Lewis, Moot & Lewis,
Attorneys and Counselors,
Buffalo, N.Y.
GEORGE L. LEWIS. ADELBERT MOOT.
L. L. LEWIS, JR.

Janj 9 — 1890

My dear Judge —

Let me begin by thanking you for your kind wishes for the New Year and the new home. You know they are heartily reciprocated; so far as "reciprocated" is the word, and for the rest you supply the proper word for any proper feeling.

The question you raise interests me. I think it has never been decided. My attention was called to it by the prize essay of our

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Law School upon the Fourteenth Amendment, a very fine production x I will try and get it and send it to you for perusal, as I think it will interest you x

I do not think you are "crazy" x I think your position is sound x I have read the article in Law and your letter, the one time, also the reply to Claflin, several times x I have considered the words of the Constitution in the light of all the history,

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law, and, light & reason, I command, and I cannot answer your argument, or reach any different conclusion. And is not such a conclusion the one most complimentary to the wisdom & the powers & the amendment in question? If a State wishes to prescribe the color test, the property test, or the educational test in future, she can do so; but she cannot thereby deprive persons once vested with the right & suffrage &

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of that right. A State cannot, by constitution even, in throwing at least, whatever may be thought of certain border cases, deprive a contract of its force after it has once become operative, after rights under it have once vested. But a State may go very far in providing that certain contracts shall not be made, as has been necessarily done in the so-called "police" cases. Like the prohibition cases, or the bucket shop cases, where

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towns are successfully
inhibited from making contracts
not lawful & although these
cases do not illustrate the police
power doctrine, which is being
stretched so far,

So too a State cannot
take away the right of suffrage
after it has once vested as
to any citizen in whom the
right has been vested, but
the State is not inhibited from
denying preventing the vesting in
future of such rights. It is not
to deny the right because of color.
Can it deny the right because of
color as to a person born who

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has not yet vested? Has the right yet vested in him, or is it not contingent, liable to be defeated by death, or by removal from the county? Does not the Constitution mean a right vested in such sense that it is susceptible of exercise? Is suffrage a right until it has so vested? So your argument seems to run.

Should not the State have the right to prevent a bad class of citizens from voting, whether they be whites, blacks, or reds? Certainly it should. But one class, being in the majority, should not be able to disfranchise a minority. As you point out this is prevented by the Amendment in question. But the majority must rule, and must be able to prescribe future rules as to voting. In Constitutional provisions this has been done: women have been granted suffrage, and others it has

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withdrawn, as in New Jersey: property has been made the test, and then this test has removed, perhaps unwisely, in this State: Education has been added as a test, as in Mass, and; and poll taxes, as in Delaware, How your construction of the 15th Amendment will prevent such things in future, even by State constitutions, as to persons having a vested right to vote; but will not prevent such tests being added, or withdrawn by State Constitutions or Statutes, as to aliens, or persons having no present vested right of suffrage at the time the change is made, Should not our Constitution be of this flexible, yet conservative mould, if the majority is to rule wisely? So long as it is there there is no temptation to the majority to change for more temporary advantage, since they can gain little temporary advantage by a change, as a rule, This insures wise

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changes, where any are made, because it is not easy to change anyway, our history shows we are very slow in making even necessary changes, and we are not likely to make unnecessary changes that cannot benefit us, but only those who come after us. Therefore this wise provision, equal if not superior in wisdom to any framed by the vaunted Fathers, insures us few changes, and those changes founded upon solid reasons that should induce changes in the suffrage — these are some of my impressions on the question. Have not had time to enjoy "Go Swallow" yet but Mrs. Moot enjoys it. We hope to move this month — then we hope to see you more often — Wishing you and yours success and happiness — Truly your friend, Adelbert Moot

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