

1821. Debating Black Voting Rights

Erastus Root of Delaware County likened African Americans to resident foreign-born aliens, who paid taxes, were not required to serve the nation in war, and did not possess the ballot. He also questioned the relevance of New York's emphatic antislavery stance during the Missouri crisis, distinguishing between the state's domestic interest and its national political posture. Root, perhaps seeking to expose lingering wounds over federalist opposition to the War of 1812, claimed that New York City blacks simply did the bidding at the polls of the same wealthy people who employed them for personal service. Then, questioning the patriotism of African Americans, he proposed language that would disfranchise this class of people by stating that only those eligible for service in the militia, as defined by federal law, be eligible for the franchise. Federal law specifically identified whites as eligible for militia service, and thus, in Root's formula, blacks would be excluded from the franchise. Source: D. Gellman and D. Quigley, ed. (2003). *Jim Crow New York, A Documentary History of Race and Citizenship 1777-1877*. NY: New York University Press, 114-117.

GEN. Root . . . proceeded to explain his views of the social compact.

Sir ... in the formation of a social compact, which generally grows out of exigency, when the people are but a little removed from their barbarous and rude state, they are not particular in enumerating the principles upon which they thus unite; but when they become more enlightened, they will undertake to say who shall belong to their family.

In my judgment, every one who is taken into the bosom of that family, and made to contribute, either in property or personal service, to the benefit of that family, should have a voice in managing its concerns. It cannot be denied, that the preservation of property is a much less consideration, than that of a security in our liberty and independence. Every member of this political family, who is worthy to be one of its members, will prize much higher the freedom of the country, than the preservation of property.

Sir, for the preservation, or protection of property, you require a contribution in property towards the public fund—you do this in the case of an alien, who may hold property and be protected by the laws of your country, in the enjoyment of that property; but he is not allowed to vote. An alien is sometimes permitted, by a particular law to hold property; and if he is an able bodied man, he is required to fight in defence of this country, yet he is not allowed to vote. The reasons are, that notwithstanding he may live among us and enjoy the benefit of our freedom, he may have a partiality for some foreign country; therefore, he is not to partake fully of our privileges till after a certain probationary season. The black population have a right to hold property, and are protected in the enjoyment of it by our laws: but, sir, in case of an invasion or insurrection, neither the alien nor black man is bound to defend your country. They are not called on, because it is supposed there is no reliance to be placed in them, they might desert the standard and join your enemy—they have not any anchorage in your country which the government is willing to trust.

Then under this view of the subject, it appears to me they cannot complain at being excluded from voting, inasmuch as they are not bound to assist in the defence of the country; but have their liberty secured to them. It would be improper that they should come forward and vote for the election of a commander in chief, whom they were not bound to obey. We have been told by the honourable gentleman from Westchester, (Mr. Jay) and shall be again told, that we are about to deprive these people of a franchise, with which they are now vested. Sir, it is impossible to remode *[sic]* your constitution without changing the relative rights of your citizens. It is said that these people are now entitled to vote under our constitution, and that it is proposed to deprive them of this privilege—Are there not others who are in a measure disfranchised by the report of this committee, which requires nothing but a residence, and to have paid taxes, to qualify a man to vote for governor and senators?

I am not disposed to follow the gentleman, who has referred us to the resolutions of the legislature for the two years past, instructing our members in congress on the subject of the Missouri question. Whatever our legislature may have done, it is not to affect the operations of this Convention, in deciding upon the great question before us. Their wisdom may be considered as worthy of some consideration, still I flatter myself it will not materially vary the result of the question. It is not necessary that we should enquire

whether there is a just cause of alarm, for fear that these blacks will hereafter disturb our political family. At present the number of blacks who are voters is so small, that if they were scattered all over the state, there would not be much danger to be apprehended; but if we may judge of the future by the past, I should suppose there was some cause of alarm—when a few hundred free negroes of the city of New York, following the train of those who ride in their coaches, and whose shoes and boots they had so often blacked, shall go to the polls of the election, and change the political condition of the whole state. A change in the representation of that city may cause a change in your assembly, by giving a majority to a particular party, which would vary your council of appointment who make the highest officers of your government—Thus would the whole state be controlled by a few hundred of this species of population in the city of New-York.

This is not all, in time of war these people who are not called on to fight your battles, may make the majority of your legislature, which will defeat every measure for the prosecution of that war; so that instead of being an "organized corps" to fight your battles, they may be an "organized corps" to defeat the energies of the state with all its patriotic exertions.

But although he was in favour of retaining some of the principles of the propositions submitted by the honourable gentleman from Albany, yet there were others which he disapproved. He, therefore, proposed to amend it (Mr. Young having withdrawn his motion to insert) in the following manner:—

But no person shall be allowed to vote for any elective officer in this state, who would not if an able bodied man, and within the proper age prescribed by the laws of the United States, be liable to the performance of militia duty, unless exempted by act of congress, or the laws of this state, on account of some public office, or being employed in some public trust, or particular business, deemed by the legislative authority to be specially beneficial to the United States or this state, or unless he shall have paid within the year next preceding his offering his vote, a fair equivalent in money for his personal services and equipments, to be determined by the legislature, according to the estimated expense in time and equipments, of an ordinary, able bodied and efficient militiaman; *Provided* that any such person, above the age required by law for the performance of militia duty, and who shall have, before arriving at that age, paid such equivalent, or been liable therefor, if an able bodied man, and then resident in this state, may be permitted to vote at any such elections.

Mr. R. thought this provision would meet the views of gentlemen who entertained the same sentiments in relation to the black voters that he did, and at the same time preserve the delicacy of language which is observable in the constitution of the United States, which no where uses the word slave.

Root's fellow Bucktail delegate from Delaware County, Robert Clarke, drew together the equality enshrined in the Declaration of Independence and the mechanisms of the U.S. Constitution to argue against disfranchisement. He also attempted to harness images of patriotism on behalf of black New Yorkers, citing African American service in the War of 1812. Ultimately, he argued that protecting black civil rights was the least that whites owed the victims of slavery. Samuel Young, of the suffrage committee, responded by unapologetically articulating his support of racial restrictions on voting. Young denied that there were any principles or fundamental rights at stake. Citing popular prejudice against blacks, he claimed that it was the conventions prerogative to deny access to the ballot as the public saw fit.

(Mr. Jay) that, by retaining this word, you violate the constitution of the United States. Besides the clause quoted by that honourable gentleman, I think there is another upon which it crowds very hard Free people of colour are included in the number which regulates your representation in congress, and I wish to know how freemen can be represented when they are deprived of the privilege of voting for representatives. The constitution says, "representatives and direct taxes shall be apportioned among the different states, according to the inhabitants thereof, including all free persons," &c. All colours and complexions are here included. It is not free "white" persons. No, sir, our venerable fathers entertained too strong a sense of justice to countenance such an odious distinction.—Now, sir, taking this in connection with the declaration of independence, I think you cannot exclude them without being guilty of a palpable violation of every principle of justice. We are usurping to ourselves a power which we do not possess, and

by so doing, deprive them of a privilege to which they are, and always have been, justly entitled- an invaluable right-a right in which we have prided ourselves as constituting our superiority over every other people on earth-a right which they have enjoyed ever since the formation of our government-the right of suffrage. And why do we do this? Instead of visiting the iniquities of these people upon them and their children, we are visiting their misfortunes upon them and their posterity unto the latest generation. It was not expected of us, that in forming a constitution to govern this state, we should so soon have shewn a disposition to adopt plans fraught with usurpation and injustice. Because we have done this people injustice, by enslaving them, and rendering them degraded and miserable, is it right that we should go on and continue to deprive them of their most invaluable rights, and visit upon their children to the latest posterity this deprivation? Is this just? Is it honest? Was it expected by our constituents? Will it not fix a foul stain upon the proceedings of this Convention which time will not efface.

My honourable colleague has told us "that these people are not liable to do military duty, and that as they are not required to contribute to the protection or defence of the state, they are not entitled to an equal participation in the privileges of its citizens." But, sir, whose fault is this? Have they ever refused to do military duty when called upon? It is haughtily asked, who will stand in the ranks, shoulder to shoulder, with a negro? I answer, no one in time of peace; no one when your musters and trainings are looked upon as mere pastimes; no one when your militia will shoulder their muskets and march to their trainings with as much unconcern as they would go to a sumptuous entertainment, or a splendid ball. But, sir, when the hour of danger approaches, your "white" militia are just as willing that the man of colour should be set up as a mark to be shot at by the enemy, as to be set up themselves. In the war of the revolution, these people helped to fight your battles by land and by sea. Some of your states were glad to turn out corps of coloured men, and to stand "shoulder to shoulder" with them. In your late war they contributed largely towards some of your most splendid victories. On Lakes Erie and Champlain, where your fleets triumphed over a foe superior in numbers, and engines of death, they were manned in a large proportion with men of colour. And in this very house, in the fall of 1814, a bill passed receiving the approbation of all the branches of your government, authorizing the governor to accept the services of a corps of 2000 free people of colour. Sir, these were times which tried men's souls. In these times it was no sporting matter to bear arms. These were times when a man who shouldered his musket, did not know but he bared his bosom to receive a death wound from the enemy ere he laid it aside; and in these times these people were found as ready and as willing to volunteer in your service as any other. They were not compelled to go, they were not drafted. No, your pride had placed them beyond your compulsory power. But there was no necessity for its exercise; they were volunteers; yes, sir, volunteers to defend that very country from the inroads and ravages of a ruthless and vindictive foe, which had treated them with insult, degradation, and slavery. Volunteers are the best of soldiers; give me the men, whatever be their complexion, that willingly volunteer, and not those who are compelled to turn out; such men do not fight from necessity, nor from mercenary motives, but from principle. Such men formed the most efficient corps for your country's defence in the late war; and of such consisted the crews of your squadrons on Erie and Champlain, who largely contributed to the safety and peace of your country, and the renown of her arms. Yet, strange to tell, such are the men whom you seek to degrade and oppress.

There is another consideration which I think important. Our government is a government of the people, supported and upheld by public sentiment; and to support and perpetuate our free institutions, it is our duty and our interest to attach to it all the different classes of the community. Indeed there should be but one class. Then, sir, is it wise, is it prudent, is it consistent with sound policy, to compel a large portion of your people and their posterity, forever to become your enemies, and to view you and your political institutions with distrust, jealousy, and hatred, to the latest posterity; to alienate one portion of the community from the rest, and from their own political institutions? I grant you, sir, that in times of profound peace, their numbers are so small that their resentment could make no serious impression. But, sir, are we sure; can we calculate that we are always to remain in a state of peace? that our tranquillity is never again to be disturbed by invasion or insurrection? And, sir, when that unhappy period arrives, if they, justly incensed by the accumulated wrongs which you heap upon them, should throw their weight in the scale of your enemies, it might, and most assuredly would, be severely felt. Then your gayest and

proudest militiamen that now stand in your ranks, would rather be seen "shoulder to shoulder" with a negro, than have him added to the number of his enemies, and meet him in the field of battle.

By retaining the word "white," you impose a distinction impracticable in its operation. Among those who are by way of distinction called whites, and whose legitimate ancestors, as far as we can trace them, have never been slaves, there are many shades of difference in complexion. Then how will you discriminate? and at what point will you limit your distinction? Will you here descend to particulars, or leave that to the legislature? If you leave it to them, you will impose upon them a burden which neither you nor they can bear. You ought not to require of them impossibilities. Men descended from African ancestors, but who have been pretty well white-washed by their commingling with your white population, may escape your scrutiny; while others, whose blood is as pure from any African taint as any member of this Convention, may be called upon to prove his pedigree, or forfeit his right of suffrage, because he happens to have a swarthy complexion. Are you willing, by any act of this Convention, to expose any, even the meanest, of your white citizens, to such an insult? I hope not.

But it is said these people are incapable of exercising the right of suffrage judiciously; that they will become the tools and engines of aristocracy, and set themselves up in market, and give their votes to the highest bidder; that they have no will or judgment of their own, but will follow implicitly the dictates of the purse-proud aristocrats of the day, on whom they depend for bread. This may be true to a certain extent; but, sir, they are not the only ones who abuse this privilege; and if this be a sufficient reason for depriving any of your citizens of their just rights, go on and exclude also the many thousands of white fawning, cringing sycophants, who look up to their more wealthy and more ambitious neighbours for direction at the polls, as they look to them for bread. But although most of this unfortunate class of men may at present be in this dependent state, both in body and mind, yet we ought to remember, that we are making our constitution, not for a day, nor a year, but I hope for many generations; and there is a redeeming spirit in liberty, which I have no doubt will eventually raise these poor, abused, unfortunate people, from their present degraded state, to equal intelligence with their more fortunate and enlightened neighbours.

Sir, there is a day now fixed by law, when slavery must forever cease in this state. Have gentlemen seriously reflected upon the consequences which may result from this event, when they are about to deprive them of every inducement to become respectable members of society, turning them out from the protection, and beyond the control of their masters, and in the mean time ordaining them to be fugitives, vagabonds, and outcasts from society.

Sir, no longer ago than last winter, the legislature of this state almost unanimously resolved, that their senators be instructed, and their representatives requested, to prevent any state from being admitted into this union, which should have incorporated in her constitution any provision denying to the citizens of "each state all the rights, privileges, and immunities of citizens of the several states." These instructions and requests, it is well known, particularly referred to Missouri; and were founded upon a clause in her constitution, interdicting this very class of people "from coming to, or settling in, that state, under any pretext whatsoever." Whether these instructions and requests were proper and expedient at that time or not, is not necessary for me to inquire; and I only refer to them to shew, how tenacious the representatives of the people were, at that time, of even the smallest rights of this portion of their citizens—rights of infinitely less importance to the free people of colour of this state, than those of which you now propose to deprive them. About the same time, my honourable colleague, then a member of the assembly of this state, introduced a bill, declaring that, according to our declaration of independence and form of government, "slavery cannot exist in this state." I shall give no opinion upon the propriety of passing such a law at this day; but I will say, that even the advocating such a humane proposition, gave honourable testimony of the benevolence of his heart. And is it possible, that the representatives of the same people should be found, in a few short months afterwards, entertaining a proposition which virtually and practically declares, that freedom, that liberty cannot exist in this state; and this proposition receiving support from the same individual who last winter was the champion of African emancipation.

Sir, I well know that this subject is attended with embarrassment and difficulty, in whatever way it may be presented. I lament as much as any gentleman, that we have this species of population among us.

But we have them here without any fault of theirs. They were brought here and enslaved by the arm of violence and oppression. We have heaped upon them every indignity, every injustice; and in restoring them at this late day, (as far as is practicable) to their natural rights and privileges, we make but a very partial atonement for the many wrongs which we have heaped upon them; and in the solemn work before us, as far as it related to these people, I would do them justice, and leave the consequences to the righteous disposal of an all-wise and merciful Providence.

The honourable gentleman from Genesee (Mr. Ross) has said that they were a *peculiar* people. We were told the other day that the people of

Connecticut were a *peculiar* people. Indeed this is a *peculiarly* happy mode of evading the force of an argument. I admit that the blacks are a *peculiarly* unfortunate people, and I wish that such inducements may be held out, as shall induce them to become a sober and industrious class of the community, and raise them to the high standard of independent electors.

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It has been stated by the gentleman from Saratoga, (Mr. Young) that by the constitution of Connecticut, which has been recently adopted, the right of suffrage is confined to white male citizens. But on looking into the constitution it will be seen that the first section relative to the qualifications of electors, expressly saves and confirms the right of suffrage to all who had been or should be made freemen of that state before the ratification of the constitution. It will not be denied that citizenship was necessary to enable any person to become a freeman in Connecticut, nor can it be disputed that there are and have long been freemen of colour in that state. We have therefore the authority of the framers of the constitution of Connecticut against the principle of disfranchising our present electors of colour.

The gentleman from Saratoga, as well as the gentleman from New York, (Mr. Radcliff) contend that the provision in the constitution of the United States which has been quoted, relates to civil rights, and not to the political privileges. On what is the distinction founded? Is not the language of the constitution "all privileges and immunities" broad enough to comprehend both civil rights, and political privileges? Are there any qualifying words to support the distinction? Is not the right of suffrage admitted on all sides to be an important privilege? Surely the gentleman's distinction is not only unfounded, but inconsistent with the clear and unequivocal language of the constitution, as well as with the obvious policy which induced to the provision in question in its broadest sense. . . .

Mr. V. V. concluded by repeating that he had understood that it was expected by a considerable portion of the people of this state, that the right of suffrage would be extended, but he had not heard that it was expected or desired (except by some of the citizens of New-York) that any of the present electors of this state should be disfranchised. He should therefore vote for striking out the word *white* in the amendment before the committee, in order to reserve inviolate the present constitutional rights of all the electors.

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MR. LIVINGSTON. The Convention, sir, have arrived at that part of their business which is the most interesting to the public at large. The questions relating to the legislative and executive branches are less important, because they are at all times in the hands of the people, who can dispose of them at their pleasure. But we have now come back to the right of suffrage—a right which comes home to the business and bosom of every man.

It may be expedient to review our constitutional history. When these states separated from the mother country, and formed constitutions of government, they declared that all men were free and equal; and yet in the next breath they gave a practical refutation of the doctrine they had advanced, by depriving their citizens of equal rights, in granting privileges to the rich which were denied to the poor. And why did they exclude the latter from the right of suffrage? Public policy required it. The wealth of this state,—as comparatively in the hands of a few individuals. Four or five farms could almost control the wealth of the state, and it was necessary to conciliate the rich to avail themselves of their influence and wealth. What was then the situation of the people of colour? They were slaves. A free negro was a phenomenon in the

state. They were recognized only as property. Since that time various acts have been passed ameliorating their condition—providing for their gradual emancipation—and prohibiting their exportation to foreign states as slaves. But after having thus prov'ded for their emancipation, and welfare, it behoves us to have regard to the safety of ourselves. Grant them emancipation. Grant them the protection of your laws, and the enjoyment of their religion. But if they are dangerous to your political institutions, put not a weapon into their hands to destroy you. It is indeed painful to review their condition. But look at that people, and ask your consciences if they are competent to vote. Ask yourselves honestly, whether they have intelligence to discern, or purity of principle to exercise, with safety, that important right. Look at their memorial on your table. Out of about fifty petitioners, more than twenty could not even write their names—and those petitioners were doubtless of the most respectable of the colour. Such persons must always be subject to the influence of the designing; and when they approach the ballot boxes, they are too ignorant to know whether their vote is given to elevate another to office, or to hang themselves upon the gallows.

It is said, indeed, that the danger consists only in the city of New-York. And is not that city entitled to our protection? A city which embraces one-tenth of the population, and two-thirds of the wealth of the state? a city that is your boast, and the sinew of your prosperity, and which, if it takes a wrong direction, jeopardizes the dearest interests of the state. Sir, I remember that in 1801, the political complexion of our national government depended upon, and was changed by, the vote of a single ward in the of New-York.

My honourable colleague has told you that at a recent election, there were but 163 black votes given in that city. I believe he has been misinformed. But whatever may have been the number *admitted*, there were more than 500 that *applied* for admission, and if they are not excluded, the principle of the report will let in upon that devoted city a horde of voters whom I will forbear to describe. Description could not do justice to the picture—but I ask this Convention what intercourse they, as individuals would hold with them? Aside from all considerations of colour, what has been their conduct that should entitle them to your hospitalities and association? What privilege have you conferred—what protection have you granted them, that has not been abused? I refer to documents that can give the answer. Look into your calendars. Survey your prisons- your alms-houses-your bridewells and your penitentiaries, and what a darkening host meets your eye! More than one-third of the convicts and felons which those walls enclose, are of your sable population. Sir I wish to excite no hostile feelings towards them. I pity them from my heart. I lament their condition. I am disposed to amend it; but I cannot consent to invest with a power that may be wielded to the destruction of all we hold dear.

We have been told by the honourable gentleman from Albany, (Mr. Van Vechten) that we were not sent here to deprive any portion of the community of their vested rights. Sir, the people are here themselves. They are present in their delegates. No restriction limits our proceedings. What are these vested rights? Sir, we are standing upon the foundations of society The elements of government are scattered around us. All rights are buried and from the shoots that spring from their grave, we are to weave a bower that shall overshadow and protect our liberties. Our proceedings will pass in review before that power that elected us; and it will be to the people to decide whether the blacks are elevated upon a ground which we cannot reach. Sir, we, all of us, entered into the government subject to the implied condition that our constitution was liable to revision and alteration; and that the blacks, in this particular, have vested rights exempt from the power of abridgment or alteration, which the whites have not, I have yet to learn.

But sir, look to the savages that inhabit your western counties. You have governed them by your laws. You have legislated over them You have taken their property into your keeping. But where have you allowed them to vote? And why will you debar them a privilege to confer it upon a race infinitely beneath them in all those properties and attributes that give worth and dignity to man?

But, sir, we are presented with a constitutional impediment. I shall not stop to discuss the technical construction, it may bear; but I hold that it is incompetent for the general government to interpose in the regulation of our municipal affairs. It is a privilege incident to that state sovereignty which has been reserved. Has congress the right to dictate to the state of New-York what shall be the qualifications of her voters? It cannot be pretended. Suppose the legislature of this state should enact, as they have an undoubted right to do, that no black man shall be admitted as a witness; and suppose a suitor in a court of justice should demand that a black man, who had been imported from a neighbouring state where no such

law existed, should be admitted to testify in defiance of your law, would his demand avail him? And yet if the construction contended for be correct, that suitor might rest himself upon the constitution of the general government, and give your law to the winds. No sir, the constitution of the United States does not—nor was it ever intended that it should, interfere with the local regulations of the several states. Such a construction would annihilate our sovereignty and prostrate our independence forever.