wagon quickly, both to shore up their democratic credentials and because they believed that Democrats were corruptly evading the law anyway. In Southern states such as Louisiana and Virginia, eliminating taxpaying requirements was viewed, once again, as mortaring solidifying the edifice of white supremacy.

By the middle of the nineteenth century, thus, the nation had taken significant steps in the direction of universal white male suffrage. Spurred by the development of the economy, shifts in the social structure, the dynamics of party politics, the diffusion of democratic ideals, the experiences of war, and the need to maintain militias, the states, the federal government, and municipalities all had dismantled the most fundamental obstacles to the participation of men in elections. The impact of these reforms on the size of the electorate varied from state to state and is difficult to gauge with precision, but it surely was substantial. A careful study of New York before 1820 indicates that two-thirds of adult males were unable to meet the freehold requirement to vote for the senate, and one third were unable to meet the much lower property requirement for voting for the legislature; the reforms therefore tripled the electorate for senatorial elections and increased it by 50 percent for the assembly. Similarly, in North Carolina, abolition of the freehold requirement doubled the electorate for senatorial elections, while the Virginia reforms of 1851, applying to all elections, increased the size of the polity by as much as 60 percent.

The consequences were not everywhere so dramatic (in New Jersey and Massachusetts, for example, the growth of the electorate was more modest), but in every state where property and taxpaying qualifications were abolished, thousands and sometimes tens of thousands of men were enfranchised. The expansion of the suffrage in fact played a key role in the enormous upsurge of political participation in the 1830s and 1840s, when turnout in some locales reached 80 percent of all adult male citizens. De Tocqueville's declaration that "the people reign over the American political world as God rules over the universe" was more than a little hyperbolic; but his celebratory enthusiasm was far more closely matched by the reality of the United States in 1850 than it would have been in 1800.

According to our general understanding of the right of universal suffrage, I have no objection . . . but if it be the intention of the mover of the resolution to extend the right of suffrage to females and negroes, I am against it. "All free white male citizens over the age of twenty-one years."—I understand this language to be the measure of universal suffrage.

—Mr. Kelso, Indiana
Constitutional Debates, 1850

History rarely moves in simple, straight lines, and the history of suffrage is no exception. Significant as the broadening of the franchise was in the first half of the nineteenth century, it does not tell the whole antebellum story. While the major thrust of legal change was toward increasing the number of voters, laws also were passed that tightened voting requirements. Some of these were administrative in origin, giving specificity to vaguely worded constitutional mandates. Others were designed to fill specific quadrants of the large space opened up by the abolition of property and taxpaying requirements. Still others were a response to the profound economic, social, and political changes transforming the nation: as the United States began to wrestle with the impact of industrialism, sectional conflict, immigration, and westward expansion, the first clouds of an antidemocratic reaction were forming on the horizon.
Women, African Americans, and Native Americans

One of the earliest acts of suffrage restriction—or retraction—was the disfranchisement of women in New Jersey in 1807. Both the state’s constitution of 1776 and an election law passed in 1790 granted the right to vote to all “inhabitants” who were otherwise qualified: this was interpreted locally to mean that property-owning women could vote. New Jersey’s policy was exceptional—although throughout the new nation there were individuals who followed the logic of “stake in society” arguments across the customary border of gender and concluded that women (such as widows) should be enfranchised if they possessed property and were not legally dependent on men. Why the state of New Jersey embraced this minority view is unclear, but the disfranchisement of women was definitely not inadvertent and appears to have been grounded at least in part in factional politics. As different political groups struggled to gain ascendancy during and just after the revolution, they tried to enlarge their potential constituencies, one of which was female.

Yet what partisan politics could give, it also could take away. By the early nineteenth century, the balance of political power had shifted, charges of voting fraud were rampant, and the Federalists, as well as two competing groups of Republicans, concluded that it was no longer to their advantage to have all “inhabitants”—including women, aliens, and African Americans—in the electorate. After the impulse to clean up politics had been bolstered by a flagrantly corrupt election to select the site for a new courthouse in Essex County, New Jersey’s legislature took it upon itself to declare that “no person shall vote in any state or county election for officers in the government of the United States or of this state, unless such person be a free, white male citizen.” Those who supported this retrenchment made little or no mention of the incapacity or incompetence of women; they were simply fighting corruption, correcting a “defect” in the constitution, and clearing up “doubts” about the composition of the electorate. Once that constitutional defect had been corrected, women everywhere in the nation were barred from the polls.1

African Americans were the target of a far more widespread movement, in the North as well as in the few pockets of the South where free blacks had sometimes voted. As tables A.4 and A.5 make clear, the number of states that formally excluded free African Americans was relatively small at the nation’s founding, but it rose steadily from 1790 to 1850. States that had permitted blacks to vote during the first years of independence, including New Jersey, Maryland, and Connecticut, limited the franchise to whites before 1820. New York excluded the vast majority of blacks (by instituting a racially specific set of property and residence requirements) in the same constitution in which it removed property qualifications for whites. In 1835, North Carolina added the word white to its constitutional requirements, and Pennsylvania, which had such a liberal constitution during the revolutionary era, did the same in 1838, two years after its supreme court had ruled that blacks could not vote because they were not “freemen.” Of equal importance, every state that entered the union after 1819 prohibited blacks from voting. In the late 1840s and early 1850s, moreover, many states (including New York, Ohio, Indiana, and Wisconsin) reaffirmed their racial exclusions, either in constitutional conventions or through popular referenda. By 1855, only five states (Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island) did not discriminate against African Americans, and these states contained only 4 percent of the nation’s free black population. Notably, the federal government also prohibited blacks from voting in the territories it controlled; in 1857, the Supreme Court ruled that blacks, free or slave, could not be citizens of the United States.2

The sources of this exclusionary impulse shifted somewhat over time. Early in the period, there was an almost matter-of-fact quality to decisions to bar African Americans, who were widely believed to be inferior and lacking in potential republican virtues. Since slaves obviously were ineligible to vote and most free blacks could not meet property and taxpaying requirements, formally expressed racial barriers would affect relatively few people, especially in the North. Yet with each passing decade the free black population grew, the abolition of property requirements made it possible for poor, uneducated blacks to vote, and inhabitants of Northern states grew increasingly apprehensive about the prospect of attracting black migrants from the South.

More important, perhaps, was an efflorescence of racism: while abolitionist sentiment was growing, so too were sharply antagonistic, fearful, and hostile attitudes toward blacks. This hardening of attitudes was discernible in the language with which the issue was discussed. At the New York convention in 1821, for example, a delegate opposed to black suffrage rather temperately had described blacks as “a peculiar people, incapable, in my judgment, of exercising that privilege with any sort of discretion, prudence, or independence.” Twenty-five years later, one of his successors at the "peo-
Indeed, northern antagonism to black voting was grounded far less in party politics than in hostile, or at best condescending, white attitudes toward blacks. Numerous delegates to the conventions, often equipped with anti-black suffrage petitions from their constituents, reiterated the notion that suffrage was not a natural right but "a kind of franchise bestowed or withheld as the public good demanded," and they were adamant that blacks were altogether lacking in qualities that could serve the public good. "No pure negro has wishes and wants like other people," declared one Indiana delegate in 1850. "The distinction between these races has been made by the God of Nature," insisted another. "The black race has been marked and condemned to servility, by the decree of Omnipotence; and should feeble man claim to erase from them the leprosy which God has placed upon them?" "Every negro was a thief, and every negro woman far worse," noted a Wisconsin spokesman. Even in freedom, blacks could not be "elevated" enough to make them the equals of whites, and any policy that promoted the "amalgamation" of the races would only lead to the "degradation of the white man." These stridently racist views were galvanized by the fear of black migration: in New York, Pennsylvania, Wisconsin, and elsewhere, convention delegates claimed that enfranchising blacks would only encourage freedmen and runaway slaves to flock to their states. A delegate from Wisconsin insisted that an extension of the suffrage "would cause our state to be overrun with runaway slaves from the South." Blacks at the time constituted two tenths of 1 percent of the state's population.

Northern blacks, of course, resisted efforts to strip away their political rights. In Philadelphia, a gathering of African Americans issued an angry public statement called the Appeal of Forty Thousand Citizens, Threatened with Disfranchisement, to the People of Pennsylvania. "We ask a voice in the disposition of those public resources which we ourselves have helped to earn; we claim a right to be heard, according to our numbers, in regard to all those great public measures which involve our lives and fortunes," the statement declared. Similarly, New York's African-American population protested against the state's discriminatory property qualification, and in Providence, blacks—thanks to an extraordinarily complex political situation—succeeded in getting their political rights restored.

Some whites also were forceful advocates of black suffrage, from the early nineteenth century through the 1850s. In 1821, in New York, a delegate countered the claim that blacks were a "peculiar people" by maintaining that they were instead "a peculiarly unfortunate people" that white society...
The Right to Vote

should endeavor to help. At all of the major state conventions, there were delegates who argued that if blacks were men, then they deserved to possess the rights of men. In 1846, a New York delegate "called upon the convention to decide whether the colored people were men or not. If they were men, he claimed for them the enjoyment of the common rights of men; otherwise, make them slaves to you and your children and trample them in the dust forever." That same year, a Wisconsin delegate developed this moral argument more amply and eloquently, grounding the case in both religious and political principles:

the sentiment that "all men are born free and equal" is a just and right principle ... the negro has rights as sacred and as dear as any other race; and ... these rights can only be secured by placing in his hands the instrument of defense—the ballot—which is provided by our institutions as the safeguard of political rights. We live as has been often repeated in this hall, in an age of progressive democracy, an age whose characteristic is a spirit that breaks over the barriers and superstitions of the past and looks through the disguises of rank and nation to a common nature coming from an impartial God. In its political effects it discards the prerogative of a few to govern and looks to the rights of all.... This spirit is opening a grand law of humanity more comprehensive than all others, that looks farther than the skin to say who shall have rights and who shall be maintained in the free enjoyment of what the God of nature has given them. ... Because a man is born with a dark skin, he is forever to be disfranchised! This is a terrible, damnable doctrine, and as false as it is terrible. It is a doctrine that will not stand the scrutiny of the spirit of the age; neither will its apologists stand with clean hands at a tribunal where there is no respect of persons.8

Such language was echoed in one state after another, in petitions from white and black citizens, and by convention delegates themselves; the argument was buttressed by the claim that granting blacks the vote would help to elevate their condition, while disfranchisement would attach a "stigma" that would throw "an obstacle in the way of their improvement." Attorney Charles Chauncy maintained in Pennsylvania in 1838 that it was "our duty to do everything that lies in our power, to elevate and to improve the condition of the colored race ... instead of cutting them off." Other advocates pointed out that the very term white was ambiguous in its meaning: "Does it mean only Anglo-Saxons?" queried an Ohio delegate. "Does it embrace all Caucasians? This interpretation would include many who are darker than some it would exclude." Still others played the military card, quoting General Andrew Jackson's praise of black soldiers who took up arms during the War of 1812, and insisting that those who fought for their country, and might fight again, should not be denied the franchise.9

Such arguments, compelling as they may sound to twentieth-century ears, carried little weight, either in constitutional conventions or among the population at large. Black suffrage was an emotionally charged issue that could not be reached through rational argument or fine distinctions. In few conventions were votes on the issue even close; at the Indiana convention of 1850, one delegate even offered the barbed jest of an amendment "that all persons voting for negro suffrage shall themselves be disfranchised." Political leaders frequently voiced the fear that any constitution including black suffrage could not be ratified by the electorate, and they were probably right. With the exception of Rhode Island, all of the popular referenda held on the issue resulted in overwhelming mandates for an exclusively white suffrage. Much of the populace believed that blacks were inferior, and outside of the slave states, feared their presence. Permitting African Americans to vote seemed all too likely to open the doors to migration and "amalgamation," and thus to diminish the significance of whiteness and citizenship.10

The political rights of the nation's other racial minority, Native Americans, were a less inflammatory issue. To be sure, fears were expressed in Texas that "hordes" of Mexican Indians "will come moving in ... and vanish you at the ballot box though you are invincible in arms"; and at California's founding convention, one delegate voiced the conviction—surely widely shared—that it was "absolutely necessary" to include a constitutional provision that "will prevent the wild tribes from voting." In addition, many constitutional conventions held brief debates about whether Indians were or were not "white." The Michigan convention, for example, came to the remarkable conclusion that Indians ought to be considered white because the word white simply meant "not black": "the word white was used in contradiction to the black alone, and though the Indian was copper-colored, he was not to be classed among the latter." The prevailing view in much of the nation, however, was that Native Americans, whether officially white or not, ought not be excluded from the franchise on racial grounds: as long as they were "civilized" and taxpaying, they should be entitled to vote. As was true of many policies toward Native Americans in the nineteenth century,
Indians were regarded as possessing the raw (but uncivilized) potential for full (white) personhood.11 (See table A.4.) Nonetheless, the ability of Native Americans to participate in politics was narrowed between 1790 and the 1850s. In some states, they were barred because they were finally judged not to be legally white, and only whites were eligible to vote. More distinctively, Native Americans were kept from the polls through a series of court decisions and legal declarations that circumscribed their ability to become citizens. The citizenship status of Native Americans was ambiguous in early American law (the constitution specified that Indians “not taxed” were not to be counted in the census for the purposes of legislative apportionment), but beginning with Chief Justice Marshall’s landmark decisions of the 1830s, their legal status began to be clarified—in a negative direction. Indian tribes were “domestic, dependent nations,” according to Marshall, and thus individual Indians, living with their tribes, were aliens, even if born in the United States. Twenty years later, the Dred Scott decision affirmed this interpretation, while suggesting a path toward citizenship: Indians (unlike blacks) could, if they left their tribes and settled among whites, “be entitled to all the rights and privileges which would belong to an immigrant from any other foreign people.” At roughly the same time, however, the attorney general ruled that Indians could not become citizens through the conventional process of naturalization because the naturalization laws applied only to whites and to foreigners—and Indians were not actually foreigners, because “they are in our allegiance.” The upshot of this juridical Catch-22 was that Indians could become citizens only by treaty or by special acts of Congress, even if they did settle among whites and pay taxes.12

Congress did in fact attempt to naturalize some tribes in their entirety, usually in return for a tribal agreement to accept a limited allotment of land; but congressional actions affected only a small number of Native Americans. Meanwhile, several states formally moved to disfranchise all Indians, or Indians “not taxed,” or members of specific tribes, while others expressly limited suffrage to citizens or to “civilized” Indians who were “not a member of any tribe.” (Georgia even gave full citizenship rights to individually named Cherokee Indians who surrendered any legal claims to their lands.) Although these latter provisions were commonly construed as extensions of the franchise, their applicability was limited. On the whole, Native Americans were understood to be potential voters, but few in fact ever were able to vote during the antebellum era.13

Paupers, Felons, and Migrants

In addition to restrictions focused on people’s identities, laws also were passed that targeted their behavior. In drawing—and redrawing—the boundaries of the polity, each state contended not only with issues of race and gender but also with adult, white men who occupied the social margins of the community. Despite the abolition of property requirements, most Americans did not believe that all adult white males were entitled to full membership in the political community.

One restriction preserved a link between economic status and disenfranchisement: paupers were denied the right to vote in twelve states between 1792 and the late nineteenth century. (See table A.6.) Although the precise definition of pauper was debated in constitutional conventions and in the courts, these laws clearly were aimed at men who received public relief from their communities or from the state: those who lived in almshouses or were given “outdoor relief” (generally in the form of food, fuel, or small amounts of cash) while residing at home. These pauper exclusions were not archaic carryovers of colonial precedents; they were generally new constitutional provisions, often adopted at the same conventions that abolished property or taxing requirements.14

The exclusion of paupers constituted a direct rejection of claims that suffrage was a right that ought to be universal among white males: it drew a new border around the polity, making clear that individuals had to maintain a minimal level of economic self-sufficiency in order to possess political rights. The rationale for these measures was Blackstonian: a man who accepted public support surrendered his independence and therefore lost the capacity to function as a citizen. Paupers, according to one Delaware delegate, were not “freemen in the whole extent.” “The theory of our constitution,” declared Josiah Quincy, “is that extreme poverty—that is pauperism—is inconsistent with independence.” “When a man is so bowed down with misfortune, as to become an inmate of a poor house . . . he voluntarily surrenders his rights,” claimed a member of the New Jersey committee that drafted its law in 1844. Advocates of these laws frequently invoked a vivid, if implausible, image of the trustees or masters of poorhouses marching paupers to the polls and instructing them how to vote.15

The prospect of disfranchising a community’s poorest residents caused some discomfort, and even outrage, among citizens of both parties. In the New Jersey convention of 1844, Democratic delegate David Naar, a judge
and sephardic Jew whose family had recently emigrated from the West Indies, fiercely opposed the notion that "paupers have made a voluntary surrender of their liberties." "Does any one of his own will and choice become a pauper? No one, sir, except from the necessity of the case!" He also pointed out that "the working men... are sometimes bowed down by misfortune, and shall they be deprived of the right of voting? Which of us can say that some day or other he may not become a pauper?" A former overseer of the poor supported Naar, saying that "he had seen citizens of the first families in our State borne to the poor house from misfortune: and now shall we set a mark upon them and rank them with criminals?" In several states, such as Wisconsin, the idea of disfranchising the unfortunate was too distasteful, leading to the rejection of proposals for pauper exclusions; but elsewhere, and with the support of some Federalists, Republicans, Democrats, and Whigs, paupers were defined out of the polity.16

As legal historian Robert Steinfield has perceptively pointed out, the pauper exclusion laws expressed a shift in the prevailing concept of independence, a shift precipitated by the abolition of property requirements. Independence had come to be perceived less in economic terms than in legal terms: paupers were legally dependent on those who ran poorhouses and administered relief and often were required to perform labor in return for aid. While they were paupers (the laws were generally interpreted by courts to apply only to men receiving aid at the time of elections), they lacked "self-ownership," which limited their capacity to act or vote independently. Implicitly, the pauper exclusion laws were drawing a distinction between wage earners, whom many viewed as sufficiently independent to be enfranchised, and men who had surrendered legal control of their own time and labor. Yet, as Naar suggested, there was also a class edge to these laws—since they constituted a warning to the working poor that misfortune, or failure to be sufficiently industrious, would deprive them of their political rights. That warning, as Naar surely was aware, was all the more resonant—and seemed all the more unfair—after the jarringly sharp economic downturn of 1837.17

The right to vote also was withheld from another group of men who violated prevailing social norms, those who had committed crimes, particularly felonies or so-called infamous crimes. (These were crimes that made a person ineligible to serve as a witness in a legal proceeding.) Disenfranchisement for such crimes had a long history in English, European, and even Roman law, and it was hardly surprising that the principle of attaching civil disabilities to the commission of crimes appeared in American law as well. The rationale for such sanctions was straightforward: disfranchisement, whether permanent or for an extended period, served as retribution for committing a crime and as a deterrent to future criminal behavior.18

States began to incorporate such provisions in their constitutions in the late eighteenth century. Eleven states disfranchised those convicted of infamous crimes (and sometimes specified crimes such as perjury, bribery, or betting on elections) between 1776 and 1821; by the eve of the Civil War, more than two dozen states disfranchised men who had committed serious crimes. (See table A.7.) In some instances, these exclusions were specified in state constitutions; in others, the constitutions authorized legislatures to pass laws barring certain offenders from the polls. In almost all cases, the disfranchisement implicitly was permanent, although the New York Constitution of 1846 stipulated that men who were pardoned for their crimes would be reinstated in the voting rolls, a principle likely applied elsewhere as well. Rarely did such constitutional or legislative acts occasion much debate, but it is notable, from a late-twentieth-century perspective (felons are now disfranchised almost everywhere), that such provisions were neither universal nor uniform.19

In several states, the franchise also was restricted by lengthening state or local residency requirements. (As noted in the previous chapter, the reverse was true in some locales.) The need for residency rules was widely agreed upon: particularly in the absence of property or taxpaying qualifications, it seemed sensible to restrict the franchise to those who were familiar with local conditions and likely to have a stake in the outcome of elections. How long the necessary period of residence ought to be was less obvious. The average requirement tended to be one year in the state and three or six months in an individual township or county, but there were strenuous advocates of both longer and shorter periods.20

Those who favored lengthy residency requirements were generally seeking to prevent "vagrants and strangers," "sojourners," or transients of any type from voting. "There is little propriety," observed James Fenimore Cooper, "in admitting the floating part of the population to a participation" in government. Most of these floating men were manual workers, deemed to be ignorant of local conditions and a source of electoral fraud. In 1820, "hundreds of men... from New Hampshire" were reported to be flocking into Massachusetts each spring to vote in elections; in Wisconsin, convention delegates advocated a lengthy period of residence to exclude a "numer-
ous class" of migrant miners from Illinois; in Ohio, the "transient, homeless hands of canal boats" were said to be determining the outcome of elections in towns that bordered the canals. Elsewhere in the Midwest, apprehensions focused on railroad workers (whose votes allegedly could be controlled by railroad corporations) and on farmhands who could be shipped from county to county for political purposes. These concerns became more acute as economic development heightened the visibility of migrants. Nonetheless, anxiety about the transient population generally was overridden by those who believed that lengthy residency requirements would unjustly disfranchise "wandering mechanics," men whom "poverty obliged to remove from one township to another," or even farmers who commonly leased their land for a year or eighteen months and then moved on. Some Midwesterners also argued that shorter periods of residence would encourage much-needed settlement.21

Not surprisingly, there was a partisan dimension to these debates. Federalists and then Whigs tended to favor longer periods of residence, because they were wary of the unsettled and the poor and suspected that most transients would vote for the Republicans or Democrats. The Democrats shared this analysis, advocating shorter residency requirements in the hope of enfranchising more of their own supporters. This partisan split became more pronounced in the 1840s as the issue was infused with conflicting and sometimes antagonistic popular attitudes toward the mobile foreign-born.22

Most of these debates resulted in a standoff, but some states did end up lengthening their residency requirements. New York, in 1821, did so for those who could not meet the paying requirements for legislative voting. Maryland adopted a six months' local requirement in 1850, aimed almost entirely at the immigrant population of Baltimore; and Virginia, that same year, increased the state residency requirement from one year to two. In addition, Florida adopted an unusually long residency requirement of two years in 1838. In 1845, a coalition of Whigs and Democrats from the southern parishes of Louisiana, fearing the potential power of immigrants flooding into New Orleans, succeeded in doubling the state residency requirement from one year to two, while demanding a full year's residence in the parish. Residency also would be voided by an absence of ninety days or longer. Meanwhile, in Ohio, a complex, even bewildering, series of laws was passed, as Whigs and Democrats fought over residence rules for more than two decades. The upshot was the maintenance of a one-year state requirement and a shorter local-residence requirement, coupled with the appointment of election judges who had the power to reject any voter's claim to be a legal resident. This was followed by the passage of a Whig-sponsored law that instituted a new system of voter registration applicable only to selected communities and towns and to "canal counties" where rates of transience were high.23

Registration and Immigration

Ohio was not the only state where concern about transients—and particularly foreign-born transients—sparked interest in the creation of formal systems of voter registration. Massachusetts had adopted a registration system in 1801, South Carolina instituted a limited registration requirement for the city of Columbia in 1819, and New York considered the possibility in 1821 (and did require that voters present "proper proofs" of their eligibility). Most states, however, did not keep official lists of voters or require voters to register in advance of elections.24

Beginning in the 1830s, the idea of registration became more popular, particularly among Whigs, who believed that ineligible transients and foreigners were casting their votes for the Democratic Party. At the same time, a landmark Massachusetts court case, Capen v. Foster, ruled that registry laws were not unconstitutional impositions of new voting qualifications but reasonable measures to regulate the conduct of elections. In 1836, Pennsylvania passed its first registration law, which required the assessors in Philadelphia (and only Philadelphia) to prepare lists of qualified voters: no person not on the list was permitted to vote. Although the proclaimed goal of the law was to reduce fraud, opponents insisted that its real intent was to reduce the participation of the poor—who were frequently not home when assessors came by and who did not have "big brass" nameplates on their doors. At the constitutional convention of 1837, Democratic delegates from Philadelphia responded by introducing a constitutional amendment mandating a uniform, statewide registry system; the proposal was resoundingly defeated by rural delegates.25

In New York, the 1830s witnessed the beginning of a prolonged partisan struggle over voter registration. Early proposals for a registry were unmistakably designed to hinder the voting of Irish Catholic immigrants and thereby reduce Democratic electoral strength. In 1840, Whigs succeeded in passing a registry law that applied only to New York City, which contained the largest concentration of Irish voters. That law was repealed two years
later, but throughout the 1840s and 1850s an emerging coalition of Republicans and Know-Nothings continued to press for a formal system of registration. (Regarding the Know-Nothings, see chapter 4.) In Connecticut, similarly, the Whigs passed a registry law in 1839. Since it did not require the registrars to be drawn from both parties, Democrats denounced the act as a “disfranchising law” and replaced it, in 1842, with a law that shifted the burden of registration from the voter to town officials. Proposals for registries also were floated in other states. Yet nearly everywhere outside of the Northeast, registration systems were rebuffed as partisan measures that would weaken the Democratic Party while infringing the rights of immigrants and the poor.26

Apprehensions about immigrant voting in the 1840s, particularly in the Northeast, also gave birth to new and untried ideas for limiting the franchise. In New York, New Jersey, Indiana, Maryland, and Missouri, constitutional conventions considered proposals to institute literacy tests, or even English-language literacy tests, for prospective voters. “The least we can require,” noted a New Jersey delegate in 1844, “is this very simple manifestation of intelligence.” Such a law, he claimed, would encourage parents to educate their children. “Let fathers understand—let mothers understand, that before their sons wear the livery of American freemen they must be able to read.” Samuel Jones stated the issue more severely: “persons wholly destitute of education do not possess sufficient intelligence to enable them to exercise the right of suffrage beneficially to the public.” Although the image of an educated electorate clearly had its attractions, these proposals were rapidly rebutted: there were many fine, upstanding citizens who happened to be illiterate or barely literate (even Andrew Jackson, it was claimed, had difficulty spelling his own name) but were perfectly capable of responsibly exercising the franchise. Without a system of universal education, moreover, a literacy requirement would be, as one delegate put it, “a blow at the poor.”27

Advocates of restriction also put forward another proposal explicitly aimed at immigrants: they sought to prevent naturalized citizens from voting until they had held citizenship for one, five, ten, or even twenty-one years. The expressed goal of this proposal was to prevent the partisan, mass naturalization of immigrants that allegedly occurred on the eve of elections; the proposal also would give immigrants time to become fully acquainted with American norms and values (and diminish the Democratic vote). In the 1840s and early 1850s, laws of this type were proposed in New York, New Jersey, Missouri, Maryland, Indiana, and Kentucky. Yet not until the Know-Nothing successes of the later 1850s (see chapter 4) were any literacy or “waiting period” restrictions actually imposed—although New York, in 1846, did institute a system through which registrars could interrogate naturalized citizens and demand written proof of their eligibility. Notably, the concern about immigrant voters in the Northeast was mounting at precisely the same time that many Midwestern states were extending the franchise to nondeclarant aliens.28

By the early 1850s, therefore, several groups or categories of men (and one group of women) had lost the political rights they possessed a half century earlier. Although the franchise on the whole had been broadened, new barriers were erected, targeting specific—and smaller—populations. These barriers were expressions of the nation’s reluctance to embrace universal suffrage, of the limits to the democratic impulses that characterized the era. After the 1820s, such barriers—as well as proposals for additional restraints on the franchise—were also a response to socioeconomic change, as the economy became more industrial, large numbers of immigrants arrived at the nation’s shores, and the impending crisis over slavery threatened to release significant numbers of African Americans not only from bondage but from the South. Despite the democratic ethos of the era, the transformation of American society was setting in motion a cosscurrent of apprehensions about a broadly democratic polity, apprehensions that would prove to be harbingers of things to come.29

Democracy, the Working Class, and American Exceptionalism

Americans have long taken pride in what they see as the exceptional qualities of political development in the United States, qualities that distinguish American history from that of other, particularly European, nations. Prominent among these exceptional features are the longstanding tradition of political democracy and the relatively small role played by class in American social life and politics. For much of the twentieth century, scholars and writers have linked these two ingredients, locating their convergence in the uniquely early and quite uncontested enfranchisement of the American working class in the years before the Civil War. According to the standard, widely accepted narrative, American workers—unlike their counterparts
nearly everywhere in Europe—gained universal suffrage (or at least universal white male suffrage) early in the process of industrialization and thus never were obliged to organize collectively to fight for the franchise. As a result, workers were able to address their grievances through the electoral process, they were not compelled to form labor parties, and they developed partisan attachments to mainstream political organizations. All of which—or so it has been argued—had profound implications for the subsequent evolution of American politics and American labor, including the absence of a strong socialist movement in the United States.20

The traditional account does have some validity. Many American workers indeed were enfranchised decades before their counterparts in Europe (although just how many remains unclear). Moreover, as leading labor historian David Montgomery has recently pointed out, the acquisition of the franchise by thousands of artisans, craftsmen, and mechanics in antebellum America led to important legal changes that served the interests of working people.31

Nonetheless, the traditional account, grounded in a triumphalist, or Whig, history of suffrage, misses a critical dimension of the story. Put simply, to the extent that the working class was indeed enfranchised during the antebellum era (and one should not ignore that women, free blacks, and recent immigrants constituted a large portion of the working class), such enfranchisement was largely an unintended consequence of the changes in suffrage laws. The constitutional conventions that removed property and even taxing requirements did not deliberately intend to enfranchise the hundreds of thousands of factory operatives, day laborers, and unskilled workers who became such a prominent and disturbing feature of the economic landscape by the mid-1850s. Certainly not immigrant, and especially Irish Catholic, operatives, laborers, and unskilled workers.

Although conservatives such as James Kent and Josiah Quincy had warned that lowering the barriers to voting would end up giving substantial political power to such undesirables, the proponents of suffrage reform discounted that possibility. New Yorker David Buel, it will be remembered, declared that if he shared Kent’s vision of the future, he would not have advocated the elimination of property qualifications. Buel, however, was convinced that New York would remain an overwhelmingly agricultural state and that there was nothing to be feared from the relatively small urban population of New York City. Similarly, Martin Van Buren, another staunch supporter of a broader franchise, made clear that he opposed “universal suffrage” and that the constitutional revisions of 1820 were intended only to enfranchise the respectable middling strata of society.32

Indeed, the broadening of the franchise in antebellum America transpired before the industrial revolution had proceeded very far and before its social consequences were clearly or widely visible. The data presented in tables A.2 and A.8 lend some factual and statistical muscle to the point. As these tables indicate, there were relatively few manufacturing workers in the northern states when property qualifications were abolished or new constitutions without property restrictions were adopted. (Since the South remained overwhelmingly agricultural, these states are omitted from table A.8.) In New York in 1820, for example, persons engaged in agriculture outnumbered those in manufacturing and commerce combined by a ratio of almost 4 to 1; in Illinois, the ratio was 10 to 1; even in Massachusetts, the ratio was 3 to 2. Everywhere in America, the number of people engaged in agriculture greatly outnumbered those working in manufacturing alone when property and taxing requirements were abolished. The enormous surge in manufacturing began after 1820 and in some places, after 1840. That surge led to a dramatic shift in the ratios of farmers to workers: by 1850, persons who earned their living in agriculture were actually outnumbered in five states. But this new, and permanent, tilt in the relative importance of industry occurred twenty years or more after the suffrage laws had been changed.

What this points to, of course, is that the American polity did not make a deliberate and conscious decision to enfranchise the working class that the industrial revolution was in the process of creating. Massachusetts, New York, Pennsylvania, and other states did choose to entrust the ballot to farmers who leased rather than owned land, to small shopkeepers who owned little or no property, and to artisans, mechanics, and craftsmen who constituted the visible—and not very large—working class of the early nineteenth century. These men were all deemed to possess the republican virtues of manliness, self-sufficiency, and independence of judgment that were thought to be required of voters. Stable and respectable employment, as well as property ownership, made a man worthy of full political citizenship. Yet few of the delegates to constitutional conventions—and probably few of the people who elected them—believed that suffrage ought to be so universal as to embrace a large, urban proletariat of a type that existed in England and that, it was hoped, would never become part of the American world. Such a proletariat did eventually appear on this side of the Atlantic,
but only after the suffrage laws, nearly everywhere, had been reformed. The broadening of suffrage in the United States took place in the absence of a large or very developed industrial working class.  

This comparative perspective can be extended to the South. In Europe (and elsewhere), resistance to universal suffrage was grounded not only in opposition to the enfranchisement of industrial workers but in an equally powerful opposition to the extension of political rights to the peasantry—to the millions of men, many of them illiterate, who lived in poverty, toiling on farms large and small. The American peasantry, however, was peculiar: it was enslaved. As Benjamin Watkins Leigh observed at Virginia’s constitutional convention of 1829, “slaves, in the eastern part of this state, fill the place of the peasantry of Europe.” “In every civilized country under the sun,” Leigh argued, “some there must be who labor for their daily bread” and who were consequently unfit to “enter into political affairs.” In Virginia and throughout the South, those who labored for their daily bread were African-American slaves—and because they were slaves, they never became part of the calculus, or politics, of suffrage reform. When the political leaders of Virginia or North Carolina or Alabama decided to abolish property or taxing qualifications, they did not remotely imagine that their actions would enfranchise the millions of black men who toiled on the cotton plantations and tobacco farms of the region.

In both the South and the North, thus, economic barriers to enfranchisement were dropped in social and institutional settings that permitted political leaders to believe that the consequences of their actions would be limited, far more limited than they would have been in Europe. The relatively early broadening of the franchise in the United States was not simply, or even primarily, the consequence of a distinctive American commitment to democracy, of the insignificance of class, or of a belief in extending political rights to subaltern classes. Rather, the early extension of voting rights occurred—or was at least made possible—because the rights and power of those subaltern classes, despised and feared in the United States much as they were in Europe, were not at issue when suffrage reforms were adopted. The American equivalent of the peasantry was not going to be enfranchised in any case, and the social landscape included few industrial workers. What was exceptional about the United States was an unusual configuration of historical circumstances that allowed suffrage laws to be liberalized before men who labored from dawn to dusk in the factories and the fields became numerically significant political actors.  

A Case in Point: The War in Rhode Island

The exception that proves this rule—at least for the North—was Rhode Island, where a property requirement remained in place until long after a sizable industrial working class had emerged. Rhode Island did not draw up a new constitution during the revolutionary era and continued to be governed by a colonial charter that granted the franchise to “freemen”; as defined by the General Assembly, this term included only those who owned real estate valued at $134 or rented property for at least $7. In the eighteenth century, nearly three quarters of all adult males were able to meet such requirements. The rapid growth of Providence and of manufacturing centers (particularly textile mills) in the state’s Blackstone valley, however, changed that proportion dramatically: by the 1830s, substantially less than half of the adult white males in the state could vote, and many of those who lacked the franchise were immigrant workers. Compounding the maldistribution of political power was a system of legislative apportionment weighted heavily in favor of the rural counties in the southern half of the state.

Several different political factions, as well as the disfranchised themselves, attempted to promote suffrage reform during the first quarter of the nineteenth century, but they were rebuffed by a coalition of conservatives and landowners who controlled the legislature and enjoyed, among other benefits, minimal and infrequent taxes on landed property. Opposition to the colonial charter picked up steam, however, in the early 1830s; it was sparked initially by a group of radical workingmen of whom carpenter and activist Seth Luther became the most celebrated spokesman. Luther, who had served a stint in debtors’ prison in the early 1820s, was a gifted orator and one of New England’s foremost critics of the inequalities created by industrialization. In his Address on the Right of Free Suffrage, he claimed that there were “twelve thousand vassals” in Rhode Island who submit to be taxed without their own consent, who are compelled to perform military duty, to defend the country from foreign invasion and domestic commotion; to protect property frequently not their own; in fact, who are obliged by the will of a minority, to bear all the burdens of a nominally free government, and yet have no voice in the choice of the rulers, and the administration of that government.

Luther denounced the class prejudice that kept workingmen from voting, insisted that the laws of Rhode Island violated the federal Constitution’s
guarantee of a republican form of government, and suggested that the Declaration of Independence be rewritten to indicate that "all men are created equal, except in Rhode Island."36

Despite Luther's fiery rhetoric, and in part because workingmen became pessimistic about the possibility of enfranchisement, the movement for suffrage reform (and reapportionment) was taken over by a group of middle-class reformers, many of whom were Whigs. They were led by Thomas Dorr, a successful Providence attorney from a well-to-do Rhode Island family. Dorr, who had attended Exeter and entered Harvard at the ripe age of fourteen, was known as a man of integrity and principle who unequivocally embraced causes he believed were righteous. The reformers launched a Constitutionalist Party that sought to write a new state constitution and correct numerous defects in the state's government. After two years of agitation, they succeeded in convincing the General Assembly to hold a constitutional convention—which proceeded to reject, by overwhelming margins, demands for taxpayer suffrage, reapportionment, and the abandonment of the colonial charter. Clearly at stake was nothing less than control of the state's government: the combination of a broad franchise and reapportionment would produce a dramatic shift in power, which landowners were fiercely committed to resisting.37

The conflict came to a boiling point in 1841, when mechanics and workingmen, believing that they could never redress any of their economic grievances until they possessed political rights, formed a new, militant suffrage organization. Their demands for change were backed not only by the reformers of the mid-1830s but also by the Democratic Party, which viewed an expansion of the franchise as the key to its own electoral fortunes. Dorr by this time had abandoned the Whigs and become the head of Rhode Island's Democratic Party. This broad coalition of reform advocates openly derided the state's existing constitution as an anachronism. "If the sovereignty don't reside in the people, where in the hell does it reside?" queried one member of the new Rhode Island Suffrage Association.38

Convinced that further appeals to the state's government were futile, the Suffrage Association convened a People's Convention in October 1841. There they drafted a new constitution that granted the franchise to all adult white men who met a residency requirement of one year; it also reapportioned the legislature to increase the representation of Providence and the industrial towns of the north. The most contentious issue to surface at the convention was black suffrage: after a lengthy debate, shaped in part by the fear of including a potentially unpopular element in what was already a radical document, the People's Convention voted to restrict suffrage to whites, a decision that led both blacks and abolitionists to oppose the new suffrage movement.39

Supporters of the People's Convention organized a statewide referendum on the new constitution: to their delight, when the votes were counted in January 1842, 14,000 people, a clear majority of all adult male Rhode Islanders, had voted to ratify their constitution. To Dorr and his followers, this expression of popular will meant that their constitution was now the legitimate, fundamental law of the state; they were further heartened when an alternative constitution, proposed by the Landholders' Convention (representing the charter government), was defeated in a referendum. Tensions mounted during the spring of 1842, as supporters and opponents of suffrage expansion denounced one another in street confrontations, in pamphlet wars, speaking tours, and rhetorical appeals to the federal government. Tensions were exacerbated further when the reformers proceeded to hold elections under the new constitution: although turnout was disappointing, a new legislature was elected and Dorr voted in as governor.40

Meanwhile, the conservatives, now organized as the Law and Order Party, succeeded in persuading the General Assembly to pass a series of laws aimed at "certain designing persons... endeavoring to carry through a plan for the subversion of our government." These laws (called the Algerine laws by suffragists, in reference to the well-known contemporary tyrant, the Dey of Algiers) imposed harsh penalties on those who were candidates in unauthorized elections and on those who presided at meetings held under the People's Constitution. Any person who attempted to assume office under the People's Constitution would be guilty of treason and subject to life imprisonment.41

The Algerine laws successfully splintered the Suffrage Association—since many backers of reform were reluctant to risk jail terms for the cause. A growing fear of civil or even military conflict, moreover, led many moderate supporters of suffrage reform to distance themselves from Dorr and his more radical, generally working-class, allies. Nonetheless, in early May, the People's government marched into Providence surrounded by thousands of supporters, including armed militia companies, to inaugurate Dorr as governor and open a session of the new legislature. That legislature promptly swore in state officials, passed a wide array of new laws, and repealed the Algerine restrictions on political activity. The new legislature also
instructed Dorr to inform the United States Congress and the President of the United States that Rhode Island had a new government. For several weeks thereafter, things remained at a standstill, with two different groups claiming to be the legitimate government of the state. The nation's attention was riveted on the unprecedented conflict, with reactions closely following partisan lines. Democrats, including Andrew Jackson and Martin Van Buren, embraced the Dorrites, endorsing the right of "the people" to "alter and amend their system of government when a majority wills it." Whigs, in contrast, denounced the reformers as pernicious advocates of rebellion and anarchy.

The stalemate was broken on the night of May 18, when Dorr and a small group of armed followers attempted to exercise their sovereign power by assembling in front of the state arsenal and demanding that it be turned over to them. When their demands were refused, they attacked the arsenal, but both of their cannons misfired, and the Dorrites were then beaten back. Dorr himself promptly left the state, his followers scattered, and some, including Seth Luther, were sent to prison. Over the course of the next few months, radical suffrage advocates attempted a few other military escapades (resulting in several deaths), with similarly disheartening and tragicomic results. The charter government remained in control of the state, backed by federal troops sent by Whig President John Tyler; political support for Dorr was undercut by dismay at his adventurism; and the Dorr War ended with more whimper than bang. In 1843, Dorr, after spending more than a year in quasi-exile (largely in states controlled by Democrats who refused to pursue him), returned to Rhode Island, where he was promptly arrested, convicted of treason, and sentenced to life in prison, at hard labor. Twenty months later, his health ruined by imprisonment, he was quietly released from jail, in part at the behest of his former adversaries.

Despite their victory, the Law and Order Party and the charter government were at least mildly chastened by the events of 1841–42, and they drew up a new constitution with a somewhat broader suffrage. All native-born adult males were permitted to vote if they met a minimal taxing requirement; consistent with Whig principles (and perhaps out of gratitude for their nonsupport of Dorr), the conservatives also disfranchised taxpaying blacks. The far more numerous immigrant working-class groups that had supported the rebellion, however, were not treated as generously. Foreign-born naturalized citizens were obliged to meet the existing property qualification, as well as a lengthy residence requirement. In addition, only property owners were permitted to vote for the city council of Providence or on any matters affecting taxation and financial policy in all cities and towns. The electorate in effect remained circumscribed by class and ethnic boundaries, and the state settled into an era of political apathy in which relatively few people bothered to vote.

The final legal chapter of the rebellion was written in the Supreme Court's decision in the landmark case of Luther v. Borden in 1848. The case had arisen in 1842, when Martin Luther, a Suffragist, sued Luther Borden for illegal breaking and entering. Borden was a Rhode Island military official who had been sent by the charter government to arrest Luther. The Suffragists claimed that the government that had dispatched Borden had been nullified by the ratification of the People's Constitution and thus that Borden lacked any legal authority to enter Luther's home and arrest him. The claim that the People's Constitution had become the legitimate blueprint of Rhode Island's government was justified by appealing to article 4 of the U.S. Constitution, which guaranteed to each state "a republican form of government." What was at stake in the lawsuit was the capacity, under federal law, of a popular majority of any state to create or re-create its own governing institutions. The Supreme Court dodged the issue, offering little sympathy to the Suffragists and no judicial support for the theory that a majority of the people could erect their own government in place of one ruled by a minority. The Court affirmed a lower court ruling that Borden had not trespassed, and asserted that the definition of "a republican form of government" was a political issue to be decided by the "Political Department" and not by the judiciary. The Court in effect declined to interpret the Constitution as requiring state governments to be democratic.

The bizarre culminating events of the Dorr War ought not obscure the significance of a political conflict that enveloped the state for more than a decade and gripped the nation for months. In Rhode Island, by the 1830s and 1840s, the abolition of pecuniary qualifications for voting clearly would have meant enfranchising a working-class majority, including thousands of factory operatives, many of whom were Irish Catholics. Faced with that prospect, the state's ruling minority resisted reform with a ferocity not seen elsewhere. Chancellor Kent's pessimistic vision of the future was a reality in Rhode Island by 1840, and inhabiting that reality—as opposed to David Buel's benign world in which farmers and other property owners would always predominate—the middle and upper classes were willing to go to extraordinary lengths to prevent any significant expansion of the right to vote.
What happened in Rhode Island highlights the critical fact that the reforms of the antebellum era were not designed or intended to enfranchise a large, industrial, and partially foreign-born working class. There is, moreover, little reason to think that other industrializing states would have avoided similar conflict and tumult—culminating in similarly restrictive suffrage laws—had they delayed franchise reform for another generation or more.

PART II

Narrowing the Portals

The right of suffrage, being the creature of the organic law, may be modified or withdrawn by the sovereign authority which conferred it, without inflicting any punishment on those who are disqualified.

—Anderson v. Baker (October 1865)

After 1850, conflict over the right to vote heightened dramatically. For the next seventy years, the issue was often on center stage, and always backstage, in American political life. Heated public debates surrounded the post-Civil War enfranchisement of African Americans, as well as their disfranchisement a generation later. Advocates of women's suffrage fought battle after battle in the states and in Washington. Workers, immigrants, transients, Native Americans, paupers, and the illiterate often found themselves contending with rules that would, or did, bar them from the polls.1

The diverse forces and dynamics that had promoted an expansion of the franchise before the 1850s remained active. The demands of war and the pressure to enfranchise soldiers and ex-soldiers prompted various efforts to broaden the right to vote; political parties jockeyed even more incessantly to shape the electorate to their advantage; thinly populated states sought to