

# YALE LAW JOURNAL

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THROUGHOUT almost the whole system of our government, political opinions have become a factor of paramount importance in the choice of officers who are to make, construe and execute its laws. It has often been suggested that in some branches of the government, especially in municipalities, and even in States, politics ought not to enter in the elections at all. Although this would afford many evident advantages over the present system, political bias and loyalty to party are so strong that it is impossible to put it into practice. For this reason, it seems to us that judges ought to be called to the bench by appointment rather than by election. The success of this method has been sufficiently demonstrated in England and in the United States Courts in this country. The right of legislative bodies to confirm appointments made by the executive, as in the case of those made by the President, is no doubt a useful qualification. Public sentiment and the opinion of the bar has not always the striking influence on elections which has been so notable in a recent instance. With appointments, however, it is very different, and the sentiment of educated people practically secures the selection of able and competent men.

Life terms, which usually accompany appointments, seem better than terms for a few years. The chief objection to them is, that an incompetent judge, when once chosen, holds for an indefinite period, and it is almost impossible to displace him. But the gravity and importance of such selections lead the one in

whom the power is vested to exercise the greatest care and best judgment. A custom of resigning at the age when the mental powers begin to diminish, where there is no rule fixing a time when resignation is expected, soon springs up, so that no apprehension need be felt on this score. The experience of years gives the judge, thus freed from the vexations of a canvas for reëlection, a judicial habit of mind which enables him to dispose of questions brought before him with the greatest ease.

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IN any form of government where the ultimate appeal upon all social and political questions is to the judgment of the citizens, the two things which decide whether the superficial plea of the demagogue, or the sober reason of the statesman and economist is to meet with approval, are the intelligence and learning of those who exercise the elective franchise. And the learning which is available for guidance in political action is not so much knowledge of the subjects contained in the ordinary *curricula* of the schools as of political institutions and the proper functions of the state. Prof. Williston's article, which appears in this number, conveys some idea of what is being done in the colleges of the United States to educate young men in the duties of citizenship. But ought not this work to be extended into the public high schools and academies? Are not law, history, and political economy of equal disciplinary value with many of the more common branches? Is not the subject matter of these departments of science essential for those who decide by their ballots matters of State? A little non-professional, but thoroughly scientific, training in the fundamental principles of political law and social science will go far to correct the error that it is a function of the state to create wealth or so to interfere in its distribution as to guard the imprudent against the results of their ignorance and improvidence. The fallacies of the populists and of all those who favor inflation of the currency and the creation of artificial conditions of industry and commerce can be traced to the paternalistic theory of government. Teach our citizens that it is the duty of the government to preserve the peace and order of society by securing justice between man and man, but not, by encouraging men to seek aid in artificial legislation, to destroy that self-reliance which constitutes individual and national strength of character.