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Source: *The North American Review*, Nov., 1893, Vol. 157, No. 444 (Nov., 1893), pp. 550-559

Published by: University of Northern Iowa

Stable URL: <http://www.jstor.com/stable/25103225>

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THE REVISION OF THE BELGIAN CONSTITUTION.

BY HIS EXCELLENCY THE BELGIAN MINISTER AT WASHINGTON,
ALFRED LE GHAIT.

AFTER the revolution, which separated Belgium from Holland in 1830, the former was constituted an independent and perpetually neutral State. The first care of the National Congress was to give the country a constitution, which was promulgated on the 7th of February, 1831. Belgium was born again, with her glorious traditions of secular liberty under a new régime, that of a constitutional monarchy, in which the powers were fairly balanced, and the exercise of all its liberties was assured to the nation. The Belgian constitution has since then gained the admiration of the civilized world, and on account of its merits and of the proverbial wisdom of the dynasty under whose ægis she has flourished for sixty-two years, Belgium enjoys an era of peace and prosperity of which history offers few examples.

The Belgians, proud of their constitution, have loved, respected and cherished it, and have on several occasions repelled attempts to modify it. Whatever may be the political or social questions which divide the Belgians, a spirit of quiet common sense, of great patriotism, unites them, when it is necessary to defend and maintain those grand fundamental principles, on which are based the institutions of the country, and which have assured its happiness under the constitutional monarchy.

With the hereditary monarchy, the constitution has established the Parliament, composed of the Chamber of Representatives and the Senate. The members of the two chambers are directly elected by the people. The responsible ministers are chosen by the King from the majority designated at elections. All powers

emanate from the nation. The legislative power is exercised collectively by the King and the two Chambers.

The whole political organization is based on the elective system, and it results—as is evidenced in the United States—that the elective system is the absolute reign of the majority. If tyranny is to be feared in the Great Republic or in Belgium it cannot be that of the executive power, but only that of the majority, which in the name of its rights, more constitutional, sometimes, than real, governs the country in its own manner, without regard to the minority which, though powerless, is often nearly as numerous as the controlling party.

The importance of the majority explains the efforts of the defeated classes to come into power in their turn by the aid of the ballot box. In the countries where parliaments prevail, people no longer conspire against the sovereign—no struggle is made to extort concessions from him—but the struggle is, to belong to the all powerful majority.

The constitution of 1831 adopted the exclusive principle of taxpaying, considering it as a presumption of capacity, and made it the unique basis of electoral franchise. Articles 47 to 59 establish the rules which serve as a basis for the two branches of Parliament. Article 47 prescribes that the representatives shall be elected by citizens paying the “cens” or tax fixed by the electoral law, which could not be over 100 florins, nor under 20 florins direct taxation. The number of deputies could not exceed the proportion of 1 for 40,000 inhabitants. They were elected for four years. The Senators were elected for eight years by the same electors, their number being limited to that of half of the representatives.

The revised electoral law—that of the 12th of March, 1848—accords the right of suffrage to all Belgians paying the minimum tax of 20 florins (43.32 francs). It was impossible to go further than this under the provisions of Article 47 of the constitution. By the law of 1848 the total number of electors amounted only to 79,189, for a population of 4,359,090 inhabitants.

This régime has lasted until to-day, but a universal economic revolution, perhaps more intense in Belgium than elsewhere, has been in progress since 1848. Riches, general education and population have increased out of all proportion to the limited num-

ber of citizens invested with the right to vote. To-day 134,437 electors decide the destiny of a population of more than 6,000,000 souls.

The injustice of this situation has been acknowledged for several years ; divers attempts have been made to bring about a revision of Article 47, but the respect for the constitution was such that no majority ventured to assume the responsibility of laying hands on it. In 1870, in 1883 and in 1887 various propositions for revision were submitted to the House, but they failed to pass. A new effort was made on the 19th of November, 1890, by Mr. P. Janson and his friends of the Advanced Left, and this time Mr. Beernaert, chief of the Conservative cabinet, and the leaders of the principal parliamentary groups, having declared themselves in favor of Mr. Janson's proposition for the revision of Articles 47, 53 and 56, it was unanimously adopted by the 118 members present.

The extension of the right of suffrage was declared just and legitimate by all the organs of the nation. This unanimity alone authorized the alteration of the Constitution, for its revision could not be accomplished except by the wish of the people and after the matter had been considered with all the maturity of judgment and patriotism that such an important act in the history of a people demands. It was understood that the revision was only to be applied to the articles specially designated, and that the great fundamental principles were to remain unattacked. But though everybody was agreed upon the necessity of increasing the right of suffrage, there was no agreement as to the new system that should be adopted. The door was opened for all factions, but when and how to stop the torrent which was pouring in to occupy the vacant seats of the majority was the question. Could the people pass without transition from the "cens" to the "capacity"—from a limited suffrage to a universal suffrage—without exposing the country to great perturbation ?

Each revision of the constitution requires dissolution of both Houses and the election of new chambers forming the constituent assembly which decides in accord with the King the points submitted for revision, which can not be adopted except by a two-thirds vote. Committees composed of twenty-one members were appointed by the House and Senate to study the different projects of revision. The discussion was opened April 26, 1892, by a re-

markable address by Mr. Beernaert, the chief of the cabinet. While full of gratitude and respect for the work of the legislature of 1831, which was to be attacked, he made a patriotic appeal for conciliation through which the future could be looked forward to with confidence.

On March 30, 1891, Mr. Beernaert transmitted to the Central Section the views of the government on the question of revision, embodying them in a number of articles, more elaborate than those called for by Mr. Janson's motion. He indicated the general ideas of the government as to the extension to be given to the right of franchise, as to the organization of the Senate, the representation of minorities and the right of consultation (Referendum) given to the King.

As to the right of suffrage the government recommended not as the expression of its desires, or those of its party, but as a concentration for all demands, the franchise system of England based on habitation, but at lower rates, so as to increase the number of voters of twenty-five years of age. The capacity standard was also admitted to a certain degree.

Considering that parallel modifications should be introduced simultaneously into the Senate the government proposed to fix, at thirty-five years, the age of the eligibles and of the electors which would be the same for both houses. The Senate would be recruited among citizens who had held high office or possessed real estate of the value of at least five hundred thousand francs. The representation of the minorities, so equitable on principle, and of which Mr. Beernaert has always shown himself a convinced partisan, is a point which will be left to the law to regulate.

Let us now speak of the Referendum, the *referendum royal*, and the *referendum post*. The *referendum post* was the constitutional right accorded to the King, to consult directly with the electors concerning a law voted by the Chambers, but of which the King hesitated to approve. The government thought it could not logically reorganize the legislative power without taking action on the royal power, with which it is closely allied. It thought that it would be well to invest the King with the right to place himself *en rapport* with the electoral body, to learn its opinion either as to a question of principle, or concerning a law voted upon but not yet promulgated.

The *referendum royal* was an innovation; it does not appear

in any other monarchical constitution and has created discussions without number. Some maintained that it placed a weapon in the hands of the King with which he could baffle the parliamentary majority by making an appeal to the people. Others saw in it, on the contrary, too great an abdication of the prestige that the constitution has conferred upon the Crown, the King already having the right to refuse his approbation of the laws voted by the two Houses, and having also the right to dissolve them and appeal again to the nation.

Surely, if this appeal to the people could in certain exceptional cases render great services in covering, so to say, the responsibility of Parliament, or that of the King, and in making perhaps the exercise of his power more democratic, it might be feared on the other hand that turbulent minorities might constantly demand of the King recourse to the "referendum." The discontented masses would continually ask to be consulted and the King would find himself placed in the alternative of sacrificing a part of his dignity or of his popularity. The thought that in Belgium this plebiscite could lead to Cæsarism is an absurd idea. The dynasty of Belgium has already given too many proofs of wisdom, and King Leopold has been such a long time in the eyes of the entire world the personification of the most perfect respect for the spirit of the constitution, for anybody to find in this phantom the cause of the opposition that the referendum has met. The cause apparently will be found in the fear of weakening rather than augmenting beyond measure the power and prestige of the Crown. The legislators of Belgium have not believed it to be their duty to adopt this innovation in the constitutional customs of the country.

Mr. Beernaert declared that the government was in favor of the system known as that of "habitation." Two other methods were under discussion—the communal tax combined with the standard of intelligence, and universal suffrage. The three systems would cause in different degrees an increase of the popular vote. Various elements of the Right and of the Moderate Left united on the proposition that the voters at large should pay the "tax" of ten florins as the communal voters do, and, further, that the electoral right of vote should be given to certain classes of citizens possessing various degrees of capacity.

The system of universal suffrage proposed by Mr. P. Janson,

leader of the Advanced Left, was discussed at the greatest length. It was supported by the Progressive Party and the mass of the working class, but was opposed by the government, which showed no favor to it either in theory or in practice. Mr. Beernaert and his friends maintained that the concession of the equal right of all to vote was an injustice, under a parliamentary régime. They could not understand, they said, why people should want to be governed by the ignorant masses, who had no interests to defend or to protect. They thought that the laws of the country and the direction of national affairs should be confided to men who had guarantees to offer. A country cannot, any more than a private individual, intrust the administration of its affairs to incapable persons without risk of disaster. Beyond this, the President of the Council and the majority of Parliament thought that it would be perilous to pass at once from a very restricted taxation system to absolute universal suffrage. It would be a jump in the dark and might expose the country to disturbances of a far-reaching character. It does not enter into the writer's province in this brief article to recite all the arguments that were made by the partisans of universal suffrage, for they are the same everywhere, and the application of the grand principle involved has, in this country, borne striking proofs of its advantages.

Naturally the classes in Belgium who had been deprived of the right of the ballot struggled without distinction to obtain it. Socialism, which is agitating in Belgium, as in other European countries, took hold of the question of the right of suffrage to excite the democratic party. Congresses of workmen were held, loud demonstrations were made, and threats of general strikes were issued, in the hope of intimidating Parliament. But let us hasten to say that deaf to the cries from the street, fearless before threats, the Constitutional Parliament pursued its labors with dignity worthy of the task with which it was invested.

After long and memorable discussions, in which many eloquent speeches were heard, for and against the various projects, they were all rejected at the sessions of April 11 and 12, 1893. This showed the necessity for making mutual concessions, for all were agreed as to the necessity of finding a solution of the question as to the extension of the right of suffrage.

When the vote of the House rejecting the principle of universal suffrage became known the workingmen's party, without waiting to know what other combined system would be adopted, manifested its disappointment and ordered strikes in several parts of the country. Some riotous proceedings followed, but the strikes did not become general, and the gendarmes, with the energetic aid of the Civic Guard, succeeded without the assistance of the army in reëstablishing order. These troubles were greatly exaggerated by the foreign press, both as to their political and social significance. Never for an instant did the Belgians feel the apprehensions manifested beyond the frontier. Parliament did not hesitate for an instant in the accomplishment of its duties, conscious of the grandeur of its task, filled with the love of country and deaf to the influences and menaces of the outer world, it rejected universal suffrage—pure and simple—and adopted a few days afterwards, in an amended form, the plural vote system.

Parliament did not change its opinion or contradict itself ; by the votes of the 11th and 12th of April it rejected all the projects originally proposed, none of them having obtained the prescribed two-thirds vote. The 18th of April it adopted a measure, based, it is true, upon universal suffrage, but surrounded by the guarantees that its adversaries claimed. This proposition was submitted by Mr. Nyssens. The government, the majority, and the leaders of the various political groups, joined together, ready to make all patriotic concessions. They obtained sufficient guarantees to honorably accept the bill. The system of the plural vote was adopted in the Chamber on the 18th of April, the vote standing ayes 119, noes 14, and 12 not voting. On the receipt of a favorable report of the Commission of Twenty-one, the Senate adopted, by a vote of 52 against 1, the plural vote. There were 14 non-voters, who, as in the House, came from the Left and the Moderate Right.

The system adopted by Belgium to regulate the right of suffrage for the election of members of the House is entirely new, and on this account it is interesting to reproduce *in extenso*, the new Article 47 of the Constitution. It is as follows :

“Article 47.—The deputies of the Chamber of Representatives are elected by the citizens under the conditions hereafter prescribed.

“A vote is given to every Belgian of 25 years of age who has lived for a year at least in the same district, and who is not disqualified by law.

"A supplementary vote is given on the strength of any of the following qualifications:

"*First*—To be 35 years of age, married or widower having legitimate offspring, and paying the state at least five francs personal taxation, unless exempted by reason of his profession.

"*Secondly*—To be 25 years old and owner of property of the value of 2,000 francs, recorded on the basis of cadastral revenue. Also from an inscription in the records of the public debt of Belgian 'Rentes' at the savings bank showing a revenue of 100 francs. These values must have belonged to the possessor for two years at least.

"The property of the wife is calculated as belonging to the husband; that of minor children to the father.

"*Thirdly*—To be 25 years old and embraced in the following category:

"(a) To possess a diploma for higher instruction, or a certificate showing that the bearer has completed an intermediate course of a higher order, no distinction being made between public or private schools.

"(b) To fill or have filled a public position, to occupy or have occupied a position, to exercise or have exercised a private profession, which implies the evident presumption that the person possesses education in a superior degree. The law will pronounce as to these functions, positions, and professions.

"*Nobody can cumulate more than three votes.*

"*It is obligatory to vote.*"

Article 47 of the constitution thus revised is a political transaction which does honor to the tact and patriotism of the members of Parliament.

Universal suffrage is henceforth inscribed in the constitution for all worthy citizens of the age of twenty-five years, but conservative ideas are largely protected, by the addition of one or two votes to the heads of families and property owners. The voting power is also represented by the adjudication of a vote to the holders of diplomas whom the law will designate. The exercise of the right to vote is declared obligatory.

Article 52, as revised, fixes the annual salary of the members of the House at four thousand francs, with the power to travel on all State railroads free of cost, likewise on all leased lines from the member's residence to the capital. The revision of Articles 53, 54, 56, 57 and 58, concerning the organization of the Senate, occupied many months and was more laborious than that of Article 47, which seemed at the commencement far more important.

According to the constitution of 1831 the Senators were elected by the same citizens who elected the representatives, but in the proportion of one to two; the Senators were to be forty years of age, and to pay 1,000 florins (or 2,100 francs) taxation. The

principle established by the constitution of 1831, which caused the Senate to emanate entirely from the same source as the other branch of Parliament, and which gave it the "cens" as sole basis, has often been attacked. From the commencement of the discussion the President of the Council expressed the opinion that it would be well to give to the two assemblies a different basis and a different character.

If one considers the enormous increase of general wealth since 1831, the Senate does not in the actual condition of things represent the moneyed element of the country. The determination to bring about a new order of things provoked long and interesting discussions. The election in the second degree (indirect election) practised in the United States has excited the admiration of foreign observers, and has often been considered as a model for Belgian legislators. The American Senate, which is one of the glories of the institutions of this country, has the salient character of representing the various independent States of the Union as "separate commonwealths." This character, so special, so suitable for this country, could not be entirely adopted for the different mechanism of Belgian institutions. The Belgian upper House has no privilege of which the lower House is deprived. They act conjointly. But the Senate, in its constitution and attributes, must possess characteristics so distinct from those of the lower House, as to prevent it from being an instrument of routine, which mechanically passes the bills of the lower House. It is necessary that the Senate shall unite, within itself, the most eminent men in the first rank of national activity, filled with the spirit of moderation, order and tradition. It is further requisite that the Senate shall be the highest synthetic expression of the rights of property, of the wisdom and knowledge of the country, so that this assembly may be surrounded with prestige and undisputed authority.

A great number of suggestions were made with a view to reaching this ideal and, at the same time, to placing the Belgian Senate as much in harmony as possible with the lower House, after the revision of Article 47. Some of the propositions gave to the Senate a too democratic composition, others too conservative, but none of them could obtain the majority of two-thirds, which the constitutional assembly demanded. Finally a solution was arrived at, having the direct election as a basis, combined with

election in the second degree by the provincial councils. The Senators are elected by the voters like the members of the lower House, according to Articles 47 and 48, and according to a basis of population of each province, one Senator being elected for two representatives. To be eligible in this category it is necessary, in addition to the requirement of forty years of age, to pay 1,200 francs or to be proprietor of real estate representing a cadastral value of 12,000 francs.

Besides the first category the provincial councils elect from two to four Senators for each province, according to the population, which will give twenty-six more Senators who are not submitted to the "cens" or property qualification. The electoral law provides for all the other conditions. Senators will not receive any salary or compensation. Revised Articles 60 and 61 provide for the right of succession to the throne.

The great work of revision came to an end on September 2, 1893. The House held 98 sessions and voted 85 times. The Senate held 17 sessions and voted 41 times. The royal sanction was received on September 7 and the law promulgated immediately.

Mr. Beernaert, President of the Council, closed the debate as he opened it, by words full of the highest patriotism. "It is freely and voluntarily," he said, "that we have changed our constitution, and it is a grand thing to see a hitherto privileged part of the nation abdicate its privileges; and I express the hope that with the aid of Providence, and under the ægis of the new constitution, Belgium will pass through a long era of prosperity, and that harmony may reign in the ranks of all her citizens." The Constitutional Parliament dissolved with shouts of "Long Live the King."

A. LE GHAI.