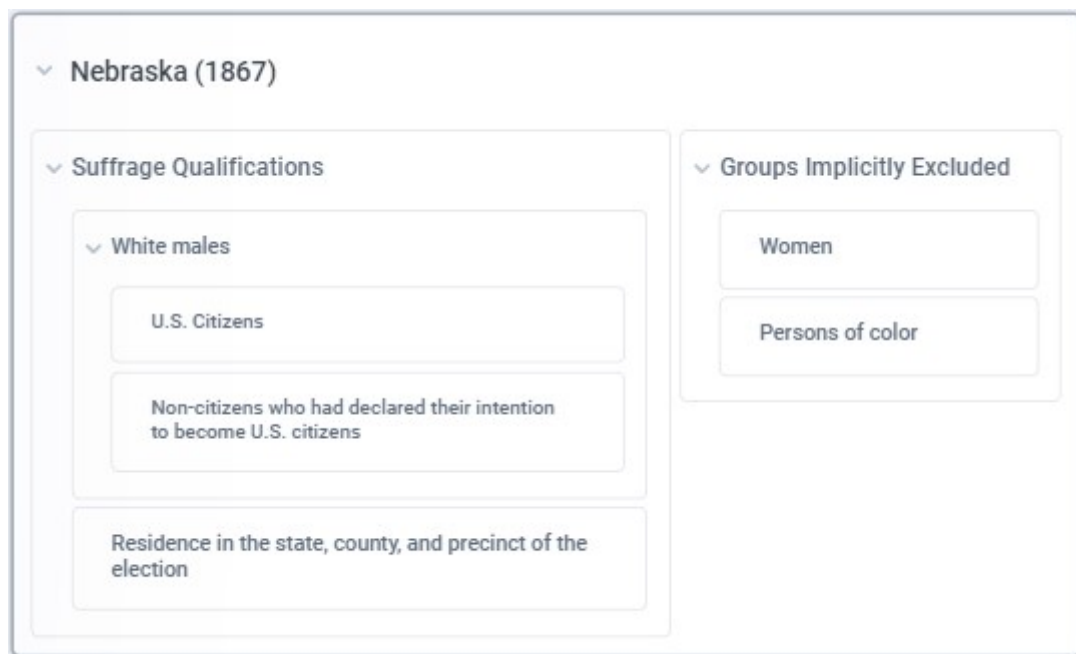
<sup>812</sup> Article II; Section 1 <https://www.leg.state.nv.us/Statutes/56th/Stats1971R01.html#Stats1971R01page2263>

<sup>813</sup> Article II; Section 7 <https://www.leg.state.nv.us/Statutes/53rd/Stats1965R01.html#Stats1965R01page1495>

## Appendix 37

### Constitutional Evolution of Suffrage Qualifications in Nebraska

Nebraska in 1867 joined the Union with a constitution drafted the previous year. This constitution simply granted suffrage to white male citizens of the United States and non-citizens who had declared their intention to become citizens who resided in the state, county, and precinct.<sup>814</sup> Interestingly, this constitution did not explicitly denied the right to vote to any group of people.



A few years afterwards, in 1871, Nebraska adopted a new constitution. There were two relevant changes regarding suffrage: 1) It enfranchised people of color; 2) It explicitly exclude from the polls persons under guardianship, *non compos mentis*, and persons convicted of treason or felony (unless restored to civil rights).<sup>815</sup>

<sup>814</sup> Article II; Section 2 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105049094&view=1up&seq=130>

<sup>815</sup> Article VI; Sections 1 & 2 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105049094&view=1up&seq=130>

Nebraska (1871)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence in the state, county, and precinct of the election

Groups Explicitly & Implicitly Excluded

Women

Non compos mentis

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Once again, in 1875 Nebraska replaced its constitution with a new one. The new constitution simply set a six-month residence requirement in the state.<sup>816</sup>

Nebraska (1875)

Suffrage Qualifications

Males

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence in the state for six months

Groups Explicitly & Implicitly Excluded

Women

Non compos mentis

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Nebraska's suffrage qualifications remained the same for the next forty five years. In 1920 the state amended its constitution to grant suffrage to women while disfranchising non-citizens.<sup>817</sup>

<sup>816</sup> Article VII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105049094&view=1up&seq=131>

<sup>817</sup> Article VII; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105049094&view=1up&seq=131>

Nebraska (1920)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months

Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Nebraska, in 1970, lowered the minimum voting age from twenty-one years to twenty.<sup>818</sup>

Nebraska (1970)

Suffrage Qualifications

U.S. Citizens

Residence in the state for six months

Twenty years of age

Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

Two years later, in 1972, Nebraska amended its constitution to lower the minimum voting age to eighteen years,<sup>819</sup> and reduce the minimum residence requirement.<sup>820</sup>

<sup>818</sup> Nebraska Voting Age, Amendment 1 (1970) (Available at [https://ballotpedia.org/Nebraska\\_Voting\\_Age\\_Amendment\\_1\\_\(1970\)](https://ballotpedia.org/Nebraska_Voting_Age_Amendment_1_(1970)); Accessed on January 14, 2020)

<sup>819</sup> Nebraska Voting Age, Amendment 8 (May 1972) (Available at [https://ballotpedia.org/Nebraska\\_Voting\\_Age\\_Amendment\\_8\\_\(May\\_1972\)](https://ballotpedia.org/Nebraska_Voting_Age_Amendment_8_(May_1972)); Accessed on January 14, 2020)

<sup>820</sup> Nebraska Resident Requirements for Voters, Amendment 15a (May 1972) (Available at <https://nebraskalegislature.gov/FloorDocs/Current/PDF/Constitution/constitution.pdf>; Accessed on January 14, 2020) Nebraska Voting Age, Amendment 8 (May 1972)

▼ Nebraska (1972)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

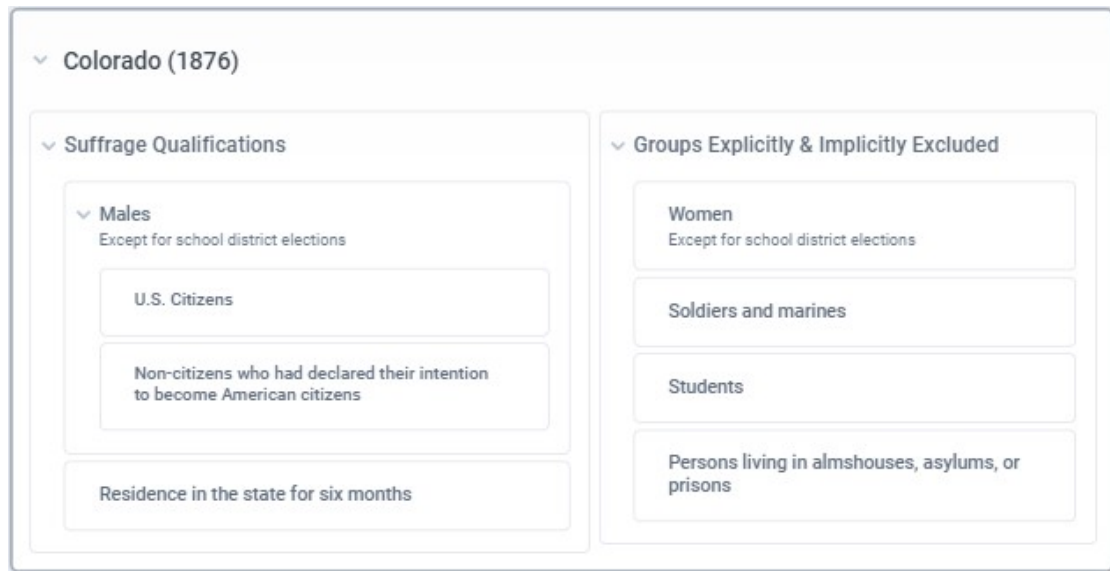
Non compos mentis

Persons convicted of treason or felony  
Exception: Unless restored to civil rights

## Appendix 38

### Constitutional Evolution of Suffrage Qualifications in Colorado

Colorado joined the Union in 1876. Its first constitution granted suffrage to male citizens of the United States and non-citizens who had declared their intention to become American citizens. Voters were only required to have resided in the state for six months. Interestingly, Colorado granted suffrage to women exclusively for school district elections.<sup>821</sup> The constitution explicitly excluded from suffrage soldiers, marines, students, and persons living in almshouses, asylums, or prisons.<sup>822</sup>



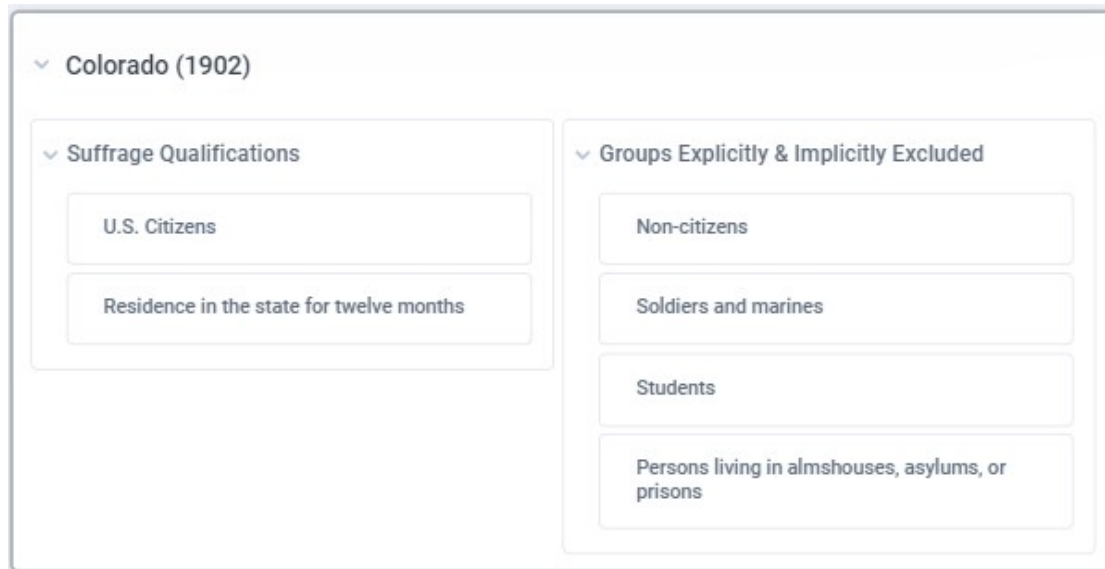
In 1902, Colorado amended its constitution to extend full suffrage to women and to disenfranchise non-citizens. It also extended the residence requirement from six to twelve months.<sup>823</sup>

<sup>821</sup> Article VII; Section I <https://babel.hathitrust.org/cgi/pt?id=nyp.33433009074000&view=1up&seq=69>

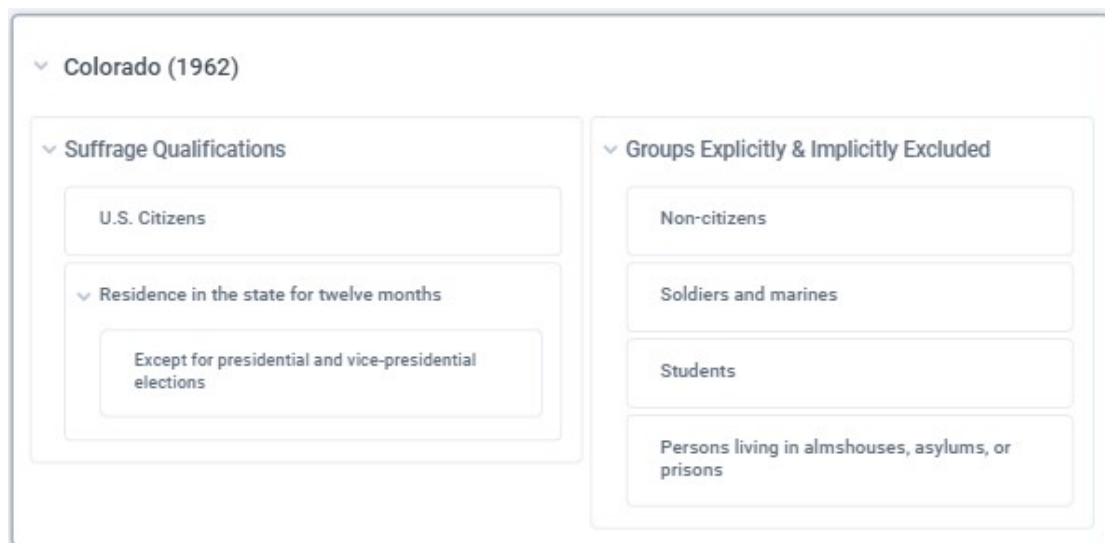
<sup>822</sup> Article VII; Section 4

<sup>823</sup> Article VII; Section I <https://babel.hathitrust.org/cgi/pt?id=njp.32101068097185&view=1up&seq=62>





Colorado in 1962 amended its constitution to extend the right to vote for presidential and vice-presidential electors to citizens of the United States who resided in Colorado, regardless of the duration of their residence.<sup>824</sup>



In 1990, Colorado amended its constitution to reduce the voting age qualification from twenty-one years to eighteen. In 2004, it extended suffrage to persons who were living in almshouses. It also removed the residence duration qualification.<sup>825</sup>

<sup>824</sup> Measure 4, 1962 <https://www.law.du.edu/images/uploads/library/CLC/61.pdf>

<sup>825</sup> Referendum B (2004) [https://ballotpedia.org/Colorado\\_Obsolete\\_Constitutional\\_Provisions,\\_Referendum\\_B\\_\(2004\)](https://ballotpedia.org/Colorado_Obsolete_Constitutional_Provisions,_Referendum_B_(2004))

▼ Colorado (2004)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers and marines

Students

Persons living in asylums, or prisons

## Appendix 39

### Constitutional Evolution of Suffrage Qualifications in Montana

Montana joined the union in 1889. Its original constitution granted suffrage to male citizens of the United States who had resided in the state for one year. Non-citizens were granted suffrage just for the following five years after the adoption of the constitution.<sup>826</sup> Women were granted suffrage just for school district elections and tax related issues.<sup>827</sup> It explicitly denied suffrage to convicted felons, *non compos mentis*, students, soldiers, sailors, marines, and persons who lived in almshouses, asylums or prisons.<sup>828</sup>

Montana (1889)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens After five years since the adoption of the Constitution
Males	Women Except for school district elections and tax-related issues
Residence in the state for one year	Soldiers, sailors, and marines
	Students
	Persons living in almshouses, asylums, or prisons
	Convicted felons
	Non compos mentis

<sup>826</sup> Article IX; Section 2 <https://courts.mt.gov/portals/189/library/docs/1889cons.pdf>

<sup>827</sup> Article IX; Sections 10 & 12

<sup>828</sup> Article IX; Sections 3, 6 & 7

Montana enfranchised women in 1914, four years before the 19th Amendment gave women nationwide the right to vote.<sup>829</sup>

▼ Montana (1914)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state for one year

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Students

Persons living in almshouses, asylums, or prisons

Convicted felons

Non compos mentis

Montana in 1972 adopted a new constitution that lowered the voting age qualification from twenty-one years of age to eighteen. It also reduced the residence requirement. It only explicitly excluded from suffrage convicted felons and *non compos mentis*.<sup>830</sup>

▼ Montana (1972)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Convicted felons

Non compos mentis

<sup>829</sup> Article IX; Section 2 <https://babel.hathitrust.org/cgi/pt?id=uc2.ark:/13960/t9668bw7d&view=1up&seq=17>

<sup>830</sup> Article IV; Section 2 <https://leg.mt.gov/bills/mca/CONSTITUTION/IV/2.htm>

## Appendix 40

### Constitutional Evolution of Suffrage Qualifications in North Dakota

North Dakota joined the Union in 1889 with a constitution that granted suffrage to male citizens of the United States and non-citizens who had declared their intention of becoming U.S. citizens who had resided in the state for one year, in the county for six months, and in the precinct for ninety days. Non-citizens were granted suffrage as long as they had declared their intention to become citizens of the United States. Indians were allowed to vote as long as they had severed their tribal relations two years next preceding the election.<sup>831</sup> Women were granted suffrage upon all questions of school matters.<sup>832</sup> Soldiers, sailors, marines, *non compos mentis*, persons under guardianship, and persons convicted of treason or felony (unless restored to civil rights) were explicitly excluded from the polls.<sup>833</sup>

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<sup>831</sup> Article V; Section 122 <https://babel.hathitrust.org/cgi/pt?id=njp.32101067710655&view=1up&seq=25>

<sup>832</sup> Article V; Section 128

<sup>833</sup> Article V; Section 127

North Dakota (1889)	
<div>Suffrage Qualifications</div> <div> <div>Males</div> <div> <div>U.S. Citizens</div> <div>Non-citizens who had declared their intention to become U.S. citizens</div> </div> </div> <div> <div>Residence</div> <div> <div>State 1 year</div> <div>County 6 months</div> <div>Precinct 90 days</div> </div> </div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div> <div>Women Except for elections on school matters</div> <div>Indians</div> <div>Non compos mentis</div> <div>Persons convicted of treason or felony Unless restored to civil rights</div> <div>Soldiers, sailors, and marines</div> <div>Persons under guardianship</div> </div>

In 1917 North Dakota granted female citizens limited suffrage rights. American women could vote for presidential electors and city and township officers. They could not vote for governor, members of the legislature, nor senator or representative to Congress.<sup>834</sup>

North Dakota (1917)	
<div>Suffrage Qualifications</div> <div> <div>Men</div> <div> U.S. Citizens </div> <div> Non-citizens who had declared their intention to become U.S. citizens </div> </div> <div> <div>Women</div> <div> U.S. Citizens  Limited to presidential, township and school elections </div> </div> <div> <div>Residence</div> <div> <div>State 1 year</div> <div>County 6 months</div> <div>Precinct 90 days</div> </div> </div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div> <div>Women</div> <div>Except for governor, legislature, Congress, or school elections</div> </div> <div> <div>Indians</div> </div> <div> <div>Non compos mentis</div> </div> <div> <div>Persons convicted of treason or felony</div> <div>Unless restored to civil rights</div> </div> <div> <div>Soldiers, sailors, and marines</div> </div> <div> <div>Persons under guardianship</div> </div>

North Dakotan women won full suffrage until 1919 when the state legislature approved the 19<sup>th</sup> Amendment.<sup>835</sup>

835                      Nineteenth                      Amendment                      to                      the                      U.S.                      Constitution  
<https://www.ndstudies.gov/gr8/content/unit-iii-waves-development-1861-1920/lesson-4-alliances-and-conflicts/topic-8-suffrage/section-3-woman-suffrage-1912-1920>

North Dakota (1919)

U.S. Citizens

Non-citizens who had declared their intention to become U.S. citizens

Residence

State  
1 year

County  
6 months

Precinct  
90 days

Groups Explicitly & Implicitly Excluded

Indians

Non compos mentis

Persons convicted of treason or felony  
Unless restored to civil rights

Soldiers, sailors, and marines

Persons under guardianship

North Dakota implicitly and *de iure* allowed non citizens to vote until 2018. Non-citizens were denied suffrage *de facto*. In 2018, however, North Dakota amended its constitution to explicitly exclude non-citizens from suffrage.<sup>836</sup>

North Dakota (2018)

U.S. Citizens

Residence in the state

Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Persons convicted of treason or felony  
Unless restored to civil rights

<sup>836</sup> Article II; Section 1 <https://www.legis.nd.gov/constit/a02.pdf>



## Appendix 41

### Constitutional Evolution of Suffrage Qualifications in South Dakota

South Dakota joined the Union in 1889. Its first constitution granted suffrage to male citizens and non-citizens who had declared their intention to become American citizens. Voters were required to reside in the country for one year, in the state for six months, and in the county thirty days, and in the precinct ten days.<sup>837</sup> Women were allowed to vote just in school elections.<sup>838</sup> Soldiers, sailors, marines, *non compos mentis*, persons under guardianship, and persons convicted of treason or felony (unless restored to civil rights) were explicitly denied the right to vote.<sup>839</sup>

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<sup>837</sup> Article VII; Section 1  
<http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&locID=cornell&d1=LPSL0002500&srchtp=a&c=1&an=LPSL0002500&df=f&d2=181&docNum=DT4204003828&h2=1&vrsn=1.0&af=RN&d6=181&d3=181&ste=10&stp=Author&d4=0.33&d5=d6&ae=DT104003648>

<sup>838</sup> Article VII; Section 9

<sup>839</sup> Article VII; Sections 7 & 8

South Dakota (1889)	
<div>Suffrage Qualifications</div> <div> <div>Males</div> <div> <div>U.S. Citizens</div> <div>Non-citizens who had declared their intention to become U.S. citizens</div> </div> </div> <div> <div>Residence</div> <div> <div>Country One year</div> <div>State Six months</div> <div>County 30 days</div> <div>Precinct 10 days</div> </div> </div>	<div>Groups Explicitly &amp; Implicitly Excluded</div> <div> <div>Women Except for elections on school matters</div> <div>Non compos mentis</div> <div>Persons convicted of treason or felony Exception: Unless restored to civil rights</div> <div>Soldiers, sailors, and marines</div> <div>Persons under guardianship</div> </div>

In 1918, South Dakota fully enfranchised women and disenfranchised non- citizens.<sup>840</sup>

840 Amendment of § 1 proposed by SL 1918 (SS), ch 31, approved Nov., 1918  
<https://sdlegislature.gov/Statutes/Constitution/DisplayStatute.aspx?Type=Statute&Statute=0N-7-2>



## Appendix 42

### Constitutional Evolution of Suffrage Qualifications in Washington

Washington in 1889 joined the Union. Its first constitution granted suffrage to male citizens of the United States who had resided in the state for one year, in the county for ninety days, and in the precinct for thirty days.<sup>843</sup> Women were allowed to vote in school elections.<sup>844</sup> The constitution explicitly excluded from the polls Indians not taxed, students, soldiers, sailors, marines, *non compos mentis*, persons convicted of infamous crimes (unless restored to civil rights), and persons living in almshouses, asylums or prisons.<sup>845</sup>

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<sup>843</sup> Article VI; Section 1 <https://babel.hathitrust.org/cgi/pt?id=uiug.30112071756800&view=1up&seq=37>

<sup>844</sup> Article VI; Section 2

<sup>845</sup> Article VI; Sections 3 & 4

Washington (1889)

U.S. Citizens

Males

Residence

State  
1 year

County  
90 days

Precinct  
30 days

Non-citizens

Women  
Except for elections on school matters

Indians not taxed

Non compos mentis

Persons convicted of infamous crimes  
Unless restored to civil rights

Soldiers, sailors, and marines

Persons living in almshouses, asylums or prisons

Students

Seven years later, in 1896, Washington amended its constitution to impose an English literacy qualification for voters.<sup>846</sup>

<sup>846</sup> Article VI; Section 1 (Amendment 2, 1896)  
<http://leg.wa.gov/lawsandagencyrules/documents/12-2010-wastateconstitution.pdf>

Washington (1896)

U.S. Citizens

Males

Residence

State  
1 year

County  
90 days

Precinct  
30 days

Ability to read and speak in English

Groups Explicitly & Implicitly Excluded

Non-Citizens

Women

Except for elections on school matters

Indians not taxed

Non compos mentis

Persons convicted of infamous crimes

Unless restored to civil rights

Soldiers, sailors, and marines

Persons living in almshouses, asylums or prisons

Students

Washington in 1910 amended its constitution and granted full suffrage to women.<sup>847</sup>

<sup>847</sup> Article VI; Section 1 (Amendment 5 of 1910)  
<http://leg.wa.gov/lawsandagencyrules/documents/12-2010-wastateconstitution.pdf>

Washington (1910)

U.S. Citizens

Residence

State  
1 year

County  
90 days

Precinct  
30 days

Ability to read and speak in English

Groups Explicitly & Implicitly Excluded

Non-citizens

Indians not taxed

Non compos mentis

Persons convicted of infamous crimes  
Unless restored to civil rights

Soldiers, sailors, and marines

Persons living in almshouses, asylums or prisons

Students

Washington in 1973 lowered the voting age from twenty-one to eighteen years of age, lowered the residence requirement to thirty days in the state, got rid of the literacy test, and extended suffrage to all Indians.<sup>848</sup>

<sup>848</sup> Article VI; Section 1 (Amendment 63, 1974)  
<http://leg.wa.gov/lawsandagencyrules/documents/12-2010-wastateconstitution.pdf>

▼ Washington (1973)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state for thirty days

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non compos mentis

Persons convicted of infamous crimes  
Unless restored to civil rights

Soldiers, sailors, and marines

Students

Non-citizens



## Appendix 43

### Constitutional Evolution of Suffrage Qualifications in Idaho

Idaho joined the Union in 1890 with a constitution that granted suffrage to male citizens of the United States who had resided in the state for six months and in the county for thirty days. Women were only allowed to vote in school elections.<sup>849</sup> The constitution explicitly excluded from the polls Chinese, Mongolians, Indians not taxed, sailors, soldiers, marines, students, *non compos mentis*, persons under guardianship, persons convicted of treason, embezzlement of public funds, battering or selling his vote, purchasing the vote of another, or any infamous crime (unless restored to civil rights), persons who live in prisons, almshouses, or asylums, bigamists, and polygamists.<sup>850</sup>

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<sup>849</sup> Article VI; Section 2 <https://babel.hathitrust.org/cgi/pt?id=mdp.35112105063301&view=lup&seq=30>

<sup>850</sup> Article VI; Section 3 & 5

Idaho (1890)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Males	Women Except for elections on school matters
Residence	Indians not taxed
State 6 months	Non compos mentis
County 30 days	Persons convicted of infamous crimes Unless restored to civil rights
	Soldiers, sailors, and marines
	Persons living in almshouses, asylums or prisons
	Students
	Persons of Chinese descent
	Persons of Mongolian descent
	Bigamists and Polygamists
	Persons under guardianship

Six years later, in 1896, Idaho granted full suffrage to women.<sup>851</sup>

<sup>851</sup> Article VI; Section 2 (Amendment 2, 1896)



Idaho (1962)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence	Indians not taxed
State 6 months	Non compos mentis
County 30 days	Persons convicted of infamous crimes Unless restored to civil rights
	Soldiers, sailors, and marines
	Persons living in almshouses, asylums or prisons
	Students
	Bigamists and Polygamists
	Persons under guardianship

In 1982, Idaho removed polygamy and bigamy as suffrage disqualification traits. It also allowed Indians and *non compos mentis* to vote and reduced the residence requirement.<sup>853</sup>

<sup>853</sup> Article VI, Sections 2 & 3 (Amendments 96 & 99, 1982) <https://sos.idaho.gov/elect/stcon/amendments.html>

▼ Idaho (1982)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state and in the county

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Persons convicted of infamous crimes  
Unless restored to civil rights

Soldiers, sailors, and marines

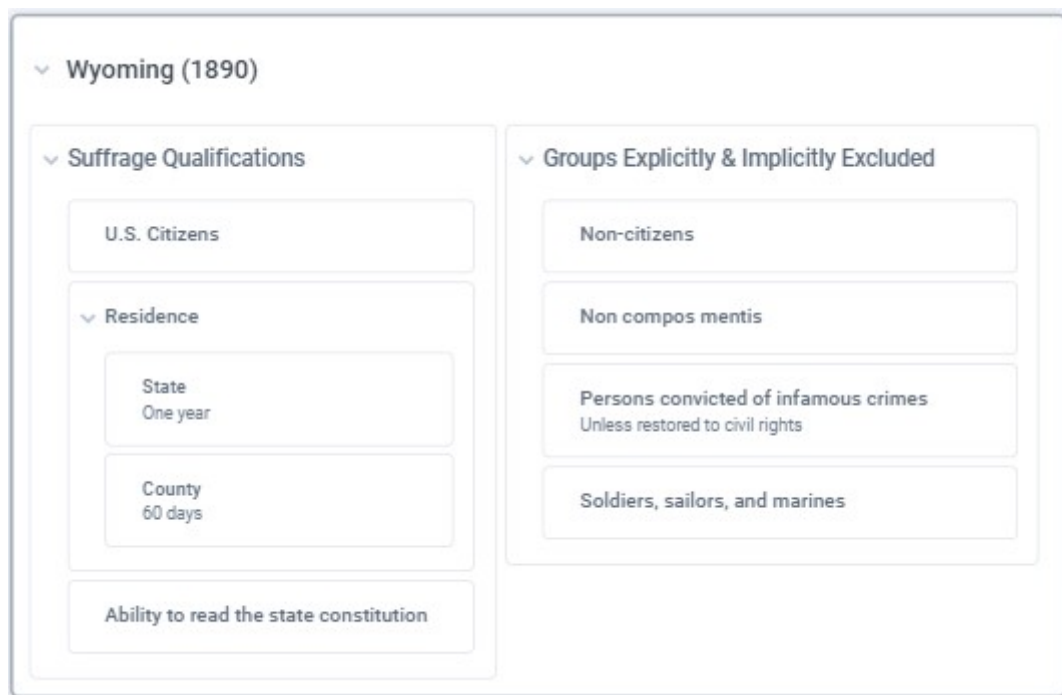
Persons living in almshouses, asylums or  
prisons

Students

## Appendix 44

### Constitutional Evolution of Suffrage Qualifications in Wyoming

Wyoming joined the Union in 1890. Its first constitution, adopted the previous year, granted suffrage to all citizens of the United States who had resided in the state for one year and in the county for sixty days.<sup>854</sup> Wyoming became the first state in the Union to grant full suffrage to women. Voters were required to be able to read the state constitution.<sup>855</sup> It explicitly denied suffrage to non-citizens, soldiers, sailors, marines, *non compos mentis*, and persons convicted of infamous crimes (unless restored to civil rights).<sup>856</sup>



Wyoming has not made any major amendments to its constitution regarding suffrage.

They lowered the voting age from twenty-one to eighteen years of age, there are no

<sup>854</sup> Article VI, Section 1 <https://babel.hathitrust.org/cgi/pt?id=njp.32101067736056&view=1up&seq=26>

<sup>855</sup> Article VI, Section 9

<sup>856</sup> Article VI, Sections 5, 6 & 8

longer durational residency requirements, and they do not apply a literacy test since 1970.<sup>857</sup>

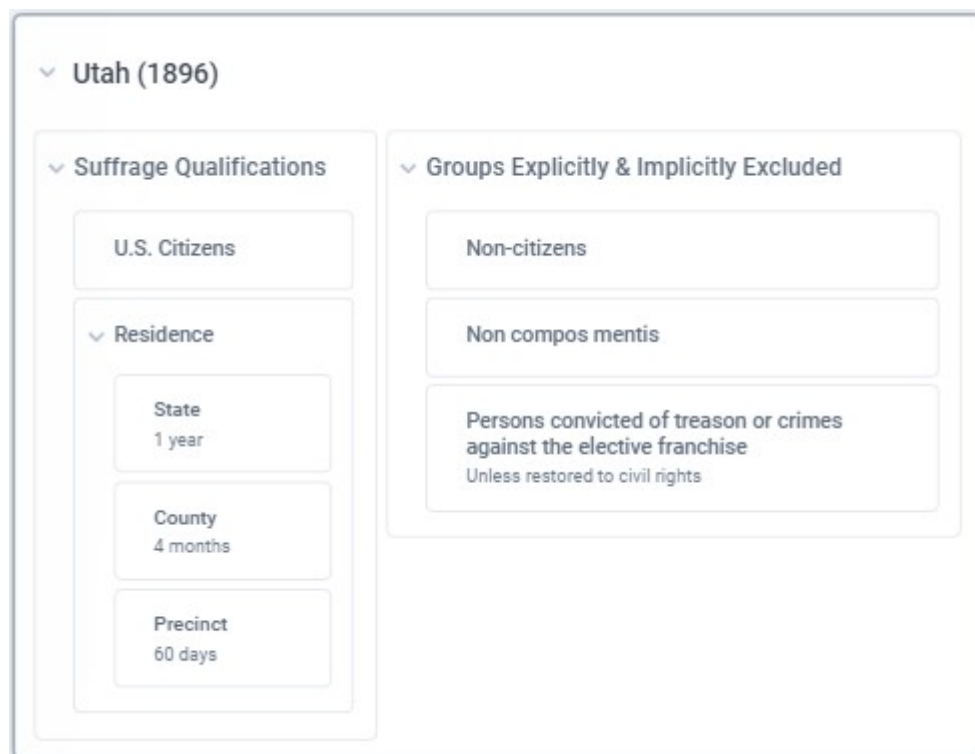
▼ Wyoming (1970)	
▼ Suffrage Qualifications	▼ Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state	Non compos mentis
Eighteen years of age	Persons convicted of infamous crimes Unless restored to civil rights
	Soldiers, sailors, and marines

<sup>857</sup> Article VI <https://soswy.state.wy.us/Forms/Publications/09WYConstitution.pdf>

## Appendix 45

### Constitutional Evolution of Suffrage Qualifications in Utah

Utah joined the Union in 1896 with a very progressive constitution. The state granted suffrage to all citizens of the United States who had resided in the state one year, in the county four months, and in the precinct sixty days.<sup>858</sup> It only explicitly denied suffrage to *non compos mentis*, and persons convicted of treason or crimes against the elective franchise (unless restored to civil rights).<sup>859</sup>



<sup>858</sup> Article IV; Section 2 <https://babel.hathitrust.org/cgi/pt?id=uc2.ark:/13960/t1vd6rk6v&view=lup&seq=15>

<sup>859</sup> Article IV, Section 6



Utah did not make any major changes to suffrage until 1969 when it lowered the voting age from twenty-one to eighteen years of age.<sup>860</sup> In 1975 it lowered the residence qualification to a thirty-day residence requirement in the state.<sup>861</sup>

Utah (1975)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state of thirty days	Non compos mentis
Eighteen years of age	Persons convicted of treason or crimes against the elective franchise Unless restored to civil rights

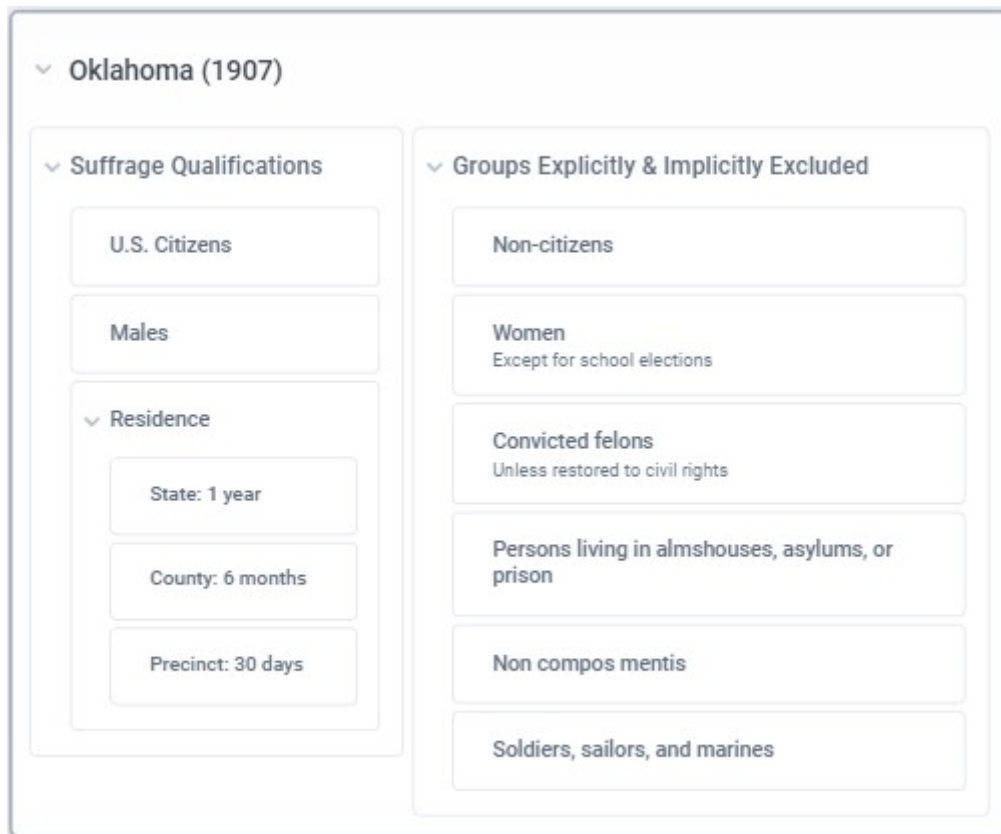
860 Article IV; Section 2 (Amendment SJR3 1969 Regular Session)  
[https://adambrown.info/p/research/utah\\_constitution/amendment?year=1971&amendment=SJR3+1969+Regular+Session](https://adambrown.info/p/research/utah_constitution/amendment?year=1971&amendment=SJR3+1969+Regular+Session)

Article IV; Section 2 (Amendment HJR3 1975 Regular Session)  
[https://adambrown.info/p/research/utah\\_constitution/amendment?year=1977&amendment=HJR3+1975+Regular+Session](https://adambrown.info/p/research/utah_constitution/amendment?year=1977&amendment=HJR3+1975+Regular+Session)

## Appendix 46

### Constitutional Evolution of Suffrage Qualifications in Oklahoma

Oklahoma joined the Union on November 16, 1907. Its first constitution granted suffrage to male citizens of the United States who had resided in the state for one year, in the county for six months, and in the precinct for thirty days. The constitution explicitly denied suffrage to convicted felons (unless restored to civil rights), persons living in public almshouses, asylums or prisons, *non compos mentis*<sup>862</sup>, sailors, soldiers, marines,<sup>863</sup> and women (except for school elections).<sup>864</sup>



In 1910 Oklahoma amended its constitution to provide that only qualified electors who could also read and write any section of the constitution would be allowed to

<sup>862</sup> Article III; Section 1 <https://babel.hathitrust.org/cgi/pt?id=osu.32435002814812&view=1up&seq=16>

<sup>863</sup> Section 2

<sup>864</sup> Section 3

vote. The new rule applied neither to persons who were entitled to vote on January 1, 1866, nor to the lineal descendants of these persons.<sup>865</sup>

▼ Oklahoma (1910)

▼ Suffrage Qualifications

U.S. Citizens

Males

▼ Residence

State: 1 year

County: 6 months

Precinct: 30 days

▼ Ability to read and write any section of the constitution

Exceptions:

Persons entitled to vote on January 1, 1866

Lineal descendants of persons entitled to vote on January 1, 1866

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Women

Except for school elections

Convicted felons

Unless restored to civil rights

Persons living in almshouses, asylums, or prison

Non compos mentis

Soldiers, sailors, and marines

Oklahoma had to amend amend its constitution again in 1914 after the Supreme Court of the United States overturned the grandfather clause of the 1910 amendment.<sup>866</sup>

865

Article III; Section 4a

<http://galenet.gale.com.proxy.library.cornell.edu/servlet/MMLP?dd=0&locID=cornell&d1=LPSY0064201&srchtp=a&c=1&an=LPSY0064201&df=f&d2=130&docNum=DT4203886836&h2=1&af=RN&d6=130&d3=130&ste=10&stp=Author&d4=0.33&d5=d6&ae=DT103886707>

866

Guinn v. United States, 238 U.S. 347.

<https://www-oxfordreference-com.proxy.library.cornell.edu/view/10.1093/acref/9780195379396.001.0001/acref-9780195379396-e-225>

411

Oklahoma (1914)	
<p>▼ Suffrage Qualifications</p> <p>U.S. Citizens</p> <p>Males</p> <p>▼ Residence</p> <p>State: 1 year</p> <p>County: 6 months</p> <p>Precinct: 30 days</p> <p>Ability to read and write any section of the constitution</p>	<p>▼ Groups Explicitly &amp; Implicitly Excluded</p> <p>Non-citizens</p> <p>Women Except for school elections</p> <p>Convicted felons Unless restored to civil rights</p> <p>Persons living in almshouses, asylums, or prison</p> <p>Non compos mentis</p> <p>Soldiers, sailors, and marines</p>

Oklahoma amended its constitution in 1918 to grant full suffrage for women.<sup>867</sup>

▼ Oklahoma (1918)

- ▼ Suffrage Qualifications
  - U.S. Citizens
  - ▼ Residence
    - State: 1 year
    - County: 6 months
    - Precinct: 30 days
  - Ability to read and write any section of the constitution
- ▼ Groups Explicitly & Implicitly Excluded
  - Non-citizens
  - Convicted felons  
Unless restored to civil rights
  - Persons living in almshouses, asylums, or prison
  - Non compos mentis
  - Soldiers, sailors, and marines

<sup>867</sup> Amendment of 1918 <https://www.okhistory.org/publications/enc/entry.php?entry=SU002>

Oklahoma amended its constitution in 1978 to remove the literacy test along with other obsolete disqualifications for suffrage. This amendment lowered the minimum voting age from twenty-one years to eighteen. It also reduced the residence duration requirement.<sup>868</sup>

▼ Oklahoma (1978)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

<sup>868</sup> Oklahoma Election Regulations, State Question 531 (1978) [https://ballotpedia.org/Oklahoma\\_Election\\_Regulations,\\_State\\_Question\\_531\\_\(1978\)](https://ballotpedia.org/Oklahoma_Election_Regulations,_State_Question_531_(1978))

## Appendix 47

### Constitutional Evolution of Suffrage Qualifications in Arizona

Arizona joined the Union in February 1912. Its first constitution, which was adopted two years earlier, granted suffrage to male citizens of the United States who had resided for one year in the state. Women were allowed to vote in school elections. The constitution explicitly excluded from the polls persons under guardianship, *non compos mentis*, persons convicted of treason or felony (unless restored to civil rights)<sup>869</sup>, soldiers, sailors, marines, students, and persons living in public almshouses, asylums, or prisons.<sup>870</sup>

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<sup>869</sup> Article VII, Section 2 <https://babel.hathitrust.org/cgi/pt?id=coo1.ark:/13960/t46q2j72g&view=1up&seq=18>

<sup>870</sup> Article VII, Sections 3 & 6

▼ Arizona (1912)  
February

▼ Suffrage Qualifications

U.S. Citizens

Males

Residence in the state of one year

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Women  
Except for school elections

Soldiers, sailors, and marines

Non compos mentis

Persons convicted of treason or felonies  
Unless restored to civil rights

Persons under guardianship

Students

Persons living in almshouses, asylums, or prison

Ten months after Arizona joined the Union, the state amended its constitution in December 1912 to grant full suffrage to women.

<div> <div>▼</div> <div>Arizona (1912)</div> </div> <div>December</div>	
<div> <div>▼</div> <div>Suffrage Qualifications</div> </div> <div> <div>U.S. Citizens</div> <div>Residence in the state of one year</div> </div>	<div> <div>▼</div> <div>Groups Explicitly &amp; Implicitly Excluded</div> </div> <div> <div>Non-citizens</div> <div>Soldiers, sailors, and marines</div> <div>Non compos mentis</div> <div>Persons convicted of treason or felonies Unless restored to civil rights</div> <div>Persons under guardianship</div> <div>Students</div> <div>Persons living in almshouses, asylums, or prison</div> </div>

Arizona, in the year 2000, amended its constitution to update its voting requirements to conform with the United States Constitution and other federal laws. It lowered the voting age from twenty-one to eighteen years of age. It also reduced the residence qualification in the state.<sup>871</sup>

871 Arizona Constitutional Textual Terminology, Proposition 101 (2000)  
[https://ballotpedia.org/Arizona Constitutional Textual Terminology, Proposition 101 \(2000\)](https://ballotpedia.org/Arizona_Constitutional_Textual_Terminology,_Proposition_101_(2000))



▼ Arizona (2000)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Soldiers, sailors, and marines

Persons convicted of treason or felonies  
Unless restored to civil rights

Persons under guardianship

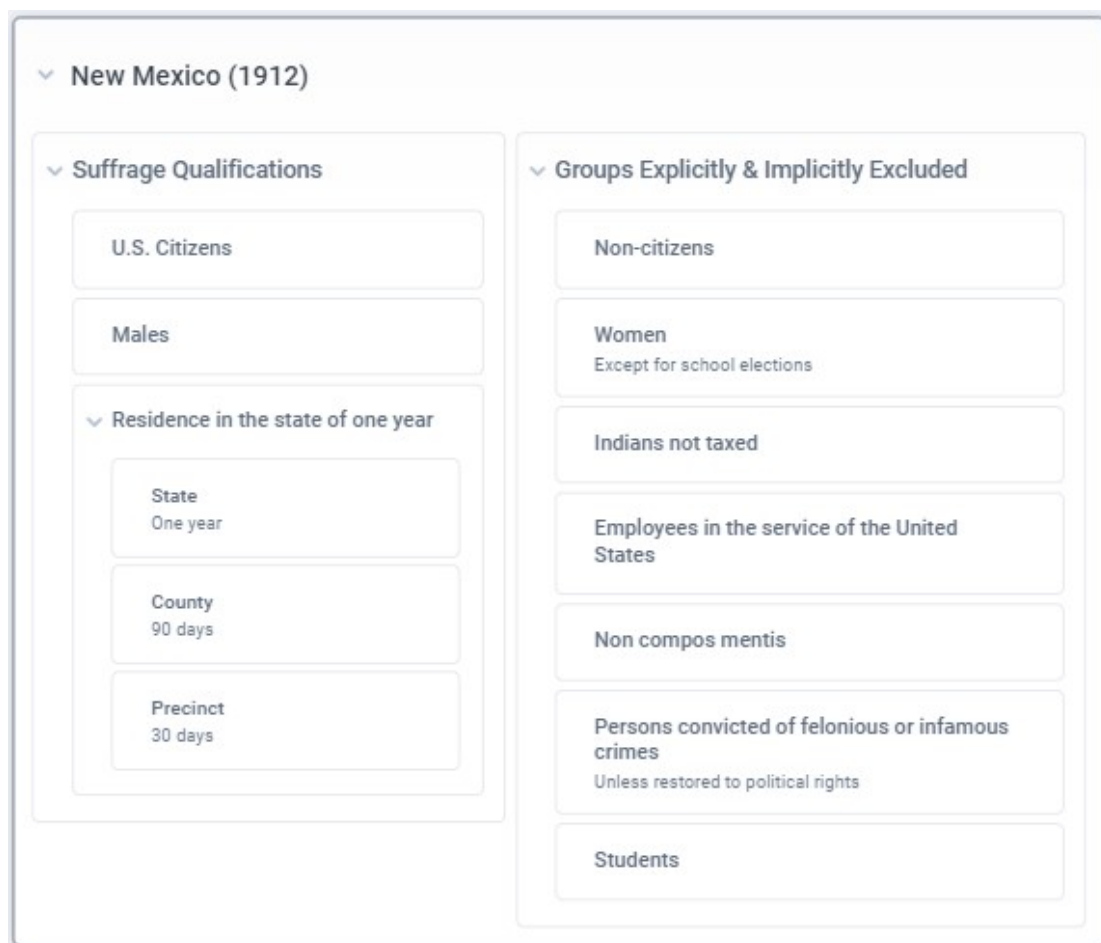
Students

Persons living in almshouses, asylums, or  
prison

## Appendix 48

### Constitutional Evolution of Suffrage Qualifications in New Mexico

New Mexico joined the Union in 1912. Its constitution, which was adopted two years earlier, granted suffrage to male citizens of the United States who had resided in the state for one year, in the county for ninety days, and in the precinct for thirty days. Women were allowed to vote just in school elections. The constitution explicitly excluded from the polls *non compos mentis*, persons convicted of felonious or infamous crimes (unless restored to political rights), Indians not taxed,<sup>872</sup> employees in the service of the United States, and students.<sup>873</sup>



<sup>872</sup> Article VII, Section 1 <https://babel.hathitrust.org/cgi/pt?id=nncl.cu56397828&view=1up&seq=36>

<sup>873</sup> Article VII, Section 4

New Mexico did not change again its suffrage qualifications until 1967 when it granted full suffrage to women and Indians not taxed.<sup>874</sup>

New Mexico (1967)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state of one year	Employees in the service of the United States
State One year	Non compos mentis
County 90 days	Persons convicted of felonious or infamous crimes Unless restored to political rights
Precinct 30 days	Students

New Mexico amended its constitution again in 2010 to lower the voting age qualification and to reduce the residence duration requirement. Instead of setting a specific new minimum age or a new residence duration, New Mexico simply adapted the state requirements to conform federal qualifications.<sup>875</sup>

<sup>874</sup> CA 7 (1967) [https://www.nmlegis.gov/Publications/New\\_Mexico\\_State\\_Government/Piecemeal\\_Amendment\\_Dec2016.pdf](https://www.nmlegis.gov/Publications/New_Mexico_State_Government/Piecemeal_Amendment_Dec2016.pdf)  
<sup>875</sup> New Mexico Modern Election Language Amendment, Amendment 3 (2010) [https://ballotpedia.org/New\\_Mexico\\_Modern\\_Election\\_Language\\_Amendment,\\_Amendment\\_3\\_\(2010\)](https://ballotpedia.org/New_Mexico_Modern_Election_Language_Amendment,_Amendment_3_(2010))

▼ New Mexico (2010)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Employees in the service of the United States

Non compos mentis

Persons convicted of felonious or infamous crimes

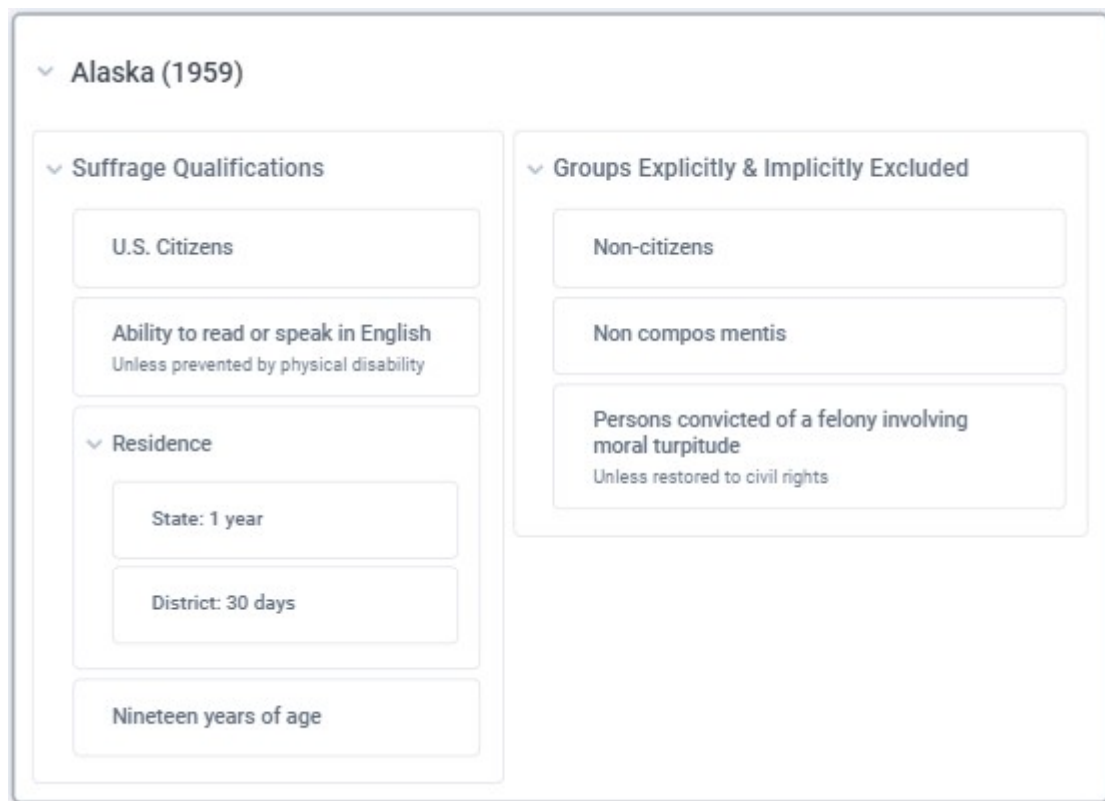
Unless restored to political rights

Students

## Appendix 49

### Constitutional Evolution of Suffrage Qualifications in Alaska

Alaska was the penultimate state to join the Union in 1959. Its first constitution, which was adopted three years earlier, granted suffrage to every citizen of the United States of nineteen years of age who had resided in the state for one year and in the election district for thirty days. Voters were required to be able to read or speak in English, unless prevented by physical disability.<sup>876</sup> The constitution explicitly disqualified from suffrage *non compos mentis*, and persons convicted of a felony involving moral turpitude (unless restored to civil rights).<sup>877</sup>



Alaska amended its constitution in 1970 to lower the minimum voting age to eighteen years and eliminated the requirement to read or speak English.<sup>878</sup>

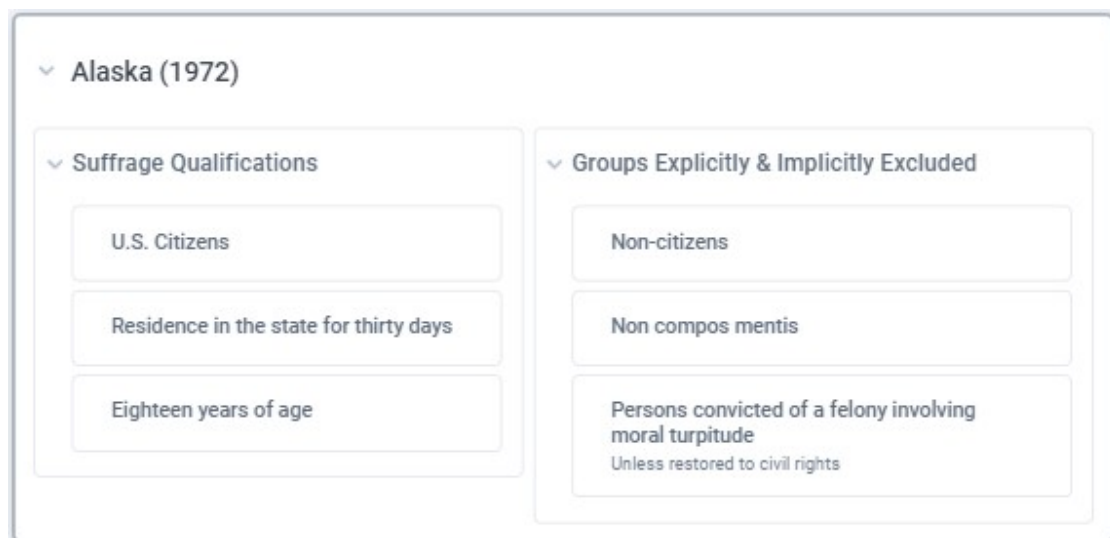
<sup>876</sup> Article V; Section 1 [http://w3.legis.state.ak.us/docs/pdf/citizens\\_guide.pdf](http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf)

<sup>877</sup> Article V; Section 2

<sup>878</sup> Article V; Section 1 [http://w3.legis.state.ak.us/docs/pdf/citizens\\_guide.pdf](http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf)



Two years later, in 1972, Alaska amended its constitution to change the durational residency requirement as a qualification for voting from one year to thirty days.<sup>879</sup>



<sup>879</sup> Article V; Section 1 [http://w3.legis.state.ak.us/docs/pdf/citizens\\_guide.pdf](http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf)

## Appendix 50

### Constitutional Evolution of Suffrage Qualifications in Hawaii

Hawaii was the last state to join the Union in 1959. It was admitted with a constitution adopted ten years earlier. The Hawaii constitution granted suffrage to citizens of the United States who had attained the age of twenty years and who had resided in the state for one year. Voters were required to be able to read and write in English or Hawaiian.<sup>880</sup> The constitution explicitly excluded from suffrage *non compos mentis*, persons convicted of felony (unless restored to civil rights),<sup>881</sup> employees of the United States, sailors, and students.<sup>882</sup>

Hawaii (1959)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Ability to read and write in English or Hawaiian <small>Unless prevented by physical disability</small>	Non compos mentis
Residence in the state for one year	Persons convicted of a felony <small>Unless restored to civil rights</small>
Twenty years of age	Employees of the United States
	Sailors
	Students

<sup>880</sup> Article II; Section 1 <https://babel.hathitrust.org/cgi/pt?id=mdp.39015022659554&view=1up&seq=9>

<sup>881</sup> Article II; Section 2

<sup>882</sup> Article II; Section 3

Hawaii amended its constitution in 1968 to remove the literacy test as a prerequisite for suffrage.<sup>883</sup>

Hawaii (1968)	
Suffrage Qualifications	Groups Explicitly & Implicitly Excluded
U.S. Citizens	Non-citizens
Residence in the state for one year	Non compos mentis
Twenty years of age	Persons convicted of a felony Unless restored to civil rights
	Employees of the United States
	Sailors
	Students

Hawaii amended its constitution again in 1972 to lower the minimum voting age from twenty years of age to eighteen.<sup>884</sup>

883

Article II; Section 1

<https://hawaii.concon.info/wp-content/uploads/2017/11/ICPSR-ReferendaElectionsForHawaii-1968-1990-DS50-Codebook.pdf>

884

1968 Amendment; Article II; Section 1

<https://hawaii.concon.info/wp-content/uploads/2017/11/ICPSR-ReferendaElectionsForHawaii-1968-1990-DS50-Codebook.pdf>



▼ Hawaii (1972)

▼ Suffrage Qualifications

U.S. Citizens

Residence in the state for one year

Eighteen years of age

▼ Groups Explicitly & Implicitly Excluded

Non-citizens

Non compos mentis

Persons convicted of a felony  
Unless restored to civil rights

Employees of the United States

Sailors

Students

## Appendix 51

### Table of Suffrage Amendments

State	Amendments of Suffrage Qualifications	Average Time Between Amendments (years)
New Hampshire	7	35
South Carolina	9	27
Virginia	11	22
New Jersey	6	41
Delaware	7	35
Pennsylvania	7	35
Maryland	8	31
North Carolina	9	27
Georgia	9	27
New York	8	30
Massachusetts	10	24
Connecticut	8	25
Rhode Island	10	18
Vermont	4	57
Kentucky	5	46
Tennessee	6	37
Ohio	3	72
Louisiana	9	23
Indiana	6	34
Mississippi	6	34
Illinois	5	40
Alabama	9	22
Maine	4	50
Missouri	10	20
Arkansas	6	31
Michigan	5	37
Florida	8	22
Texas	6	29
Iowa	5	35
Wisconsin	5	34
California	6	28
Minnesota	6	27
Oregon	5	32
Kansas	7	23
West Virginia	3	52
Nevada	4	39
Nebraska	6	26
Colorado	4	36
North Dakota	3	43
South Dakota	4	33
Montana	3	44
Washington	4	33
Idaho	4	33
Wyoming	2	65
Utah	2	62
Oklahoma	5	23
New Mexico	3	36
Arizona	3	36
Alaska	3	20
Hawaii	3	20

## Appendix 52

### Duties of Federal Elected Officials



#### Executive Power

**I. President of the United States.-** The President is the Commander in Chief of the Army and Navy of the United States; they has the power to make treaties and appoint ambassadors, consuls, justices of the Supreme Court, and all other officers of the United States. The President must give to Congress information of the state of the Union, and recommend to their consideration measures deemed as necessary. (U.S. Constitution, Article II, Sections 2 & 3)

#### Legislative Power

**I. Representatives.-** Introduce bills and resolutions; make and pass federal laws; offer amendments, and serve on committees. (U.S. Constitution, Article I, Section 7)

**II. Senators.-** Introduce resolutions and bills except for bills raising revenue; offer amendments; serve on committees; (U.S. Constitution, Article I, Section 7) power to try all impeachments against the President of the United States; ratify the judicial appointments of the President of the United States. (U.S. Constitution, Article II, Section 3)



## Appendix 53

### Duties of State Elected Officials

(Based on the Constitution of the State of New York)



#### Executive Power

**I. Governor.-** The governor is the commander-in-chief of the military and naval forces of the state; has the power to convene the legislature, or the senate only, on extraordinary occasions; has the power to grant reprieves, commutations, and pardons after conviction, for all offenses except treason and cases of impeachment. The governor has to communicate to the legislature the condition of the state and recommend to their consideration measures deemed as necessary. (N.Y.S. Constitution, Article IV, Sections 3 & 4)<sup>885</sup>

#### Legislative Power

**I. Assemblymen (Lower House).-** Introduce bills and resolutions within the limits of the Federal Constitution and certain Federal statutes and treaties. (N.Y.S. Constitution, Article III, Section 9)<sup>886</sup>

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<sup>885</sup> New York State Constitution.

<sup>886</sup> New York State Constitution.

II. **Senators.**- Introduce bills and resolutions within the limits of the Federal Constitution and certain Federal statutes and treaties; confirm executive appointments.

(N.Y.S. Constitution, Article III, Section 9)<sup>887</sup>

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<sup>887</sup> New York State Constitution.

Appendix 54

Duties of County Elective Officials

(Based on the Typical County Commission Form)

Typical Council-Commission Form

Justice and Rule of Law

County Judge

Sheriff

County Coroner

County Prosecutor

County Attorney

Administrative Responsibilities

County Clerk

Recorder or Register of Deeds

Court Clerk

Surrogate or Public Administrator

Fiduciary Responsibilities

County Treasurer

Auditor

Assessor

Tax Collector

Property and Infrastructure Responsibilities

Surveyor

Engineer

Educational Responsibilities

Superintendent

Legislative Responsibilities

County Legislator

## **A. Justice and Rule of Law**

**I. County Judge.-** Has jurisdiction over “actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed twenty-five thousand dollars. She has also jurisdiction over all crimes and other violations of law; over summary proceedings to recover possession of real property and to remove tenants. The county judge also has jurisdiction over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law.” (Constitution of the State of New York; Article VI; Section 10)<sup>888</sup>

**II. Sheriff.-** Chief law enforcement official in the county, responsible for policing unincorporated areas. Other duties of the sheriff are courtroom security, prisoner transportation, serving summons, arrest warrants and subpoenas, operating the county jail, and generally serving as the officer of the court.

**III. County Coroner.-** The title comes from the fact that the officer historically represented the crown. The coroner investigates the cause of death occurring under violent, criminal, unusual, or suspicious circumstances, and they maintain the county morgue.

**IV. County Prosecutor.-** Represents the people and the state in legal proceedings against those accused of committing crimes. The prosecutor may

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<sup>888</sup> Constitution of the State of New York; Article VI; Section 10



also conduct investigations and make recommendations in connection with pardon and paroles.

**V. County Attorney.-** Provide legal counsel to all county officials and may represent the county in legal matters.

## **B. Administrative Responsibilities**

**I. County Clerk.-** Records the action of the governing body, handles correspondence, and may assist in the preparation of the budget and in developing the agenda for the meetings. The clerk also registers voters, distributes ballots, compiles, and certifies election results. Additionally, the clerk keeps records of marriage, divorce, birth, and death.

**II. Recorder or Register of Deeds.-** County's official keeper of records, and in doing so, protects purchases against flaws in the property titles. This official also records mortgages, deeds, leases, loans, liens, partnerships, power of attorney, bonds, and veteran's discharge papers.

**III. Court Clerk.-** Collect fines, forfeitures, court costs, and will disburse money for the courts. Also, depending on the state, licenses for certain professionals such as real estate brokers and optometrists are filed with the court clerk.

**IV. Surrogate or Public Administrator.-** Handle uncontested and routine probate matters. The surrogate probates wills, appoints guardians, and issues certificates of authority to executors, guardians, and trustees of estates.

### **C. Fiduciary Responsibilities**

**I. County Treasurer.-** Responsible for the custody of county funds, specifically to receive, keep, and disburse the money of the county. May institute proceedings against defaulters and issue fiscal reports. Keep records of indebtedness and revenue. In some states, treasurers are allowed to invest revenue in government securities of non-local banks to maximize income and may handle the estates of the deceased, unless this responsibility is given to the surrogate.

**II. Auditor.-** Examines the treasurer's books for accuracy, certifies the availability of funds, and assures the county governing body that departments and agencies of the county do not exceed their budget. Maintains records of transactions and confirms that purchases are authorized, funds are available, and items are delivered before payment is issued. Appraises property values for tax purposes if the office of the county assessor does not exist within a state.

**III. Assessor.-** Appraise property owners of their assessment and their right to appeal. Appraise property value for tax purposes, send out tax notices, and collect property taxes unless this responsibility is given to the tax collector.

**IV. Tax Collector.-** Send out tax notices and collect property taxes.

### **D. Property and Infrastructure Responsibilities**

**I. Surveyor.-** Handle property disputes concerning county boundaries as well as the right of way required by road construction.

**II. Engineer.-** Responsible for the maintenance and construction of county roads, highways, and bridges; prepare maps and plans, and maintain accounting records to reflect the cost of these operations.

## **E. Educational Responsibilities**

**I. Superintendent.-** Administration and supervision of the county's public elementary and secondary schools. Serve as an advisor to other school systems and provide specialized educational services to school districts. Ensure compliance with state statutes and regulations in reports submitted by local school districts. Enforce regulations concerning teacher certification and school finance. Not all counties in the United States elect Superintendents. In New York, for instance, superintendents are appointed by School Boards. (N.Y.S. School Board Association)<sup>889</sup>

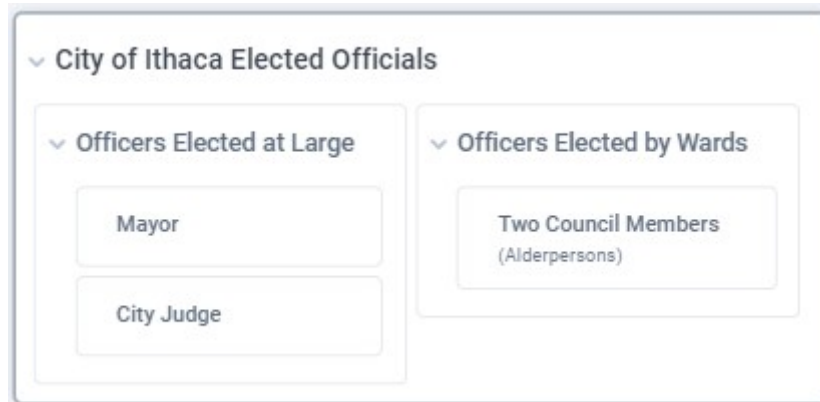
## **F. Legislative Responsibilities**

**I. County Legislator.-** The County Legislature serves as the legislative, appropriating, governing, and policy-determining body of the county. It enacts, amends, and repeals local laws.

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<sup>889</sup> New York State School Boards Association. School Board Service UNUSED: What you should know about running for and serving on a school board (Available at <https://www.nyssba.org/about-nyssba/school-board-service-unused/>; Accessed on November 19, 2019)

**Appendix 55**  
**Duties of City Elected Officials**  
**(Based on the Ithaca City Charter)**



**Responsibilities of City Officers Elected at Large**

**I. Mayor.-** Take care that within the city, the laws of the state and the ordinances and bylaws passed by the Common Council shall be faithfully executed. As head of the police of the city, arrest or cause the arrest of all persons violating the same. Exercise constant supervision over the conduct of all subordinate officers and to receive and examine all complaints against them for misconduct or neglect of duty. Appoint all standing committees required by the rules of the Common Council. Approve or disapprove of all bills, orders, resolutions, or ordinances which shall have passed the Common Council.<sup>890</sup>

**II. City Judge.-** The city judge has jurisdiction over misdemeanors, lesser offenses, and civil lawsuits under \$15,000. (Ballotpedia)<sup>891</sup>

**Responsibilities of City Officers Elected by Ward**

<sup>890</sup> Ithaca City Charter; § C-11 Mayor.

<sup>891</sup> Ballotpedia; Ithaca City Court, New York (Available at [https://ballotpedia.org/Ithaca\\_City\\_Court,\\_New\\_York#cite\\_note-1](https://ballotpedia.org/Ithaca_City_Court,_New_York#cite_note-1); Accessed on November 18, 2019)

**Council Member (Alderperson).**- Attend the regular and special meetings of the Common Council. Report to the Mayor all officers who are guilty of any official misconduct or neglect of duty. Aid in maintaining peace and good order in the city. Perform all such duties as are enjoined upon the Council members of the city separately or upon the Common Council.<sup>892</sup>

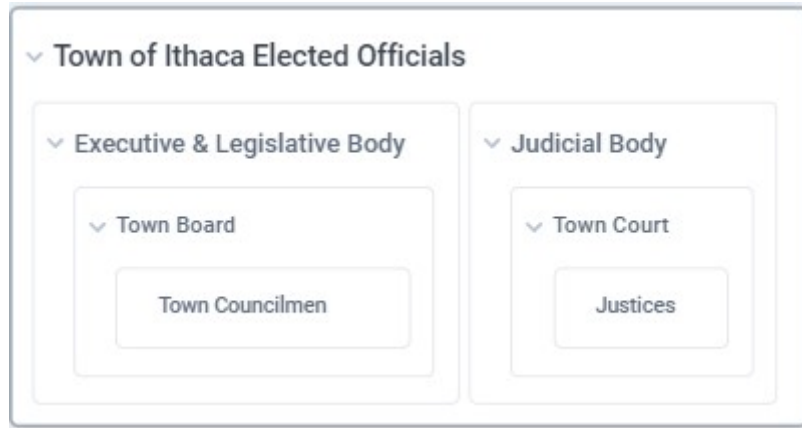
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<sup>892</sup> Ithaca City Charter; § C-12 Council members.

## Appendix 56

### Duties of Town Elected Officials

(Based on the Code of the Town of Ithaca)



### Responsibilities of Town Elected Officials

**I. Councilmen.-** Councilmen form the town board. Their responsibilities include the power to “appoint officers, commissions, boards and other personnel necessary to administer the town's affairs; to adopt ordinances and local laws affecting the public health, safety, and welfare and to provide penalties for the enforcement of the town; and to formulate overall policy.” (Town of Ithaca)<sup>893</sup>

**II. Town Court Justice.-** The town court’s jurisdiction is limited to events occurring within the town. Town Courts have criminal jurisdiction over violations and misdemeanors, and civil jurisdiction over claims of up to \$3,000. Town Court justices hold arraignments and preliminary hearings for those charged with more serious crimes. Traffic infractions also are heard in these courts. (N.Y. Courts)<sup>894</sup>

<sup>893</sup> Town of Ithaca, New York. Town Board Info (Available at <http://www.town.ithaca.ny.us/town-board>; Accessed on November 18, 2019)

<sup>894</sup> New York State Unified Court System. Courts Outside New York City (Available at <https://www.nycourts.gov/courts/cts-outside-nyc.shtml>; Accessed on November 19, 2019)

**Appendix 57**  
**Village Elected Officials**  
**(Based on the Villages of Elmsford, Croghan, and Cayuga Heights, New York)**



**Responsibilities of Village Elected Officials**

**I. Mayor.-** Preside at the meetings of the Board of Trustees; appoint all non-elected officers & employees; enforce and prosecute all violations of the laws, rules, and regulations; and Supervise the Police and other subordinate Officers of the Village. (Elmsford)<sup>895</sup>

**II. Trustees.-** Ensure all areas of their jurisdiction are being maintained and cared for; ensure all areas of the village and surrounding areas are provided fire protection and ambulance service; make sure all the roads in the village are maintained and repaired; establish a village budget and make sure that budget is kept. (Croghan)<sup>896</sup>

<sup>895</sup> Village of Elmsford, N.Y. Duties and Responsibilities of the Mayor (Available at <https://www.elmsfordny.org/mayor/pages/duties-responsibilities-mayor>; Accessed on November 19, 2019)

<sup>896</sup> Town of Croghan, New York. Duties of Village Trustees (Available at <http://croghanny.org/village%20trustee%20description.pdf>; Accessed on November 19, 2019)

**Justice.-** The Village Court's jurisdiction is limited to events occurring within the village. The Village Justice may hear civil small claims cases if the defendant lives in the village. The most common types of cases handled by the Village Court include parking tickets, vehicle, and traffic law infractions, and misdemeanors whose maximum penalty is up to a year in jail.<sup>897</sup>

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<sup>897</sup> Village of Cayuga Heights. Village Court. (Available at <http://www.cayuga-heights.ny.us/Court.html>; Accessed on November 19, 2019.



## Appendix 58

### Duties of School District Elected Officials

(Based on the New York State School Board Association)



**School Board Members.-** Oversee and manage the community's public school system. Ensure that public schools are flexible and responsive to the needs of the community. Develop a budget, and present it to the community, aligning district resources to improve achievement. Hire and evaluate the superintendent. (N.Y.S. School Board Association)<sup>898</sup>

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<sup>898</sup> New York State School Boards Association. School Board Service UNUSED: What you should know about running for and serving on a school board (Available at <https://www.nyssba.org/about-nyssba/school-board-service-unused/>; Accessed on November 19, 2019)

## Appendix 59

### Duties of Fire District Elected Officials

(Based on the fire districts of New York)



**I. Fire Commissioners.-** The powers granted to a fire district board are narrowly limited. “They may organize, operate, maintain, and equip fire companies, and provide for the removal of members for cause; they may adopt rules and regulations governing all fire companies and departments in the district, prescribe the duties of the members, and enforce discipline; they may purchase apparatus and equipment for the extinguishing and prevention of fires, for the purpose of the emergency rescue and first aid squads and the fire police squads; they may acquire real property and construct buildings for preservation of equipment and for social and recreational use by firefighters and residents of the district; and they may construct and maintain fire alarm systems.” (NYS Division of Local Government Services, 97)<sup>899</sup>

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<sup>899</sup> NYS Division of Local Government Services. Local Government Handbook, 7<sup>th</sup> edition, Published on November 16, 2018.

## Appendix 60

### Duties of Library District Elected Officials

(Based on the Library Districts of New York)



I. **Library Trustees.**- “Create and develop the mission of the library; regularly plan and evaluate the library's service program based on community needs; select, hire and regularly evaluate a qualified library director; secure adequate funding for the library's service program; exercise fiduciary responsibility for the use of public and private funds; adopt policies and rules regarding library governance and use; maintain a facility that meets the library’s and community’s needs; promote the library in the local community and in society in general; and conduct the business of the library in an open and ethical manner in compliance with all applicable laws and regulations and with respect for the institution, staff and public.”<sup>900</sup>

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<sup>900</sup> Nichols, Jerry & Smith-Aldrich, Rebecca. Handbook for Library Trustees of New York State. P. 16. 2018 Edition, Suffolk Cooperative Library System; Bellport, N.Y., 2018.

## Appendix 61

### Duties of Elected Condominium Board Managers

(Based on the New York Condominium Act)



▼ Elected Condominium Board Managers

President

Secretary

Treasurer

I. **President.**- “Shall preside over the meetings of such board and of the unit owners.”

II. **Secretary.**- “Shall keep a record wherein actions of such board and of meetings of the unit owners shall be recorded.”

III. **Treasurer.**- “Shall keep the financial records and books of account.” (New York Condominium Act; § 339-v)<sup>901</sup>

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<sup>901</sup> New York Condominium Act; § 339-v