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# Smith College Studies in History

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JOHN SPENCER BASSETT  
SIDNEY BRADSHAW FAY

*Editors*

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WOMEN'S SUFFRAGE IN NEW JERSEY  
1790-1807

*By* EDWARD RAYMOND TURNER

THE CHEROKEE NEGOTIATIONS OF  
1822-1823

*By* ANNIE HELOISE ABEL

NORTHAMPTON, MASS.

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THE FIRST NUMBER OF THE  
SMITH COLLEGE STUDIES IN HISTORY

IS

“AN INTRODUCTION TO THE HISTORY OF  
CONNECTICUT AS A MANUFACTURING STATE”

By GRACE PIERPONT FULLER

AND THE SECOND AND THIRD NUMBERS ARE

“THE OPERATION OF THE FREEDMEN’S BUREAU  
IN SOUTH CAROLINA”

*Chapters I-VIII*

By LAURA JOSEPHINE WEBSTER

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# Women's Suffrage in New Jersey: 1790-1807

BY EDWARD RAYMOND TURNER, PH.D.  
Professor of History, the University of Michigan

[NOTE: The author had completed the research for this paper and most of the writing of it, when he learned that Dr. Annie Heloise Abel had for some time been collecting data for the future composition of an article on the same subject. It was afterwards seen that both had examined, apparently, the existing material, and had obtained nearly identical results. Under the circumstances two studies were not to be thought of; and collaboration upon one, while considered, was ultimately deemed inadvisable. This study, then, is substantially as I wrote it early in 1913, but Dr. Abel has not only read it over, but contributed a great deal of constructive criticism, numerous references, and not a few of her own ideas. Those used by me, which are supplementary to what I had myself discovered, I have marked "A", though it must be said that the portions so marked denote only a small part of the service rendered. I am not sure that Dr. Abel would approve of all parts of this study, but I am very certain that I have written it a great deal better because of her encouragement and assistance.—E. R. T.]

Increasing agitation about extending the franchise to women has been accompanied by study of the position of women in the past, with the intention of proving that once they had political rights which afterwards were lost. It is pointed out that women as well as men inherited feudal tenure, partook of gild privileges, and held rights in boroughs;<sup>1</sup> that they granted money to the king of England, were summoned to parliament, and could return members to parliament.<sup>2</sup> In the history of the American colonies it has been noted that Margaret Brent asserted her right to sit in the assembly of Maryland.<sup>3</sup> In some cases, I think, false conclusions with respect to suffrage have certainly been drawn.

<sup>1</sup> Pollock and Maitland, *History of English Law* (Cambridge, 1911), I, 72, 262, 263, 308, 314; Luchaire, *La Société Française au Temps de Philippe-Auguste* (Paris, 1909), p. 373; Gross, *The Gild Merchant*, I, 29, 30, II, 4, 14, 49, 125, 127, 128, 212; Porritt, *The Unreformed House of Commons*, I, 39, 40, 78, 79, 97, (A).

<sup>2</sup> *Rotuli Parliamentorum*, III, 546; Palgrave, *Parliamentary Writs*, I, 164; May, *Constitutional History of England*, vol. III, by Francis Holland (New York, 1912), p. 59 (A); C. C. Stopes, *British Freewomen, Their Historical Privilege*, p. 96; M. G. Fawcett, *Women's Suffrage*, pp. 8, 9.

<sup>3</sup> *Archives of Maryland*, I, 215.

In New Jersey, however, in the period from 1790 to 1807, women were permitted to vote, and not a few of them actually did so. It is probable that this is the most important instance of voting in government elections by English-speaking women in any early time.

This story, like others similar, has to do largely with one of the roughly drawn state constitutions of the early Revolutionary period. In 1776 the second Continental Congress recommended that the people of the colonies erect state governments. Accordingly in New Jersey a convention meeting at Burlington, Trenton, and New Brunswick, May 26 to July 2, secretly drafted a document which shortly after was published. The manner in which this convention did its work, and the reasons which led to the particular form of the constitution, are scarcely known, for the task was done in secret, and very scanty records have been preserved.<sup>4</sup> But it is known that the draft was prepared in two days, and agreed to in six more;<sup>5</sup> and there is no doubt that afterwards some of the provisions were found ill-considered and others difficult to understand. In regard to the suffrage this constitution provided that "all inhabitants" of the state having certain qualifications might vote.<sup>6</sup>

In colonial times the franchise had been restricted practically to freeholders,<sup>7</sup> but at the beginning of the Revolution desire for a wider electorate is manifest in numerous petitions for allowing householders to vote.<sup>8</sup> As a result of this, in February,

<sup>4</sup> *Journal of the Votes and Proceedings of the Convention of New-Jersey*. . . . 1776, etc. (Trenton, 1831).

<sup>5</sup> (Trenton) *The State Gazette, and New Jersey Advertiser*, March 27, 1798.

<sup>6</sup> "That all Inhabitants of this Colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for Representatives in Council and Assembly; and also for all other public officers, that shall be elected by the people of the county at large": Poore, *Federal and State Constitutions*, II, 1311.

<sup>7</sup> A. E. McKinley, *The Suffrage Franchise in the Thirteen English Colonies in America*, pp. 228, 229, 238, 248 (A).

<sup>8</sup> *Minutes of the Provincial Congress and Council of Safety* (1879), pp. 207, 220, 231, 340, 346, 372; *American Archives*, fourth series, IV, 1579, 1594 (A).

1776, the Provincial Congress had appointed a committee to prepare an ordinance embodying an extension of the franchise to "every person" of full age and of one year's residence and worth fifty pounds.<sup>9</sup> These were the provisions which were incorporated a little later in the constitution. It is not improbable that the patriots, a minority in New Jersey, hoped to win to their support numerous malcontents who desired a share in the government of the commonwealth.

In 1777 an act passed to regulate elections did not state the qualifications of electors, but declared that the judges of elections were to be chosen by "the Inhabitants of each County, entitled to vote for Representatives in the said Council and General Assembly," and that if objection were made to any person offering to vote he should declare "*I verily believe I am twenty-one Years of Age, and worth Fifty Pounds lawful Money clear Estate in this State; and that I am and have been for one whole Year last past an Inhabitant of this County.*"<sup>10</sup> This act was continued until 1779, when another was passed to the same effect. In 1783 a general election law stated the suffrage qualifications as clearly as they had been laid down in the constitution: "All Inhabitants of this State of full Age, who are worth *Fifty Pounds*, Proclamation Money, clear Estate in the same, and have resided within the County in which they claim a Vote for twelve Months immediately preceding the Election, shall be entitled to vote for Representatives in Council and Assembly, and also for all other publick Officers that shall be elected by the People of the County at large."<sup>11</sup> Meanwhile it does not seem that there was any agitation as to whether the law and the constitution permitted women to vote. The matter was neither affirmed nor denied, and seems not to have been a subject of discussion.

In 1790 revision of the election law for certain counties was

<sup>9</sup> *Minutes of the Provincial Congress*, p. 373; also pp. 429, 430 (A).

<sup>10</sup> *Acts of the . . . General Assembly of the State of New-Jersey, 1776-1777*, pp. 54, 56.

<sup>11</sup> *Ibid.*, pp. 123, 124 (October 11, 1777); *Ibid.*, 1779, p. 98 (June 10, 1779); *ibid.*, 1779-80, pp. 34, 35 (December 24, 1779); *ibid.*, 1783, p. 17 (December 16, 1783).

taken up in the assembly.<sup>12</sup> It was said long after that on this occasion, while a new bill was being drafted, Joseph Cooper, a Friend of West Jersey, and a member of the committee in charge, urged that women had the right to vote, and to please him the committee reported a bill in which the franchise was conferred upon voters referred to as "he or she."<sup>13</sup> The bill passed the assembly with only three votes against it, and became law on November 18.<sup>14</sup> This act declared that "all free Inhabitants of this State" of full age and with the required qualifications of residence and property "shall be entitled to vote," and that "no Person shall be entitled to vote in any other Township or Precinct, than that in which he or she doth actually reside at the Time of the Election."<sup>15</sup> It may be remarked that the provisions of this act were extended to other counties somewhat later.<sup>16</sup>

The account of the part taken by Joseph Cooper must be regarded as traditional, but it would not be surprising if the explicit inclusion of women in the franchise were brought about through the influence of Friends, since the Quakers had consistently maintained the essential equality of women with men. Thomas Clarkson, who was about this time making a study of the Friends in England, notes the good qualities and the practical education of their women. "Independently of their private character," he adds, "they have that which no other body of women have, a public character."<sup>17</sup> Among the Friends women preached, they appointed representatives to the meetings, held their own councils at which women presided, chose their own committees, and appointed women overseers and elders. They held office in

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<sup>12</sup> *Votes and Proceedings of . . . the General Assembly of . . . New Jersey*, October 30, November 14, 1789, May 19, 21, October 27, 1790.

<sup>13</sup> W. A. Whitehead, "A Brief Statement of the Facts Connected with the Origin, Practice and Prohibition of Female Suffrage in New Jersey," *Proceedings of the New Jersey Historical Society*, first series, VIII, 102 (1856).

<sup>14</sup> *Votes of the Assembly*, November 4, 1790; *Acts of New Jersey*, 1790, p. 669.

<sup>15</sup> *Acts of New Jersey*, 1790, pp. 672, 673.

<sup>16</sup> *Ibid.*, 1796, p. 49 (March 10).

<sup>17</sup> "This is a new era in female history," he declares: *A Portraiture of Quakerism* (New York, 1806), III, 246.

the same manner that men did, though they could not be correspondents, arbitrators, legislators, or on committees of appeal. Substantially no distinction was made between men and women in the society.<sup>18</sup> Notwithstanding, there is apparently at this time no evidence that the women of New Jersey, whether of the society of Friends or not, sought the franchise or made use of it after their right had been acknowledged.

For some years no important change was made in the election law. When in 1794 an act was passed prescribing the manner in which representatives were to be chosen to the Federal congress, it was directed that the elections should be held "under the same regulations" as those under which members of the state legislature were chosen.<sup>19</sup> There was, however, considerable dissatisfaction with the existing provisions owing to lack of uniformity and frequent change. In some counties of the state voting was by ballot, in others it was *viva voce*; but from time to time counties were admitted to one class or taken over into the other.<sup>20</sup> A new law seemed desirable, and in 1796 a committee was appointed to prepare a bill to secure "a uniform mode of election." The bill which they reported was taken rapidly through the council, and brought down to the assembly, where with some amendment it was passed by a vote of thirty-two to four.<sup>21</sup> While it was passing through the legislature there seems to have been no debate whatever on the subject of women's franchise. The purpose of the bill was to secure uniformity of procedure.<sup>22</sup> Again by this act "all free inhabitants" properly qualified were to vote, and women were included as well as

<sup>18</sup> *Ibid.*, pp. 250, 251.

<sup>19</sup> *Acts of New Jersey*, 1794-5, pp. 928, 931; *ibid.*, 1796, p. 119.

<sup>20</sup> *Ibid.*, 1777, p. 61; 1779, p. 36; 1783, pp. 15-17, 75, 76; 1788, p. 502; 1790, p. 671; 1794, p. 950; 1795, p. 1059; 1796, p. 49.

<sup>21</sup> *Journals of the Proceedings of the Legislative Council*, October 26, November 4, 10, 11, 12, 14, 1796; *Votes of the Assembly*, November 15, 1796, January 21, February 10, 16, 21, 22, 1797.

<sup>22</sup> "By this bill the election throughout the state is made uniform, and to be by townships and by ballot:" (Newark) *Centinel of Freedom*, March 15, 1797.



men, the legislators taking particular care to make this clear.<sup>23</sup>

It is not apparent that up to this time many women of New Jersey had availed themselves of the privilege accorded them, but an instance soon occurred which attracted general attention. In October, in Essex County, a lively contest arose between John Condict of Newark and William Crane of Elizabeth, candidates for the legislature respectively of the Republican and the Federalist parties. Condict triumphed by a narrow margin, but not until a throng of women in Elizabethtown had gone to the polls in a last effort to save his rival.<sup>24</sup> The account of this occurrence, which was immediately published in the local paper, was widely circulated.<sup>25</sup> The comment would seem to indicate that this was the first time that any number of women had ever voted in the state<sup>26</sup>

The observations are very interesting. One writer of the opposing political party coarsely declared that "the husbands and sweethearts of these heroines begin to suspect that some motive other than a love of the federal cause excited the enterprize." A local wit asserted that it was "a general opinion that females ought not to intermeddle in political affairs." He added that the emperor of Java employed women to advantage in his diplomatic service; while a correspondent asked whether it was not probable "that we should have obtained better terms in a certain treaty, had some WIDOW been employed to negotiate it, instead of an

<sup>23</sup> "No person shall be entitled to vote in any other township or precinct, than that in which he or she doth actually reside at the time of the election:" *Acts of New Jersey, 1797*, pp. 171-174 (February 22). "Every voter shall openly, and in full view deliver his or her ballot . . . to the said judge:" *ibid.*, p. 173. It should be noted, however, that in 1798 an act for the regulation of townships declared that "every white male person" with qualifications required might vote on township matters, "and no other person:" *Laws of New Jersey* (published by William Patterson, Newark, 1800), p. 283 (A).

<sup>24</sup> Whitehead, p. 102; (Newark) *Centinel*, October 18, 1797; *Wood's Newark Gazette, and New Jersey Advertiser*, October 18, 1797.

<sup>25</sup> (Elizabethtown) *New Jersey Journal*, October 18, 1797; (Trenton) *State Gazette*, October 24, 1797; (Newark) *Centinel*, October 25, 1797.

<sup>26</sup> Somewhat later this was specifically stated: "It will be recollected that it was at Elizabeth that the women were first introduced to the election poll in this county, and I believe in this state:" "Manlius" in (Newark) *Centinel*, February 17, 1807.

*extraordinary* MALE *minister*."<sup>27</sup> Some of the comments had a curiously modern tone. One observer spoke of the "rights of women,"<sup>28</sup> and another published a humorous poem, striking in itself, and of interest as affording a clue to the arguments which advocates of the cause had been urging:

NEW-JERSEY hail! thrice happy state!  
thy genius still befriends thee;  
The *Arts* obedient round thee wait,  
and Science still attends thee:  
In freedom's cause you gain'd applause,  
and nobly spurn'd subjection;  
You're now the *Oracle of Laws*,  
and *Freedom of Election*!

Let Democrats, with senseless prate,  
maintain the softer sex, sir,  
Should ne'er with politics of state  
their gentle minds perplex, sir;  
Such vulgar prejudice we scorn;  
their sex is no objection:  
New *trophies* shall our *browes* adorn,  
by *Freedom of Election*!

What tho' we read, in days of yore,  
the woman's occupation,  
Was to direct the wheel and loom,  
not to direct the nation:  
This narrow-minded policy  
by us hath met detection;  
While woman's bound, man can't be free,  
nor have a *fair Election*.

\* \* \* \* \*

Oh! what parade those widows made!  
some marching cheek by jole, sir;  
In stage, or chair, some beat the air,  
and press'd on to the *Pole*, sir:  
While men of rank, who played this prank,  
beat up the widow's *quarters*;  
Their hands they laid on every maid,  
and scarce spar'd wives, or daughters!

<sup>27</sup> (Newark) *Centinel*, October 18, 1797; (Elizabethtown) *New Jersey Journal*, October 18, 1797.

<sup>28</sup> "The *Rights of Man* have been warmly insisted on by Tom Paine and other democrats, but we outstrip them in the science of government, and not only preach the *Rights of Women*, but boldly push it into practice—Madame Wolstencrafts has certainly the merit of broaching this subject:" (Newark) *Centinel*, October 18, 1797.

This precious clause of section laws  
 we shortly will amend, sir;  
 And woman's rights, with all our might,  
 we'll labour to defend, sir:  
 To Congress, lo! widows shall go,  
 like metamorphosed witches!  
 Cloath'd with the dignity of state,  
 and eke, in coat and breeches!

Then freedom hail! thy powers prevail  
 o'er prejudice and error;  
 No longer shall man tyrannize,  
 and rule the world in terror:  
 Now one and all, proclaim the fall  
 of Tyrants!—Open wide your throats,  
 And welcome in the *peaceful* scene,  
 of government in petticoats!!!

It was predicted that "as women are now to take a part in the jurisprudence of our state, we may shortly expect to see them *take the helm*—of government."<sup>29</sup>

The affair seems to have been an unusual one, and I have found no mention of women exercising the franchise in the years immediately following; but it is said that they voted throughout the state in 1800, and there is no doubt that they voted in a state election in 1802, and probably in another also four years later.<sup>30</sup> In 1798 a writer lamented the fact that voting by women gave the towns advantage over the country, because townsmen could more easily bring their women to elections, and declared that "Many important election contests, have been terminated at last, by these auxiliaries."<sup>31</sup> It would appear, however, that they did not vote generally or on many occasions, since the newspapers do not usually mention them in describing elections.<sup>32</sup> It is, of course possible that the papers fail to comment upon what had come to be regarded as a matter of course, but there is reason to

<sup>29</sup> "THE FREEDOM OF ELECTION. A NEW SONG. *To the Tune of—The Battle of the Kegs,*" *ibid.*

<sup>30</sup> Whitehead, p. 103; (Trenton) *True American*, October 25, 1802; *Votes of the Assembly*, November 16, 1802; (Newark) *Centinel*, February 17, 1807.

<sup>31</sup> "Eumenes" in (Trenton) *State Gazette*, January 23, 1798.

<sup>32</sup> For example, (Newark) *Centinel*, January 4, 1797 (A); *The Newark Gazette*, October 21, 28, 1800; (Morristown) *Genius of Liberty*, October 23, 1800; *Centinel*, October 23, November 13, 1804.



believe that the people of New Jersey did not so look upon the matter.

From the first there had been doubt as to the propriety of women being admitted to the suffrage,<sup>33</sup> and very soon their right to participate was called in question. Beginning in 1796 and continuing through the next four years appeared a remarkable series of newspaper articles, which criticised the constitution and explained the necessity of revising it.<sup>34</sup> In 1798 the author said: "It has ever been a matter of dispute upon the constitution, whether *females*, as well as males, are entitled to elect officers of government. If we were to be guided by the *letter* of the charter, it would seem to place them on the same footing in this particular; and yet, recurring to *political* right and the nature of things, a very forcible construction has been raised against the admission of *women*, to participate in the public suffrage."<sup>35</sup> In 1799 a correspondent writing to his paper urged the desirability of amending the state constitution. Among the things to be considered, he said, was the placing of the rights "of *electors* and *elected* upon safer and more rational principles" by "ascertaining the right of *females* to vote at elections."<sup>36</sup> In the year following the editor of the Newark *Centinel* bitterly arraigned the corruption of the Federalists of Elizabethtown in bringing forward "the widows and maids of that place . . . to vote for the federal ticket."<sup>37</sup> In 1802 a writer decrying a corrupt election said, "we have seen in

<sup>33</sup> (Elizabethtown) *New Jersey Journal*, October 18, 1797; (Trenton) *State Gazette*, October 24, 1797; (Newark) *Centinel*, October 25, 1797.

<sup>34</sup> Published in (Trenton) *State Gazette*, March, 1796, February 14, 1797, January 9, 16, 23, 30, February 6, 13, 20, 27, March 6, 20, 27, April 3, June 12, July 24, 31, August 14, 21, September 4, 11, 18, October 2, 9, 30, November 6, 1798, and in other numbers. Apparently some of the articles were printed in various papers: (Morristown) *Genius of Liberty*, October 9, 1800 (A). Many of them were published together as a pamphlet: *Eumenes: Being a Collection of Papers, Written for the purpose of exhibiting some of the more prominent Errors and Omissions of the Constitution of New-Jersey . . . and to Prove the Necessity of Calling a Convention, for Revision and Amendment* (Trenton, 1799). The author was William Griffith of Burlington. For the quotations from *Eumenes* I am indebted to the late William Nelson of Paterson, New Jersey.

<sup>35</sup> *Eumenes*, p. 33; *State Gazette*, January 23, 1798.

<sup>36</sup> (Trenton) *Federalist*, November 4, 1799.

<sup>37</sup> (Newark) *Centinel*, December 9, 1800.

Elizabeth-Town the practice of bringing women and girls to vote first introduced, in direct violation of the spirit and intention of the law."<sup>38</sup>

To some there appeared no doubt that women were enfranchised by the constitution of the state,<sup>39</sup> and that the state election laws confirmed this. In 1800 a member of the legislature declared that when the Assembly was considering a bill to regulate the election of representatives to the Congress of the United States, a motion was made to amend by adding: "That it is the true intent and meaning of this act, that the inspectors of elections in the several Townships of this State, shall not refuse the vote of any widow or unmarried woman of full age . . . provided each of the said persons shall make it appear on oath or otherwise, to the satisfaction of the said inspectors, that . . . she is worth £50 clear estate." The amendment was rejected because it was said that the constitution clearly guaranteed this right to women, and the inspectors must be guided thereby. "Our Constitution," he added, "gives this right to maids or widows *black or white*."<sup>40</sup> Two years later, when an election law was being considered, it was moved "to exclude all persons from voting excepting free white males," but the proposition was easily voted down.<sup>41</sup>

That there was uncertainty notwithstanding, is evident from the fact that among those who agreed that women should vote, there was disagreement about what women might do this. The constitution stated explicitly that all properly qualified "inhabitants" should have the franchise, and the election laws made it clear that this referred to women as well as to men, without any exception save that they be duly qualified. It was the prevailing opinion, however, that married women were excluded. In de-

<sup>38</sup> *Ibid.*, November 2, 1802.

<sup>39</sup> "I believe, that the convention, who framed the constitution, had no view to the admission of females, either single women or widows, to elect the public officers; but such is the phraseology of the constitution, that it seems a violation of it, not to admit their votes. The best constitutions have guarded against any mistakes, on this head;" "The generally received opinion. . . is, that the constitution permits it:" *Eumenes*, pp. 33, 34.

<sup>40</sup> (Newark) *Centinel*, November 11, 1800.

<sup>41</sup> *Votes of the Assembly*, November 29, 1802.

scribing the elections in which women voted some of the contemporary writers mention only widows and women unmarried.<sup>42</sup> In 1802, when an election was contested, one of the complaints was "that married women voted." The committee by whom the complaint was heard upheld the election, because it appeared that only one had done this, and she, being deserted by her husband several years before, had resumed her former name, and under that name paid taxes. But on the same occasion the committee dismissed another such complaint on a technicality.<sup>43</sup> It can scarcely be doubted that some married women did vote without protest.<sup>44</sup> It may be remarked that the election law of 1797, when it specified the inclusion of women in the franchise, omitted the words "clear estate" in the property qualification as expressed in the constitution, apparently ignoring a restriction which would have excluded married women as the law of property was at that time.<sup>45</sup>

It seems probable that the general opinion, so far as it found expression, was that women might vote, if not under the constitution, at least under the state laws. Frequently there were complaints about improper elections, but usually no objection is made to qualified female voters. In 1798 a petition alleged fraud and undue influence, but made no allusion to women. Two years later the Federalists of Essex County were accused of receiving among other votes known to be illegal those of "negro wenches," but the complaint was that they were negresses, supported by charity.<sup>46</sup> In 1802 the Federalists again used the votes of women,

<sup>42</sup> (Newark) *Centinel*, October 18, 1797, December 9, 1800.

<sup>43</sup> *Votes of the Assembly*, November 16, 1802.

<sup>44</sup> A sarcastic writer declares that during the election at Elizabeth in 1797, "the alacrity with which the matrons, and even maids, assembled, afforded a transient prospect of immediate relief" to the Federalists. He speaks also of the "husbands and sweethearts" of these women: (Newark) *Centinel*, October 18, 1797.

<sup>45</sup> "Fifty pounds proclamation money, clear estate," 1776: Poore, II, 1311; "Fifty Pounds Proclamation Money clear Estate," 1790; *Acts of New Jersey*, 1790, p. 672; "fifty pounds, proclamation money," 1797: *ibid.*, 1797, p. 174; see *Carpenter v. Cornish* (Supreme Court of New Jersey, 1912): 83 *Atlantic Reporter* 31.

<sup>46</sup> (Newark) *Centinel*, February 20, 1798, December 16, 1800.

but objection was made because some of the votes received were of women not qualified as to residence, age, and property.<sup>47</sup>

If one examines the evidence and the legal precedents, the difficulty of deciding the question is as apparent now as it was then. Some of the important provisions in early state constitutions were drafted in such manner that what they seemed to mean in plain words was very different from what they were interpreted to mean. In Pennsylvania, the suffrage clauses in the constitutions of 1776 and 1790 were so worded that it was for a great many years doubtful whether or not negroes might vote; and when the matter came up for final interpretation in 1838, the supreme court itself was reluctant to decide.<sup>48</sup> These constitutions provided that every "freeman" properly qualified might vote, and the difficulty lay in deciding the significance of "freeman,"—whether it referred to all men free, or was to be understood with certain legal limitations valid when the instrument was drawn and previously.<sup>49</sup> Similarly, the New Jersey constitution of 1776, which granted the franchise to "all inhabitants," may seem more inclusive than it was intended to be. Had women voted in New Jersey in colonial days, then there might be no question about the term comprehending women as well as men, but no woman is known to have done this, and the colonial laws granted the suffrage in terms as vague as those afterwards written.<sup>50</sup> If, when the constitution was adopted, there had been agitation for the inclusion of women in the franchise, and if the matter had been debated in the convention, it might be supposed that the suffrage clause represented an innovation, and included women with men, but there seems to be no record that the matter was discussed. Ambiguous phrases must be understood in the sense which they probably had to the men who used them for a particular purpose. It then becomes probable that "all inhabi-

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<sup>47</sup> (Trenton) *True American*, October 25, 1802; (Newark) *Centinel*, November 2, 1802.

<sup>48</sup> E. R. Turner, *The Negro in Pennsylvania, 1639-1861*, pp. 169-190.

<sup>49</sup> Poore, II, 1542, 1551; *Hobbs v. Fogg* (Supreme Court of Pennsylvania, 1838): 6 Watts 553-560.

<sup>50</sup> Allinson, *Laws of New Jersey*, pp. 6, 69, 70, 306.

tants" means no more than "all men," since before 1776 only men had voted in New Jersey. Some force is given to this contention by the fact that the constitution itself ordains that the previous laws of the province shall remain in force unless they are incompatible with the constitution, and no law to regulate the qualifications of electors was passed until 1783, when the expression "all Inhabitants" remained as in the constitution.<sup>51</sup> Moreover, from a strictly legal point of view, the constitution of 1776, in ordaining that all qualified inhabitants might vote, who had resided for twelve months preceding in the county "in which they claim a vote," might be thought to exclude all but men, since in 1776 men alone, it would seem, had by long custom made the privilege good.<sup>52</sup>

If resort be had to contemporary expressions the same ambiguous wording is discovered, as might be expected. In 1776 a petition from the inhabitants of Morristown asked that "all officers in civil government may be annually elected by the people."<sup>53</sup> In 1782 the legislature declared that "every Person" on parole or under indictment for aiding the enemies of the state should be incapable of voting.<sup>54</sup> In 1801 an advertisement notified the "Inhabitants of the Township of Morris" that "the annual Election for the choice of members of the Legislature, Sheriff, &c. will open."<sup>55</sup> On the other hand, somewhat earlier, a member of the legislature declared in the Assembly that it was a fundamental principle of good government that representation and taxation should go together, and lamented that some men were excluded from the suffrage. "This," he said, "requires a revision; every man, in my opinion, who pays a tax for the support of government, has a right to vote for a man by whom he is to be taxed."<sup>56</sup>

It cannot be denied that the matter is dubious and that there is ground for difference of opinion; but the important thing is

<sup>51</sup> Poore, II, 1313; *Acts of New Jersey*, 1783, p. 17.

<sup>52</sup> Poore, II, 1311; 83 *Atlantic Reporter* 32.

<sup>53</sup> *Journal of the Votes and Proceedings of the Convention of New-Jersey . . . 1776*, p. 20.

<sup>54</sup> *Acts of New Jersey*, 1782, p. 119.

<sup>55</sup> (Morristown) *Genius of Liberty*, October 1, 1801.

<sup>56</sup> (Newark) *Centinel*, April 24, 1798.





that this doubtfulness existed. In the years after 1776 it was not clear to all people of New Jersey whether the constitution admitted women to vote or not. Two laws explanatory were passed by the legislature, but the legislature might annul them, as it afterwards did, and then the meaning of the constitution would depend ultimately upon the decision of the majority of the people. Meanwhile the subject of women's suffrage remained a debatable question which might be decided differently by different men. The fourth article of the constitution, said *Eumenes*, declares that all inhabitants qualified shall vote. "Those who support the rights of women, say, that 'all inhabitants,' must mean all women inhabiting, as well as all men; whereas, it is urged on the other side, that the makers must have meant all male inhabitants, and that the expression is to be restrained, so as to arrive at the *intent* of the framers of the instrument." And he adds: "This difference of sentiment has given rise to diversity of practice on this head, and furnished a pretence, from which, many an electioneering trick has resulted . . . It is well known, that women are admitted or rejected, just as it may suit the views of the persons in direction."<sup>57</sup>

The uncertainty had to do not merely with women but with negroes as well, and conceivably with slaves and with servants also. This was a time when the Friends of Pennsylvania and the states near by were exerting themselves to the utmost for the betterment of the blacks, and were beginning to urge their economic and political equality with white people.<sup>58</sup> In Pennsylvania there was probably little voting by negroes at this time, but in New Jersey it was not infrequent, and sometimes unquestioned; while until 1790 the law did not explicitly forbid the vote to servants and to slaves.<sup>59</sup>

Accordingly it may be seen that during the period after 1776 there was in regard to suffrage in New Jersey considerable uncertainty, owing to the wording of the fundamental law and

<sup>57</sup> *Eumenes*, p. 33.

<sup>58</sup> Turner, *The Negro in Pennsylvania*, pp. 210, 211.

<sup>59</sup> (Newark) *Centinel*, November 11, December 9, 1800; *Votes of the Assembly*, November 16, 1802; *Acts of New Jersey*, 1790, p. 672.

of the legislative enactments supplementary to it; and that this uncertainty had to do with unfree persons and negroes, but particularly with the women of the state; that the law was construed diversely in different places and at different times; and that the very uncertainty afforded ground for abuse. As a matter of fact, the passion and excitement of election contests and unscrupulous desire to win caused repeated abuse and notorious scandal.

Those who believe that political corruption and local maladministration are greater evils arisen in a modern civilization of industrial development and combination, should study the details of American political history in earliest days to see how our ancestors lamented these same things, and opposed them, perhaps, with less vigor. In New Jersey the law made elaborate provision for the proper conduct of elections, and provided penalties for bribery, slander, corruption, and intimidation.<sup>60</sup> This was of little avail. Often there was outrageous disregard of civic honesty, followed by frantic appeals for legal redress or legislative intervention. In 1794 the Supreme Court declared void an election in which voters were admitted on their bare declaration and in which the ballot-box was probably broken open.<sup>61</sup> In 1798 Federalists complained of voting by aliens newly arrived.<sup>62</sup> Following an election about the same time, the defeated party maintained that the victors had used undue influence, that voters had been admitted without proper tests, and that the ballot-box had been opened.<sup>63</sup> On another occasion a Republican meeting in Essex County declared that the Federalists had taken the votes of British officers on half pay, of Frenchmen with no property, and of pauper negro women.<sup>64</sup> In 1802 petitions came to the legislature from Gloucester, Hunterdon, and Monmouth Counties praying an investigation into illegal proceedings during the October elections. To a committee appointed it was related that at Maidenhead married women and citizens of Philadelphia

<sup>60</sup> *Acts of New Jersey, 1790*, pp. 670, 672, 673.

<sup>61</sup> 1 *New Jersey Reports*, 283-295.

<sup>62</sup> (Newark) *Centinel*, April 17, 1798; (Trenton) *Federalist*, November 4, 1799.

<sup>63</sup> (Newark) *Centinel*, February 20, 1798.

<sup>64</sup> *Ibid.*, December 16, 1800.

had voted, and that voting by proxy had been allowed. During the investigation it was maintained that proxies were regularly received there.<sup>65</sup> In regard to an election at Trenton it was alleged that voting was done by aliens, non-residents, persons under age, persons without the required amount of property, married women, negroes, and slaves.<sup>66</sup> The committee disregarded the complaints, but some of the newspapers were loud in denunciation. One Republican asserted that the Federalists had triumphed through riot, bribery, and pressure put upon Irish and Scottish industrial workers; while another said that their candidates "were elected by the illegal votes of proxies, boys, beggars, foreigners, and slaves."<sup>67</sup> Not a few writers called attention to the danger which such corruption threatened to the constitution and liberties of the state. It is not surprising, then that there was discontent with election regulations, and desire to amend them.<sup>68</sup>

In 1802 a committee was appointed to examine the election laws and report amendments.<sup>69</sup> Meanwhile a bill had been introduced, but it was afterwards dropped.<sup>70</sup> In the next year, following a petition from Gloucester County, a slight change was made.<sup>71</sup> Then in the Autumn of 1806 a bill was introduced in the Assembly. It is probable that some of the members favored a drastic change, but it is not clear that the bill was

<sup>65</sup> *Votes of the Assembly*, October 27, 29, November 1, 4, 16, 1802; (Trenton) *True American*, October 25, November 8, 1802.

<sup>66</sup> *Votes of the Assembly*, November 16, 1802.

<sup>67</sup> (Newark) *Centinel*, November 2, 1802; (Trenton) *True American*, November 15, 1802. It was suggested that the editors of the Trenton *Federalist* might do well to portray to their readers "An election scene exhibited with a number of *negro slaves* advancing to the poll with *federal tickets*, chaunting the following lines:

"Massa be good, he gibbe me holiday,  
De tory again be de bes men of all he say,  
So de paper I tick in de box as he said,  
And I be no more slave, 'cause I vote for a fed."

(Newark) *Centinel*, January 11, 1803.

<sup>68</sup> (Trenton) *Federalist*, November 4, 1799, September 28, 1807 (A).

<sup>69</sup> *Votes of the Assembly*, October 27, 1802.

<sup>70</sup> *Ibid.*, October 29, 1801; *Journals of the Legislative Council*, October 29, 30, November 2, 5, 6, 1801, October 26, 1803.

<sup>71</sup> *Acts of New Jersey*, 1803, p. 234 (November 11).



intended to do more than regulate property qualifications.<sup>72</sup> Just at this moment, however, a new aspect was put upon the matter by the perpetration of such frauds that the election at which they occurred is remembered to the present time.

In 1806 it became necessary to build a new court house in Essex County. The old one was at Newark, but the people of Elizabethtown desired to get the new one for themselves, and having a majority in the local board of freeholders, resisted placing the proposed building in Newark.<sup>73</sup> Finally it was decided to settle the location of the structure by a vote of the people of the county, and the legislature being petitioned to allow this, a law was passed ordering an election.<sup>74</sup> Elaborate preparations were made, and there was great excitement on both sides.<sup>75</sup> All over the county mass meetings were held and speeches made. It finally became unsafe for the people of Elizabeth to visit Newark, and two men of the latter place were assaulted in the neighboring town.<sup>76</sup> In the midst of this feeling the election was held.

The voting began February 10 at Day's Hill, near Elizabeth, which the people of that town desired as the site of the new building. It was the opinion of some that proceedings were fairly conducted at first. Irregularities soon began, however, and when the election was continued at Elizabeth the next day fraud became rampant.<sup>77</sup> But when on February 12, the last day of the contest, the turn of Newark came, corruption was so open and shameless that all previous dishonesty was surpassed. Men and boys voted unchallenged, and then went from poll to poll repeating. Vehicles were used to transport the voters quickly, and throngs of outsiders were brought in to swell the number, spies going meanwhile to Elizabethtown to learn how many votes were

<sup>72</sup> *Votes of the Assembly*, November 5, 22, 1806. "The main features of this bill is to make the tax list the evidence of the requisite qualification of voters at elections:" (Trenton) *Federalist*, November 10, 1806.

<sup>73</sup> W. H. Shaw, *History of Essex and Hudson Counties, New Jersey* (Philadelphia, 1884), I, 212.

<sup>74</sup> *Votes of the Assembly*, February 11, 12, 1806; *Acts of New Jersey*, 1806, pp. 711, 712 (November 5).

<sup>75</sup> (Newark) *Centinel*, February 17, 1807.

<sup>76</sup> Shaw, I, 212, 213.

<sup>77</sup> (Newark) *Centinel*, November 17, 1807.

needed. During this carnival of fraud women vied with men, and seemed, to contemporaries, to excel them. Women and girls, black and white, married and single, with and without qualifications, voted again and again. And finally men and boys disguised as women voted once more, and the farce was complete.<sup>78</sup>

The result of this election was extraordinary. The population of Essex County at this time was about 22,000, from which number nearly 14,000 votes were cast, half as many as were wont to be polled in the entire state.<sup>79</sup> The largest number of votes ever given in the county previous to that time had been about 4,500, but on this occasion there were 5,000 in Newark alone.<sup>80</sup> The township of Acquacknonk, said to contain about 350 voters, polled nearly 1,900.<sup>81</sup> Moreover, the voting was as partisan as it was scandalous. In Elizabethtown scarcely anyone favored Newark, in which place there was hardly an adverse vote.<sup>82</sup> The re-

<sup>78</sup> "Men usually honest seemed lost to all sense of honor, so completely were they carried away by the heat of the strife:" Shaw, I, 213; "Women vied with the men, and in some instances surpassed them, in illegal voting. Only a few years ago there were living in Newark two ladies, who at the time of the election in their 'teens, voted six times each:" *ibid.*

<sup>79</sup> (Elizabethtown) *New Jersey Journal*, February 17, 1807; (Trenton) *True American*, November 23, 1807.

<sup>80</sup> (Elizabethtown) *New Jersey Journal*, April 14, 1807; (Trenton) *True American*, February 23, 1807. In 1810 the population was only 6,000: Shaw, I, 213.

<sup>81</sup> (Elizabethtown) *New Jersey Journal*, February 24, 1807.

<sup>82</sup> "The following is a statement of the votes in the several townships:

	<i>For Newark</i>	<i>For Day's-Hill</i>
Newark .....	4792	247
Elizabeth .....	29	2257
Acquacknonk .....	1884	7
Springfield .....	43	2388
Caldwell .....	860	
Westfield .....	8	927
Rahway .....	50	325

7665 [7666]                      6181 [6151]": (Trenton)

*True American*, February 23, 1807. Some time before the election it was said that the number of electors was as follows: Newark, 1600; Elizabeth, 1000; Westfield, 600; Rahway, 350; Springfield, 300; Acquacknonk and Caldwell together, 650: (Elizabethtown) *New Jersey Journal* February 3, 1807 (A).

sult was a triumph for Newark, and when the outcome of the contest was known the townsmen broke forth in wild rejoicing.<sup>83</sup>

The jubilation of the victors was surpassed by agonized appeals from the defeated. Each side accused the other of beginning the fraud, but the outcries of the vanquished were more prolonged and vehement.<sup>84</sup> "A more wicked and corrupt scene was never exhibited in this State, or in the United States," said an Elizabethtown writer, while outsiders took up the refrain.<sup>85</sup> Meetings were at once held by the friends of Elizabeth to protest against such corruption, and petition the legislature to order a new election.<sup>86</sup> The Council took up the matter in the autumn, and a committee appointed to receive evidence, said there was no doubt that the contest had been illegally conducted. So, an act was passed declaring the election void.<sup>87</sup>

This episode, unimportant in itself, was far-reaching in its consequences, since it attracted general attention and caused widespread indignation at election irregularities, just when the legislature was considering the alteration of the election law and the reform of various abuses pertaining to it. The consideration of the bill in the previous year had been interrupted at the close of the session; but within a week after the legislature assembled in the autumn, Mr. Condict reported from committee an amended bill to supplement the election law of 1797.<sup>88</sup> Condict was the Republican candidate of 1797, who had so nearly been defeated by the votes of the women of Elizabeth. It is possible that he was hostile to their enfranchisement; at all events his bill now contained a provision excluding them from the suffrage. In the

<sup>83</sup> (Newark) *Centinel*, February 17, 1807.

<sup>84</sup> *Ibid.*, November 17, 1807; (Elizabethtown) *New Jersey Journal*, April 14, 1807.

<sup>85</sup> (Elizabethtown) *New Jersey Journal*, February 17, 1807. "It affords a melancholy picture of the morals of the people of Essex, and excites the most unpleasant sensations in the breast of every person favourably disposed to free, elective government!" (Trenton) *Federalist*, February 23, 1807.

<sup>86</sup> (Elizabethtown) *New Jersey Journal*, February 17, April 14, 1807; *Journals of the Legislative Council*, November 3, 1807.

<sup>87</sup> *Journals of the Legislative Council*, November 5, 25, 26, 1807; *Acts of New Jersey*, 1807, p. 52 (November 28).

<sup>88</sup> *Votes of the Assembly*, November 3, 1807.

debate on the second reading, when a motion was made to strike out the excluding clause, he made an eloquent speech in defense of the limitation of the franchise to "free, white, male, citizens." To the objection that the constitution extended the suffrage to "all inhabitants" he replied that these words could mean free white men and free white women married and single, free negroes and free negro women married and single, negro slaves and unfree negro women married and single, and also aliens; no one could suppose that the constitution really did mean this. Legislators should endeavor to understand the real intent of those who framed the constitution. He understood that they had admitted to the franchise only free white males, and that the legislature could debar others. That it ought to do this was made evident by the glaring fraud and corruption which existed under the present system, and which threatened to subvert the liberty of the people.<sup>89</sup> There is no doubt that he was voicing the opinion of many others. Earlier in the year a writer commenting upon the proceedings in Essex, declared that they afforded "striking evidence of the miserably defective system of New Jersey elections"; and a local paper advertizing to "the unexampled outrages committed in the democratic county of Essex, at the late courthouse election," spoke in favor of the new law.<sup>90</sup> However this be, Condict's speech bore down all opposition, and the bill passing both houses by heavy majorities, at once became law.<sup>91</sup>

"WHEREAS," ran the preamble to the new act, "doubts have been raised and great diversities in practice obtained throughout the state in regard to the admission of *aliens, females, and persons of color, or negroes* to vote in elections, and also in regard to the mode of ascertaining the qualifications of voters in respect to *estate*.—AND WHEREAS, it is highly necessary to the safety, quiet, good order and dignity of the state, to clear up the said doubts

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<sup>89</sup> (Newark) *Centinel*, November 24, 1807; (Trenton) *True American*, November 16 (A), 23, 1807.

<sup>90</sup> (Trenton) *Federalist*, February 23, November 30, 1807.

<sup>91</sup> (Newark) *Centinel*, November 24, 1807; *Votes of the Assembly*, November 11, 1807; *Journals of the Legislative Council*, November 14, 1807; *Acts of New Jersey*, 1807, p. 14 (November 16).

by an act of the representatives of the people, declaratory of the true sense and meaning of the constitution, and to ensure its just execution in these particulars, according to the intent of the framers thereof;" no persons were thereafter to be allowed to vote except free white men, qualified according to the law.<sup>92</sup>

In this manner was the franchise withdrawn from the women of New Jersey. That the law was not directed primarily against them, but was intended to exclude all classes who held the privilege doubtfully, is evident from the debates in the legislature, and from the comments made in the newspapers at the time. No marked hostility is shown toward women voters, nor are they blamed for election scandals more than the other classes who had taken part in them. The design of the legislators seems to have been a general amendment of the election law rather than the exclusion of women, and the discussion and publication of the law seem to have caused little or no comment upon this aspect of it.<sup>93</sup> Nor did the women themselves oppose exclusion with any vigor. It does not appear that they petitioned the legislature against the bill, or wrote against it in the newspapers. Apparently they regarded it with indifference.<sup>94</sup>

The law of 1807 was followed by similiar ones in 1820 and in 1839. In 1844 a new constitution expressly limited the suffrage to free white men.<sup>95</sup> In 1875 an amendment to the constitution admitted negro men, but continued the exclusion of all women.<sup>96</sup> It is said that some of the people of New Jersey regarded the law of 1807 as contrary to the constitution, in so far as it excluded from the franchise women, aliens, and negroes; and that

<sup>92</sup> *Acts of New Jersey*, 1807, pp. 14-17.

<sup>93</sup> (Trenton) *Federalist*, November 16, 30, December 7, 1807; (Newark) *Centinel*, November 24, December 22, 1807; (Trenton) *True American*, December 14, 1807.

<sup>94</sup> The fact that women's occupations were as yet almost entirely domestic, and that the industrial revolution had not yet begun in New Jersey may explain this in part. In 1790 a writer opposes the introduction of manufactures, since women will be idle unless they go out into the industries: *The New-Jersey Journal, and Political Intelligencer*, June 30, 1790.

<sup>95</sup> Poore, II, 1315.

<sup>96</sup> *Ibid.*, 11, 1325.



their votes were accepted occasionally. An instance of this is mentioned as late as 1837.<sup>97</sup> In 1858 Lucy Stone of Orange refused to pay her taxes because as a woman she had no representation.<sup>98</sup> These instances, however, were exceptions to general and quiet acquiescence in the situation.

In 1912 the entire matter was reopened by a suit instituted in the Supreme Court of New Jersey. Here a woman sought a writ of mandamus to compel the local election board to register her name in order that she might vote. In this case her lawyer, also a woman, argued that the state constitution of 1776 included women in the franchise, and that the laws of 1790 and 1797 expressed the privilege more definitely; that the law of 1807 was invalid since it was in contravention of the constitution, and that the similar laws of 1820 and 1839 were invalid for the same reason; finally, that the constitution of 1844 could not be held to exclude women, since women were not permitted to vote for the delegates who drafted it, and that therefore all subsequent election laws based upon it were of no effect in debarring women from the suffrage. The Supreme Court decided against all of these contentions, and its decision was afterwards upheld by the Court of Errors and Appeals.<sup>99</sup>

I have attempted to recount the earliest and most important instance of voting by women in the United States in earlier times. Women may have voted occasionally in New Jersey from 1776 to 1797, but there is no doubt that in the years from 1797 to 1807 they exercised the privilege, if not generally throughout the state, at least from time to time and in considerable numbers. The practice was based upon an interpretation of the constitution plausible then and since, but an interpretation at best dependent upon contemporary opinion and the will of the majority. That it was soon called in question and that women were excluded

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<sup>97</sup> L. Q. C. Elmer, *The Constitution and Government of the Province and State of New Jersey*, etc (Newark, 1872), p. 49.

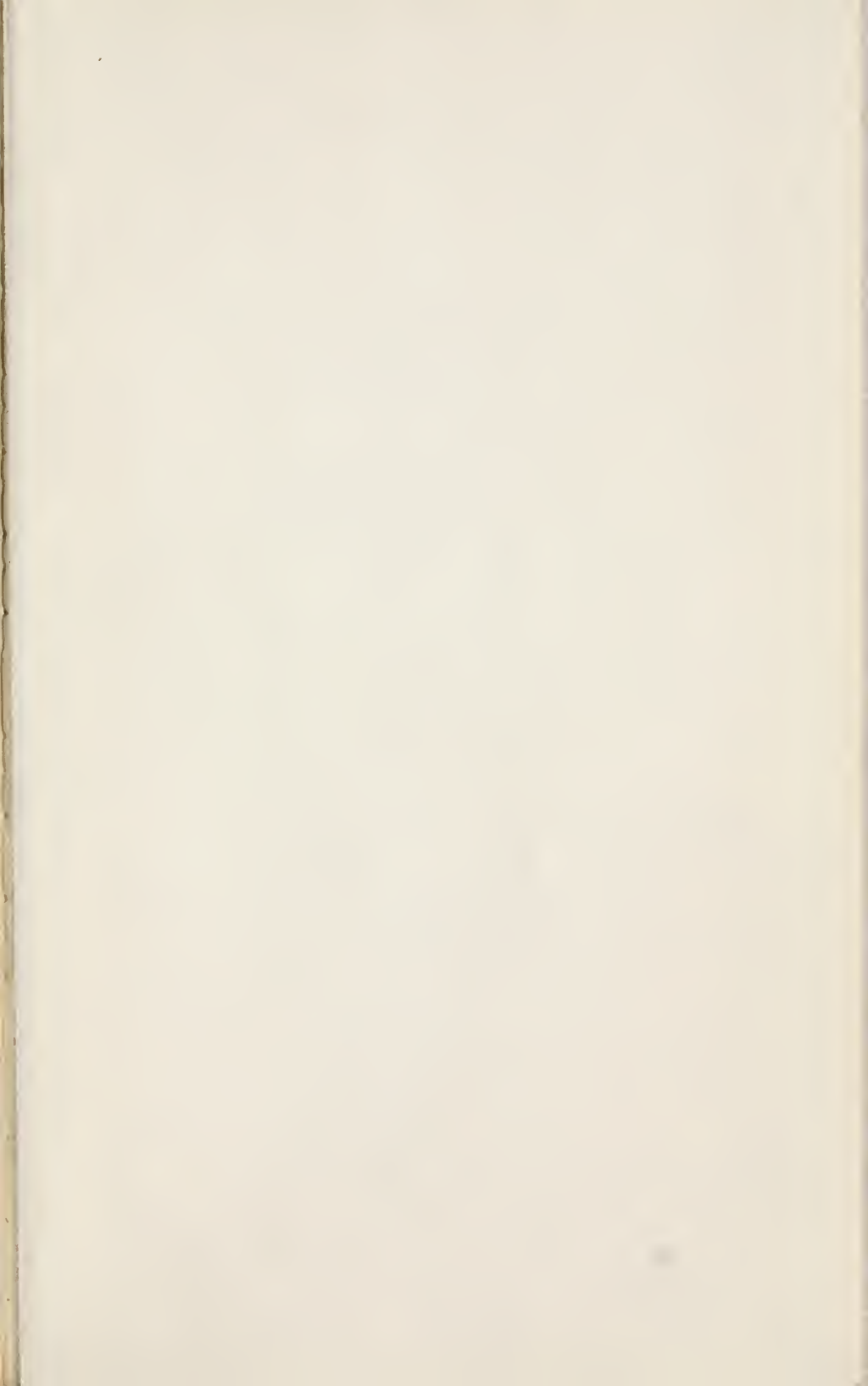
<sup>98</sup> *Proceedings of the New Jersey Historical Society*, first series, VIII, 105.

<sup>99</sup> Mary Philbrook, *Argument* (State Library, Trenton); 83 *Atlantic Reporter*, 31-34.

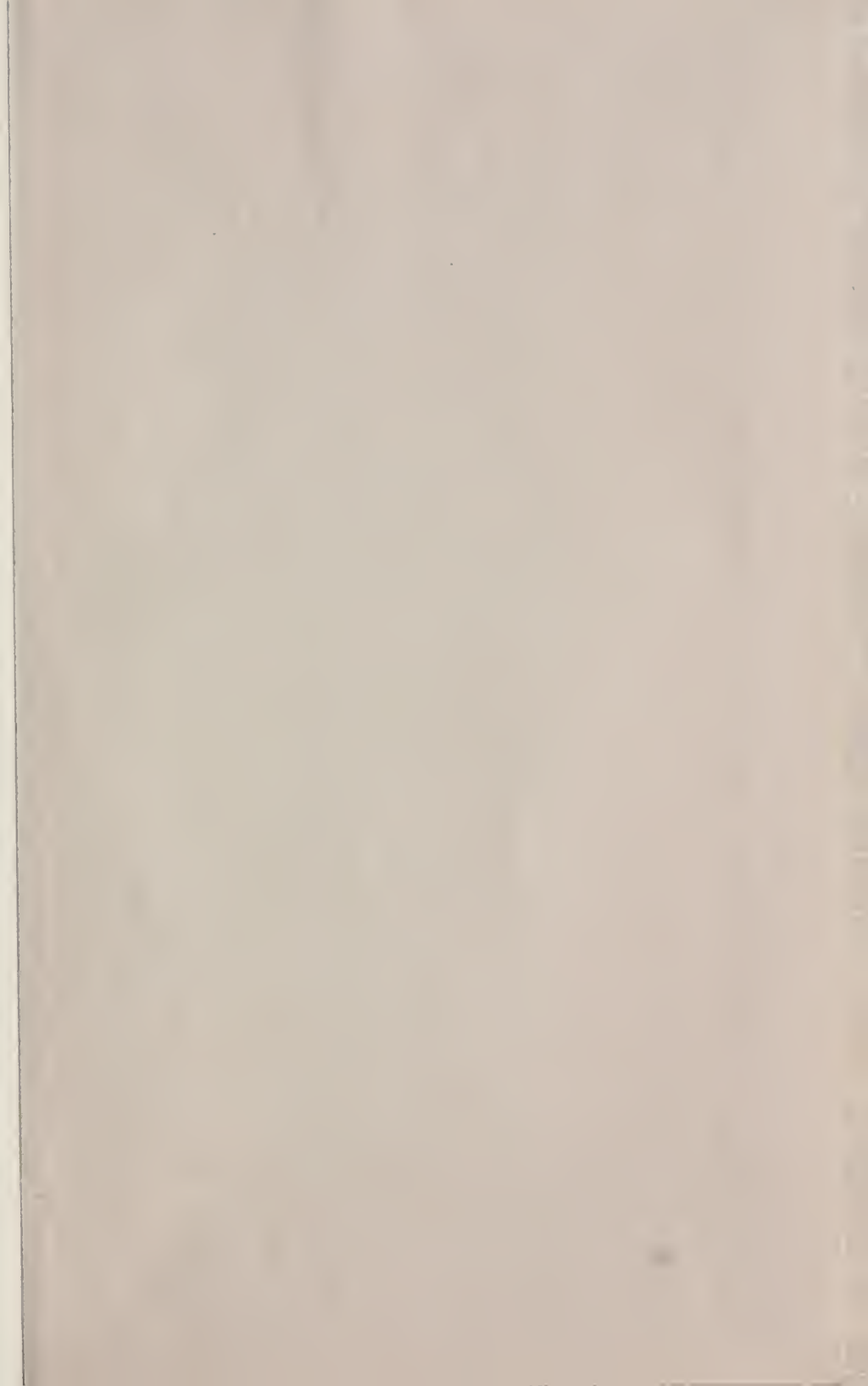
from the franchise was owing to the desire to amend an ambiguous law working badly, and was possible because of the indifference of the women and the hostility of many of the men. It is true that exclusion was owing partly to the fraud and illegal practices of some women voters, but these women were not worse than the men among whom they voted.











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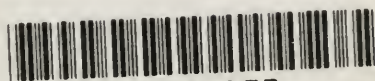
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