

In the Beginning

Today a man owns a jackass worth fifty dollars and he is entitled to vote; but before the next election the jackass dies. The man in the meantime has become more experienced, his knowledge of the principles of government, and his acquaintance with mankind, are more extensive, and he is therefore better qualified to make a proper selection of rulers—but the jackass is dead and the man cannot vote. Now gentlemen, pray inform me, in whom is the right of suffrage? In the man or in the jackass?

—BENJAMIN FRANKLIN, *The Casket, or
Flowers of Literature, Wit and Sentiment* (1828)

AS THE MEN WHO WOULD LATER BE CALLED “the framers” of the United States Constitution trickled into Philadelphia during the late spring of 1787 (most of them arrived late), they had weighty issues on their minds: whether the Articles of Confederation should be revised or replaced with an altogether new plan of government; how the federal government could be made stronger without undermining the power of the states; resolving the already brewing conflict over the apportionment of representatives between large and small states; and contending with the freighted and divisive matter of slavery. Although the Revolutionary War had been won and independence achieved, a great deal still appeared to be hanging in the balance: as James Madison portentously noted, “it was more than probable” that the plan they came up with would “in its operation . . . decide forever the fate of Republican Government.”¹

With George Washington presiding and the energetic, carefully prepared Madison shaping many of the terms of debate, the fifty-five delegates to the convention wrestled, in closed sessions, with these and many other issues throughout the hot and

humid summer. That they would succeed in devising a constitution acceptable to the twelve states that had sent them (not to mention Rhode Island, which had declined the invitation to attend) was far from certain; several impasses were reached in the first two months of deliberation, and by the end of July, many of the delegates were frustrated, impatient, and tired. Eighty-one-year-old Benjamin Franklin, described by one of his fellow delegates as “the greatest philosopher of the present age,” trudged wearily back and forth to the sessions, occasionally having to be carried in a sedan chair.²

By mid-September, a constitution had been drafted and signed, and delegates began returning home to promote its ratification. The Articles of Confederation were to be scrapped; the increased—but restrained—powers of the federal government had been specified; the issues of state representation and slavery had been compromised; and a great many details outlining the operation of a new republican government had been etched in parchment. What British leader William E. Gladstone a century later would call “the most wonderful work ever struck off at a given time by the brain of man” was complete. The Western world’s most durable and perhaps most celebrated written blueprint for representative government was soon to become the fundamental law of North America’s new nation.

Remarkably, this new constitution, born in celebration of “republican government,” did not grant anyone the right to vote. The convention’s debates about suffrage, held during the doldrums of late July and early August, were brief, and the final document made little mention of the breadth of the franchise. Only section 2 of article 1 addressed the issue directly: it declared that in elections to the House of Representatives “the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.” More obliquely, section 1 of article 2 indicated that the legislature of each state had the right to determine the “manner” in which presidential electors would be selected, while article 4 entrusted the federal government with a vague mandate to “guarantee to every State in this Union a Republican Form of Government.” Otherwise, the Constitution was mute—from which much would follow.

The Received Legacy

For more than a decade before the founding fathers arrived in Philadelphia, individual states had been writing their own suffrage laws. These laws almost everywhere were shaped by colonial precedents and traditional English patterns of thought. The linchpin of both colonial and British suffrage regulations was the restriction of voting to adult men who owned property. On the eve of the American Revolution, in seven colonies men had to own land of specified acreage or monetary value in order to participate in elections; elsewhere, the ownership of personal property of a designated value (or in South Carolina, the payment of taxes) could substitute for real estate.³

Both in England and in the colonies, property requirements had long been justified on two grounds. The first was that men who possessed property (especially “real property,” i.e., land and buildings) had a unique “stake in society”—meaning that they were

committed members of (or shareholders in) the community and that they had a personal interest in the policies of the state, especially taxation. The second was that property owners alone possessed sufficient independence to warrant their having a voice in governance. As Henry Ireton had argued in England in the seventeenth century, "if there be anything at all that is the foundation of liberty, it is this, that those who shall choose the law-makers shall be men freed from dependence upon others." And the best way to be "freed" from such dependence, or so it was believed, was through the ownership of property, especially real estate. Conversely, the ballot was not to be entrusted to those who were economically dependent because they could too easily be controlled or manipulated by others. Such control may have seemed particularly plausible in the six colonies in which voting was *viva voce*—although advocates of secret paper ballots pointed out that disfranchisement was not the only solution to that problem. Indeed, implicit in the argument for independence was another notion, often unspoken but especially resonant in the colonies, where economic opportunities were believed to abound: that anyone who failed to acquire property was of questionable competence and unworthy of full membership in the polity.⁴

These concerns also prompted other restrictions on voting. Many colonies instituted residency requirements to exclude transients who presumably lacked the requisite stake in the colony's affairs;⁵ for similar reasons, some made citizenship, of England or the province, a prerequisite for voting.⁶ To guarantee that those who were dependent could not vote, several colonies formally barred all servants from the polls, while others expressly excluded paupers. Women too were prohibited from voting because they were thought to be dependent on adult men and because their "delicacy" rendered them unfit for the worldly experiences necessary for engagement in politics.⁷ In addition, there were limitations on the franchise that had more to do with social membership in the community than with a person's independence or stake in society. Freedmen of African or Amerindian descent were denied the ballot in much of the South.⁸ In seventeenth-century Massachusetts, only members of the Congregational Church could vote; in the eighteenth century, Catholics were disfranchised in five states and Jews in four.⁹

As these details suggest, aside from property qualifications, there were no firm principles governing colonial voting rights, and suffrage laws accordingly were quite varied. Not only Catholics and Jews, but also Native Americans, free blacks, and non-naturalized aliens could vote in some places and not in others.¹⁰ Women were barred expressly in several colonies, including Virginia, but statutes elsewhere made no reference to gender, and in at least a few Massachusetts towns and New York counties propertied widows did legally vote.¹¹ Absentee landowners were enfranchised in Virginia in 1736, which often meant that they could vote in more than one place. In practice, moreover, the enforcement or application of suffrage laws was uneven and dependent on local circumstances.¹²

Of equal importance, the qualifications to vote in local elections—especially in the cities and larger towns—often differed from those needed to vote for colonial or provincial officers. These differences had two sources. The first was political or institutional. Royal charters for incorporated cities frequently spelled out precise

suffrage rules, and those rules commonly granted political citizenship to men who had commercial affairs—rather than a residence—within the city limits. The breadth of the franchise in New York City; Perth Amboy, New Jersey; and Norfolk, Virginia, for example, was determined not by colonial general assemblies but by royal declaration and by the appointed officers who controlled the municipal corporations. The second reason for this municipal-colonial difference was economic: city and town dwellers possessed different types of property than did farmers, and consequently they sought to define property requirements in terms other than acreage or land. Although differently configured, city and town suffrage qualifications were not uniformly stricter or more lenient than were the qualifications for voting in the countryside.¹³

Did the right to vote expand or contract during the colonial era? Were the colonies becoming more or less democratic in their suffrage rules? The evidence is mixed. Some broadening of the franchise certainly occurred: religious restrictions for non-church members and Protestant dissenters tended to be relaxed in the late seventeenth and eighteenth centuries; municipal corporations began to grant the franchise to freeholders (men who owned real property) as well as men of commerce; and both Massachusetts and Virginia enacted laws that reduced the property requirements for voting.¹⁴ Yet the colonial era also witnessed some statutory contraction of the suffrage. The initial laws restricting the franchise to property owners generally were passed only decades after the colonies were settled, and in several colonies, including Pennsylvania, Rhode Island, and Virginia (which had a notably nonlinear franchise history), property requirements became more stringent over time.¹⁵ Moreover, the legal exclusion of Catholics, as well as African Americans, mulattoes, and Native Americans, took place primarily in the eighteenth century.¹⁶ Whether these laws altered rather than codified existing practices is unclear, but the statutes seem to have been more restrictive by the middle of the eighteenth century than they had been in the seventeenth.¹⁷

What also is unclear is just how many people could and did vote. This issue is a source of controversy among historians, some of whom conclude that colonial America was a land of middle-class democracy in which 80 or 90 percent of all adult white males were enfranchised, while others depict a far more oligarchic and exclusive political order.¹⁸ In fact, enfranchisement varied greatly by location. There certainly were communities, particularly newly settled communities where land was inexpensive, in which 70 or 80 percent of all white men were enfranchised.¹⁹ Yet there were also locales—including coastal towns (Ipswich, Massachusetts), farming counties (Westchester, New York; and Chester, Pennsylvania), cities (Philadelphia and Boston), and even some frontier settlements (Kent, Connecticut)—where the percentages were far lower, closer to 40 or 50 percent.²⁰ Levels of enfranchisement seem to have been higher in New England and in the South (especially Virginia and the Carolinas) than they were in the mid-Atlantic colonies (especially New York, Pennsylvania, and Maryland); not surprisingly, they also tended to be higher in newer settlements than in more developed areas. On the whole, the franchise was far

more widespread than it was in England, yet as the revolution approached, the rate of property ownership was falling, and the proportion of adult white males who were eligible to vote was probably less than 60 percent.²¹

The Revolution and the Vote

The ultimate end of all freedom is the enjoyment of a right of free suffrage.

—“A WATCHMAN,” *Maryland Gazette*, 1776

The “shot heard round the world” signaled the beginning of a new era in the history of the franchise. By challenging Britain’s right to rule the colonies, the American Revolution sparked a far-reaching public debate about the nature and sources of legitimate governmental authority. The issue of suffrage was always near the center of that debate: if the legitimacy of a government depended on the consent of the governed (one of the key rhetorical claims of the revolution), then limitations on suffrage were intrinsically problematic, since voting was the primary instrument through which a populace could express or withhold consent.²²

Did the colonial franchise restrictions, then, have to be abolished? The question loomed large, and in many of the former colonies, the revolutionary period—stretching from the mid-1770s to the ratification of the Constitution—witnessed heated public exchanges and sharp political conflict over the franchise; in some locales, men voted—or were prevented from voting—through the use or threat of force. Challenges to the traditional class restraints on suffrage were critical ingredients in the democratic, rather than anti-imperial, thrust of the revolution.²³

The conflict over the franchise that erupted during the revolution involved—as such conflicts always would—both interests and ideas. The planters, merchants, and prosperous farmers who wielded power and influence in late-eighteenth-century affairs had an unmistakable interest in keeping the franchise narrow: a restricted suffrage would make it easier for them to retain their economic and social advantages. Conversely, tenant farmers, journeymen, and laborers (not to mention African Americans and women) had something to gain from the diffusion of political rights. Landowners would maximize their political power if the franchise were tied to freehold ownership, while city dwellers, shopkeepers, and artisans had a direct interest in replacing freehold requirements with taxpaying or personal property qualifications.

Yet the debates were not simply a self-interested shouting match between the haves and the have-nots or between men who owned different types of property. For one thing, the haves were hardly unanimous in their views; nor presumably were the have-nots, who left fewer written records. Furthermore, ideas—whether or not independent of interests—mattered to the haves and have-nots alike. Participants in debates about the franchise surely were influenced by their own material interests, but they also were trying to grasp or invent ideas that meshed with social reality and harmonized with

deeply held values. This was always true in American history, and never more so than during the revolution—an era of political experimentation and war in which ideas about politics possessed exceptional valence. Received notions were being looked at with fresh eyes, held up against the backdrop of changed circumstances; new ideas had to be tested against models of history and human nature. The founding fathers—and mothers, sons, and daughters—were trying to envision a new polity as well as a new state, and they felt some urgency about getting it right.

Throughout the ex-colonies, political leaders put forward several different arguments—some traditional, at least one new—to justify the retention of restrictions, particularly property restrictions, on the franchise. Implicit in these arguments was the claim that voting was not a right but a privilege, one that the state could legitimately grant or curtail in its own interest. Indeed, in early English usage, the word franchise referred to a privilege, immunity, or freedom that a state could grant, while the term suffrage alluded to intercessory prayers. Even Pennsylvanian James Wilson, a signer of both the Declaration of Independence and the Constitution, and one of the more democratic of the founding fathers, described suffrage as a “darling privilege of free men” that could and should be “extended as far as considerations of safety and order will permit.”²⁴

One such consideration was the “stake in society” notion inherited from the colonial period. Only men with property, preferably real property, were deemed to be sufficiently attached to the community and sufficiently affected by its laws to have earned the privilege of voting.²⁵ Sometimes this argument was given a negative cast, with proponents insisting that the propertyless, if enfranchised, would constitute a menace to the maintenance of a well-ordered community.²⁶ Defenders of property qualifications also maintained (as the British had to the colonists) that representation could be virtual rather than actual, and that consequently there was no need to enfranchise the poor. The interests of the propertyless, like those of women and children, could be represented effectively²⁷ by wise, fair-minded, wealthy white men.

Those who opposed any expansion of suffrage also relied heavily on the belief that in order to vote a person had to be independent. This venerable idea, a staple of republican thought in the eighteenth century, was given influential expression in the late 1760s by Sir William Blackstone in his *Commentaries on the Laws of England*:

The true reason of requiring any qualification, with regard to property, in voters, is to exclude such persons as are in so mean a situation that they are esteemed to have no will of their own. If these persons had votes, they would be tempted to dispose of them under some undue influence or other. This would give a great, an artful, or a wealthy man, a larger share in elections than is consistent with general liberty. If it were probable that every man would give his vote freely and without influence of any kind, then, upon the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose charge is committed the disposal of his property, his liberty, and his life. But, since that can hardly be expected in persons of

indigent fortunes, or such as are under the immediate dominion of others, all popular states have been obliged to establish certain qualifications; whereby some, who are suspected to have no will of their own, are excluded from voting, in order to set other individuals, whose wills may be supposed independent, more thoroughly upon a level with each other.²⁸

Blackstone's reference to persons who were "in so mean a situation" that they had "no will of their own" (a phrasing that Blackstone appears to have lifted, without attribution, from Montesquieu) was repeated endlessly during the revolutionary era.²⁹ In debates everywhere, from Massachusetts to New Jersey to Maryland to South Carolina, lawyers, merchants, and farmers defended property qualifications by quoting or paraphrasing Blackstone and by invoking the specter of a demagogue coming to power through the manipulation of dependent men and women.³⁰ Even Thomas Jefferson, perhaps the most democratic leader of the revolution, accepted Blackstone's equation of property with independence and the right to vote—although Jefferson sought to solve that distasteful equation by advocating the distribution of free land to the propertyless.³¹ Thomas Paine also believed, in the 1770s, that voters should be personally independent, but by 1795 the experience of two revolutions had changed his mind and led him to advocate universal suffrage.³²

Remarkably, the argument that the poor should not vote because they had "no will of their own" coexisted with an altogether contradictory argument, often expressed by the same people: the poor, or the propertyless, should not vote because they would threaten the interests of property—that is, they would have too much will of their own. If men without property could vote, reflected the judicious conservative, John Adams, "an immediate revolution would ensue."³³ Indeed, the almost obsessive incantation of Blackstone's phrase may well have been a refraction, a semiconscious mask, of class apprehensions, a sign that the well-to-do feared not that the poor would have no will of their own but precisely the opposite. Sober and scholarly as the argument for independence may have sounded, there was little in American political experience to suggest that the poor would be misled by an "artful" or "wealthy" politician to the ruin of the republic; it was far more likely, as a rebellion of hard-pressed western Massachusetts farmers demonstrated in 1786, that men who were financially strapped would band together to defend their own interests. Operatively, then, the primary thrust of Blackstone's words was to defend the material interests of the propertied. By invoking his arguments, Blackstone's North American followers were performing an impressive feat of ideological alchemy: providing an ostensibly egalitarian defense of an overtly anti-egalitarian policy.

The issue of inequality also lay at the heart of the most innovative, and distinctively American, justification for property restrictions: a pessimistic view of the nation's future class structure. Even at the new nation's birth, even as the glorious future of the republic was being proclaimed up and down the seaboard, some of the revolution's leaders were cautioning that economic expansion and the growth of "manufactures" would bring greater inequality and new political dangers. This theme, which would be

echoed in political debates for a century, was voiced by Madison at the federal Constitutional Convention:

in future times a great majority of the people will not only be without landed but any other sort of property. These will either combine under the influence of their common situation; in which case, the rights of property and the public liberty will not be secure in their hands: or which is more probable, they will become the tools of opulence and ambition, in which case there will be equal danger on another side.

By referring to “future times,” Madison was tacitly acknowledging the limited applicability of Blackstone’s thinking to the late-eighteenth-century American world in which freeholders were numerous. Yet presciently anticipating that the rise of “manufactures” would transform the nation’s social structure, Madison advocated a property requirement that would serve the nation in a nineteenth-century future in which the propertyless—possessing either too much or too little will of their own—would be numerically predominant and politically powerful. Property qualifications, in effect, would function as a bulwark against the landless proletariat of an industrial future.³⁴

Arrayed against these conservative views was a set of equally cogent, if somewhat experimental, arguments in favor of extending the franchise, particularly to men who did not own property. The most broadly framed of these arguments was simple: voting was a “natural right” that the state could not suspend except in the most extreme circumstances. The idea that voting was a right, even a natural right, had become increasingly widespread in the eighteenth century (its ancestry dated to antiquity) and was embraced by many small farmers and artisans, as well as by the most radical leaders of the revolution, such as Franklin, Thomas Young of Pennsylvania, and Ethan Allen of Vermont.³⁵ The rural town of Richmond, Massachusetts, for example, declared its opposition to a proposed state constitution in 1780 because “excluding persons from a share in representation for want of pecuniary qualifications is an infringement on the natural rights of the subject.” Similarly, the town of Greenwich objected that the “people” were “deprived of their natural rights” because it was the “right of the people to elect their own delegates.”³⁶ The notion that voting was a right also was mobilized on behalf of African Americans: “The depriving of any men or set of men for the sole cause of colour from giving there [*sic*] votes for a representative,” proclaimed the town of Spencer, Massachusetts, was “an infringement upon the rights of mankind.”³⁷

The idea that voting was a natural right or even a right at all was rhetorically powerful: it meshed well with the Lockean political theory popular in eighteenth-century America, it had a clear antimonarchical thrust, and it had the virtue of simplicity. The language of rights was resonant and fresh in late-eighteenth-century America, and the notion that voting was a right that inhered in individuals rather than property was welcome as well as liberating. Franklin’s pointed query about the right to vote belonging to

the jackass rather than the man became so widely known that references to "Franklin's jackass" appeared in constitutional convention debates fifty years later.

Yet there was a problem with this vision of suffrage as a right, a problem both political and rhetorical. During the revolutionary period and in later decades, as its proponents quickly discovered, there was no way to argue that voting was a right or a natural right without opening a Pandora's box. If voting was a natural right, then everyone should possess it. Did this mean that not just every man (including poor men) should vote, but women as well? What about African Americans—and recently arrived aliens? Or children? If there was a "right" to suffrage, wasn't it wrong or immoral to deprive any group or individual of that right? How could one justify denying anyone his or her natural—or socially acknowledged—rights?

This was precisely the point John Adams made in his letter (quoted earlier) to James Sullivan in 1776, a point he was to reiterate for years.³⁸ Once it was acknowledged that people had a right to vote, it would be difficult to deny the suffrage to anyone: there would "be no end of it," as Adams observed. Adams and other conservatives, moreover, were well aware that most of those who invoked natural rights on behalf of the propertyless did not want there to be "no end of it": they did not believe, for example, that women or African Americans or minors should vote.³⁹ Their conception of natural rights was not universal, and their embrace of rights claims therefore could easily be exposed as instrumental and inconsistent. This dynamic—the embrace of rights arguments by advocates of an expanded suffrage met by a conservative counterargument emphasizing the unacceptable contents of the Pandora's box—was to be repeated for almost two centuries.⁴⁰

In part because they feared the universalist implications of natural rights claims, most proponents of a broader franchise offered more limited and specific arguments for changing the voting laws. One such argument was that property qualifications ought to be replaced by taxpaying requirements, because all taxpayers (not just property owners) were contributing to the government and affected by its policies. Such a change would enlarge the electorate; it also would shift the primary basis of an individual's claim to membership in the polity from his independence (as established by the ownership of property) to his stake in, and vulnerability to, state policies (as someone required to pay taxes). Taxpaying requirements, as historian Marc Kruman has argued, were not simply watered-down versions of property qualifications; they derived from a different premise: that all those who paid taxes had the right to defend themselves against potentially unfair government policies. The logic of "no taxation without representation" had a domestic as well as anticolonial application.⁴¹

Linked to this argument was another, drawn directly from republican theory and prevailing conceptions of the social contract: "that law to bind all must be assented to by all."⁴² For society to function smoothly, for the social contract to operate, people had to be given the opportunity—directly or through chosen representatives—to consent to or oppose laws. Denying people the franchise made that impossible and was consequently an invitation to disorder, anarchy, and tax evasion. "No man can be bound by a law that he has not given his consent to, either by his person, or legal representative,"

declared a western Massachusetts citizens committee in 1779.⁴³ "We view it both unfair and unjust to tax men without their consent," concluded a town meeting in New Salem in 1780.⁴⁴

The significance of popular consent also helped to undermine the idea of virtual representation. The purpose of representation, in republican theory, was to provide the governed with a feasible mechanism through which they could express or withhold their consent to laws or policies promulgated by a government. To say that men could be fairly represented by those whom they had played no part in choosing rang just as false as the royal claim that the colonists were adequately, if virtually, represented by British members of Parliament. As historian Gordon Wood has pointed out, the increasingly pluralist and particularistic conception of representation that emerged during the revolution subverted arguments for a limited franchise.⁴⁵

The final cluster of arguments for expanding the franchise was rather different: these favored extending the right to vote to everyone who was serving, or had served, in the army or the militia. The grounds for such an expansion were partly moral: it was not fair to ask propertyless men to risk their lives in defense of independence and then refuse them the right to vote. "Shall these poor polls who have gone for us into the greatest perils and undergone infinite fatigues in the present war . . . shall they now be treated by us like villains?" queried the citizens of Northampton, Massachusetts, in 1780.⁴⁶ It was an "injustice" to disfranchise men who "have fought and bled in their country's cause," concluded residents of nearby Lenox.⁴⁷

Embedded in this view was also a clear, if not always articulated, conception of the links between the rights and obligations of citizenship: a man who served in the militia or the army was entitled to all the rights of a citizen, including the right to vote. As one Pennsylvania editorialist wrote, the franchise should belong to "every man who pays his shot and bears his lot." Similarly, a Philadelphia pamphleteer (probably Thomas Young) insisted that "every man in the country who manifests a disposition to venture his all for the defense of its liberty, should have a voice in its council." The power of such arguments went well beyond implicit theories of citizenship: as would be true throughout American history, the notion that soldiers should be enfranchised was an emotionally resonant one to all men who had fought or even those who knew what military service was like. "Perils," "infinite fatigues," and "bled" were concrete words, evoking the intensity and horror of wartime experiences that amply earned a man the right to choose his leaders and participate in politics.⁴⁸

These principled reasons for enfranchising men who bore arms were to be heard repeatedly in the course of American history. So too was a more pragmatic and political argument: recruiting and retaining an army would be difficult if soldiers or potential soldiers were prohibited from voting. Franklin voiced this view at the Constitutional Convention, in opposition to a call for a national freehold qualification. "It is of great consequence," the oldest delegate declared, "that we should not depress the virtue and public spirit of our common people; of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it." He contrasted the willingness with which captured British seamen "entered the American service" with

the patriotism of imprisoned American sailors, who had refused to "redeem themselves" from British prisons by fighting for the enemy. Franklin attributed the Americans' superior valor to their morale, to their knowledge that they were the "equal" of their "fellow citizens," and warned that the patriotism of the "common people" could be undermined by property qualifications on the franchise. Franklin's point was a resonant one in a new and vulnerable nation that had been compelled to offer significant economic and legal incentives to the poor in order to raise a revolutionary army. Wars were not fought by property owners alone (they often did not fight at all), and it was in the national interest to enfranchise everyone who might be called upon in an hour of need.⁴⁹

Given these widely disparate and sharply conflicting views of suffrage, it is hardly surprising that the breadth of the franchise—and particularly the desirability of property requirements—became a major focus of controversy during the revolutionary era. Arguments for and against a more democratic suffrage were voiced in newspapers, broadsides, provincial assemblies, town meetings, gatherings of militiamen, and constitutional conventions, as well as taverns, inns, city streets, and private homes. The very act of declaring independence from Britain compelled the residents of each colony to form a new government, and the process of forming new governments inescapably brought the issue of suffrage to the fore.⁵⁰ Who should be involved in creating a new government for an ex-colony? For a new government to be legitimate, who had to consent to its design and structure? And how broad should suffrage be in a republic? The answers to these questions varied from one state to the next. (For a summary of the suffrage laws adopted, see Table A.1.)

The most influential and, perhaps, dramatic expansion of the franchise occurred in Pennsylvania during the first months of the revolution. The key actors in the drama were members of the highly politicized Philadelphia militias who seized the early initiative in Pennsylvania's rejection of British rule. As early as March 1776, the Committee of Privates, speaking for rank-and-file militiamen drawn from the city's "lower" and "middling sorts," announced its readiness to discard colonial suffrage requirements: it asked the provincial assembly to enfranchise the "brave and spirited Germans and others" who had "cheerfully" joined the militia associations, yet were "not entitled to the privileges of freemen electors." Later in the spring, the committee also demanded that militiamen be permitted to elect their own officers and that all taxpaying militia associators (active volunteer members of the militias) be allowed to vote for delegates who would draw up a new state constitution.⁵¹

Backed by prominent reformers such as Franklin, Young, and Paine, and allied with western farmers who had long been underrepresented in the colony's government, the militiamen succeeded in electing a constitutional convention dominated not by the traditional elites but by artisans, lesser merchants, and farmers. That convention, in the fall of 1776, produced the most democratic constitution in the thirteen original states: it abolished property requirements and enfranchised all taxpaying adult males as well as the nontaxpaying sons of freeholders. Since Pennsylvania had a poll tax—meaning a "head" tax or a tax on all household heads—this effectively enfranchised the great

majority of adult males. Despite fierce opposition from the Quaker upper classes that had controlled the colonial government, the Constitution relocated the boundaries of the population regarded as having "a sufficient common interest with and attachment to the community." Those new, more ample boundaries remained in place despite the state's conservative swing in the 1780s.⁵²

In Maryland, militia associators also spearheaded the attack on the colonial franchise with even greater militance, but less ultimate success. The precipitant of militia action was a provincial decision in 1776 to limit voting for delegates to a constitutional convention to men who met the colonial property qualifications. In half a dozen counties, militiamen rebelled, insisting that all taxpaying associators be permitted to vote. In Arundel County, armed men who could not meet the franchise requirement actually marched on the polls, demanded the right to vote, and threatened to "pull the house down from under" the election judges. When they were refused and the polls closed, they declared that they would lay down their arms. In other counties, militiamen and local citizens appointed their own election judges, who in turn allowed all associators to vote. The state's governing authorities, however, displayed little tolerance for these rebellions, ordering new elections with strict enforcement of the property qualifications. The constitutional convention itself, perhaps chastened by the tumult, significantly lowered, but did not abolish, the property requirement; and the state's Declaration of Rights reiterated the principle that the right of suffrage ought to be possessed by "every man having property in . . . the community."⁵³

The political dynamics of revolution generated a broader franchise in a half dozen other states as well. In New Jersey, a decentralized movement for reform, backed by artisans, city dwellers, and small landowners, succeeded in abolishing the freehold requirement for voting; a new provision, however, was instituted, granting suffrage only to persons worth fifty pounds in proclamation money.⁵⁴ In Georgia, despite significant opposition, the freehold qualification was abandoned in 1777 and replaced by a more flexible requirement that any twenty-one-year-old white male could vote who possessed "ten pounds value," was "liable to pay tax in" the state, or belonged "to any mechanic trade."⁵⁵ New Hampshire, after six years of difficulty agreeing on the text of a constitution, decided in 1782 to substitute a taxpaying qualification for the provincial freehold requirement.⁵⁶

In New York and North Carolina, the right to vote was enlarged, with conflict resolved through bicameral compromise. In the Empire State, despite the activism of New York City's already enfranchised artisans, the conservative Whigs who dominated state politics preserved property requirements for voting for all offices. Yet the requirement was reduced (to a twenty-pound freehold or a forty-shilling tenancy) for elections to the state assembly, while remaining far more substantial for senatorial elections. New York also took the step (mirrored less formally elsewhere) of constitutionally abolishing oral voting.⁵⁷ In North Carolina, similarly, demands for manhood suffrage were rebuffed, but some liberalization of the law did take place: a taxpaying qualification was introduced for the lower house of the legislature, while the state retained a fifty-acre freehold requirement in elections for the state senate.⁵⁸

In only one state, Vermont, was a man's ability to vote completely detached from his financial circumstances. The residents of what would become the Green Mountain State adopted a constitution in 1777 that was closely modeled on that of Pennsylvania. The farmers of Vermont went a step further, however, eliminating not only property requirements but taxpaying qualifications as well. That they took such an unprecedented step was a reflection both of the region's relatively egalitarian social structure and the rather unruly political—and military—process that led to the writing of a constitution. For Vermonters, the revolution was a rebellion, led by Ethan Allen and his band of Green Mountain Boys, against both Britain and the state of New York, to which the region technically belonged. Since Vermont was unique in not having a government when independence was declared, delegates to its constitutional convention were selected not by an existing state assembly but by popular elections held in the region's townships. This democratically selected convention produced the first state constitution to abolish slavery and to institute anything close to universal manhood suffrage. In campaigning for statehood, Allen (who had become the head of the state's militia) and his colleagues pointed repeatedly to the difference between Vermont's broad suffrage and the freehold requirements still prevailing in New York. When Vermont finally entered the union in 1791, any adult male who took the Freeman's Oath could vote.⁵⁹

Vermont was a revealing but exceptional case. Even the partial liberalization of voting requirements was by no means universal: in five states, there was little or no change at all. Rhode Island and Delaware retained their colonial laws, without great public turmoil; Connecticut did the same, despite pressure for reform from militiamen, among others. In South Carolina, demands for change produced only a nominal revision of the property requirements, and in Virginia—where the subject produced great debates and considerable eloquence from notables such as George Mason and Thomas Jefferson—the constitution adopted in 1776 ended up reiterating voting laws that had been put in place forty years earlier.⁶⁰

Massachusetts, moreover, actually stiffened its requirements for voting.⁶¹ Throughout the revolutionary period, the Bay State was wracked by regional and ideological conflict: the relatively conservative established leadership of its eastern counties squared off repeatedly against more radical and democratic factions centered in the west. In 1778, a convention drafted a compromise constitution that would have permitted all taxpaying, white freemen to vote for the lower house of the state legislature, while retaining a property requirement for senate and gubernatorial elections. Yet this constitution was overwhelmingly rejected by the state's citizens, in part—but only in part—because it was insufficiently democratic. Numerous towns objected to its racially discriminatory suffrage provision: it “deprives a part of the human race of their natural rights, merely on account of their color,” explained the citizens of Westminster. Others refused to accept the persistence of any property qualifications on voting, which made “honest poverty a crime.”⁶²

A year later, a new constitution was drafted, largely by John Adams: it dropped the racial exclusions but reinstated property requirements that were more stringent than

those of the colonial era. Members of the constitutional convention (chosen by an electorate that included all freemen) justified this conservative tilt in a published address that was remarkably overt in its class bias and contempt for the propertyless:

Your Delegates considered that Persons who are Twenty-one Years of age, and have no Property, are either those who live upon a part of a Paternal estate, expecting the Fee thereof, who are but just entering into business, or those whose Idleness of Life and profligacy of manners will forever bar them from acquiring and possessing Property. And we will submit it to the former class, whether they would not think it safer for them to have their right of Voting for a Representative suspended for [a] small space of Time, than forever hereafter to have their Privileges liable to the control of Men who will pay less regard to the Rights of Property because they have nothing to lose.⁶³

Forty-two towns, most of them in the west, objected strenuously to the proposed suffrage qualifications. "Taxation and representation are reciprocal and inseparably connected," declared the town meeting of Stoughton. Belchertown's citizens insisted that denying the franchise to adults was to deprive them of "that liberty and freedom which we are at this day contending for." The eastern town of Mansfield responded to the convention's stated rationale by noting that "many sensible, honest, and naturally industrious men, by numberless misfortunes," never acquire property "of the value of sixty pounds." Despite these objections, and thanks to a remarkably stacked and undemocratic method of counting the "votes" of the commonwealth's communities, the new constitution was declared ratified in 1780. Its suffrage provision reflected the convention's view that those who lacked property were unworthy of full citizenship—or in the words of one prominent eastern merchant, "the people at large, in any numbers together, are nearly as unfit to choose legislators . . . as they are in general to fill the offices themselves."⁶⁴

The revolutionary period, in sum, witnessed a broad range of reactions to economic restrictions on the franchise. Although often overshadowed by other issues (such as taxation or the structure of future legislatures), the breadth of the franchise mattered greatly to citizens of the thirteen original ex-colonies and the new state of Vermont. In every state, there was pressure for suffrage reform, as well as conservative opposition to a less class-biased, more economically inclusive franchise. The outcomes of these conflicts followed no clear regional pattern; they seem instead to have been shaped largely by the strength of local elites and by the particular political processes that unfolded in each state. The overall result was a mixed bag of substantial changes, cosmetic alterations, and preservation of the status quo.⁶⁵

On noneconomic fronts, however, proponents of suffrage reform fared better. The disfranchisement of Roman Catholics and Jews was brought to an end—although in South Carolina it remained necessary to "acknowledge the being of a God."⁶⁶ Free African Americans were tacitly enfranchised in North Carolina, Massachusetts, New

York, Pennsylvania, Maryland, and Vermont.⁶⁷ (They remained voteless in Georgia, South Carolina, and Virginia.) In New Jersey, the revolutionary-era constitution permitted women to vote (a development to be discussed at length in subsequent chapters).

Alongside these substantive matters, several important legal and jurisdictional issues also were shaped, or structured, during the revolutionary period. The first was that suffrage was defined as a constitutional issue: all of the early state constitutions (except that of Delaware) treated the right to vote as a matter of fundamental—and thus constitutional—law, rather than statute law. Implicit in this treatment was the notion that suffrage requirements ought to be durable and difficult to change; legislatures and governors alone were not entrusted with the power to tamper with the right to vote. In theory at least, the franchise could be broadened or narrowed only through constitutional revision or amendment.⁶⁸

In addition, the revolution witnessed the perpetuation and, in some instances, the reinforcement of the distinction between state and municipal voting rights. In cities that possessed charters from the colonial period, the right to vote in municipal elections continued to be determined by city officials and charter rules; in almost all of the twenty-five cities incorporated during the revolutionary era, municipal voting rights were specified in new charters. Despite the constitutional character of state voting requirements, legislatures—which could grant new charters—were granted the power to define the electorate for nonconstitutional (including local) offices.⁶⁹

The most common manner in which municipal voting rights differed from the state suffrage was in the configuration of property restrictions: increasingly, urban residents who did not own real property could vote if they met either a personal property or a taxpaying requirement. The principles of state law were, in effect, adapted to urban conditions. In some locales, however, the differences were more substantial. Nine of the cities chartered during the revolution granted the franchise to nearly all adult males, and Massachusetts, in the 1780s, passed a series of laws that gave the right to vote in town meetings to all men who could meet a minimal taxpaying requirement.⁷⁰

On the whole, municipal voting rights tended to broaden more rapidly than did the right to vote in state elections, probably because of pressure from propertyless urban citizens.⁷¹ There were important exceptions to this trend, however, notably among cities with prerevolutionary charters. In Norfolk, Virginia, for example, a closed corporation of merchants continued to govern the city without the electoral participation of most inhabitants; only in the late 1780s did the state government, responding to petitions from the populace, grant municipal suffrage to those who could already vote for state legislators. In so doing, the commonwealth was tacitly setting a precedent, ruling that municipal charters were not inviolable. In Philadelphia and New York, similarly, local elites sought to preserve, or impose, a restrictive municipal suffrage in order to retain political control of their cities: in both urban centers sharp conflict over the suffrage—and over the state's right to intervene in the affairs of municipal corporations—persisted into the postrevolutionary era.⁷²

The States and the Nation

It was at the end of the revolutionary period that the role of the federal government in determining suffrage requirements was written into constitutional law. Under the Articles of Confederation, the states had retained complete control over the franchise. But the Constitution of the United States forged a link between state suffrage rules and the right to vote in national elections: those who participated in elections for the "most numerous Branch of the state legislature" were automatically entitled to vote for members of the House of Representatives. These were the only national offices for which the Constitution demanded a popular electoral process of any kind.

This rather peculiar and indirect national mandate was a compromise, an outgrowth both of an ideologically divided constitutional convention and the practical politics of constitutional ratification. The issue of suffrage came to the floor of the convention in late July 1787, when the delegates were fatigued from months of debate and speech-making; after a brief discussion, the issue was consigned to a committee of detail, with instructions for the committee to consider designing property and citizenship requirements for voting in national elections. The committee of detail worked for more than a week, while other delegates took a break: Washington and several of his colleagues went fishing. In its deliberations, the committee weighed the possibility of a federal property requirement, as well as several proposals that would have given the federal government the power to impose its own suffrage laws at some future time. The issue was "well considered by the committee," claimed James Wilson, who noted further that it was "difficult to form any uniform rule of qualifications for all the states." In the end, the committee's recommendation was to tie suffrage for the House of Representatives to state franchise requirements in elections to the lower house of each state legislature.⁷³

The committee's proposal prompted a short but sharp debate in the convention early in August. That debate revolved around concerns that the franchise would be too broad. Pennsylvania merchant Gouverneur Morris, sounding an array of familiar conservative notes, led the attack, insisting that a national freehold requirement was necessary to prevent the growth of aristocracy:

The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich. . . . We should not confine our attention to the present moment. The time is not distant when this country will abound with mechanics and manufacturers, who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier against aristocracy?⁷⁴

His views were seconded by Madison, who argued that the corruption of Parliament in England had occurred because the "qualification of suffrage" was too low in the "cities and boroughs." Madison also maintained that "the freeholders of the country would be the safest depositories of republican liberty," although he acknowledged that

it might be impolitic to impose a freehold requirement on those "states where the right was now exercised by every description of people."⁷⁵

The views of Morris and Madison were challenged both by conservative advocates of higher property qualifications and by proponents of a more popular suffrage. George Mason of Virginia maintained that "every man having evidence of attachment to, and permanent common interest with, the society, ought to share in all its rights and privileges." Nathaniel Gorham, a Boston merchant, correctly pointed out the flaws in Madison's understanding of British politics and observed that he had never "seen any inconvenience from allowing such as were not freeholders to vote . . . the elections in Philadelphia, New York, and Boston, where the merchants and mechanics vote, are at least as good as those made by freeholders only." Franklin vehemently maintained that "depositing the right of suffrage in the freeholders exclusively" would "injure the lower class of freemen. . . . The common people of England," he maintained, "lost a great portion of attachment to their country" because of their disfranchisement. Franklin also advanced his argument that a freehold suffrage requirement would undermine the loyalty of sailors and soldiers; not coincidentally, perhaps, a few hours before Franklin spoke, the city of Philadelphia had welcomed home 800 militiamen who had been serving on the northwestern frontier.⁷⁶

Although Morris's proposal for a national freehold requirement was beaten back, it was notable that no argument was put forward on the convention floor in favor of a uniformly broad national suffrage. Perhaps owing to the absence of some of the revolution's most democratic leaders (including Jefferson, Paine, Samuel Adams, and Patrick Henry), there was no formal debate about the possibility of a national standard more inclusive than the laws already prevailing in the states. Indeed, the records of the federal convention and state constitutional conventions suggest that most members of the new nation's political leadership did not favor a more democratic franchise: Madison's views were more typical of the founding fathers than were those of Jefferson or Franklin. The well-to-do Elbridge Gerry of Massachusetts (whose name would be immortalized in the word gerrymander), speaking at the end of the convention, described "Democracy" as "the worst . . . of all political evils."⁷⁷ This conservative consensus also was expressed in the Northwest Ordinance of 1787 (an act reaffirmed by the first Congress in 1789), which instituted a freehold requirement in the territories northwest of the Ohio River. In the largest piece of terrain directly controlled by the federal government, citizens and aliens alike had to own fifty acres of land in order to vote.⁷⁸

The decision made by the Constitutional Convention, however, stemmed at least as much from practical politics as from ideology. The convention accepted the committee of detail's formulation, with slight revisions, largely because of its desire to avoid jeopardizing the ratification of the new constitution. Any national suffrage requirement was likely to generate opposition in one state or another, and a narrow national suffrage, such as a freehold qualification, seemed capable of derailing the Constitution altogether. As Oliver Ellsworth of Connecticut observed, "the right of suffrage was a tender point, and strongly guarded by most of the state constitutions. The people will

not readily subscribe to the national Constitution, if it should subject them to be disfranchised." Madison reiterated the point in the *Federalist Papers*: "One uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the convention."⁷⁹ By making the franchise in national elections dependent on state suffrage laws, the authors of the Constitution compromised their substantive disagreements to solve a potentially explosive political problem.

The solution they devised, however, had a legacy—a long and sometimes problematic legacy. The Constitution adopted in 1787 left the federal government without any clear power or mechanism, other than through constitutional amendment, to institute a national conception of voting rights, to express a national vision of democracy. Although the Constitution was promulgated in the name of "We, the people of the United States," the individual states retained the power to define just who "the people" were. Stated somewhat differently, citizenship in the new nation—controlled by the federal government—was divorced from the right to vote, a fact that was to have significant repercussions for almost two centuries.⁸⁰

Also problematic—in the long run—was the Constitution's failure to guarantee to any Americans the right to vote for the highest office in the land, the presidency of the United States. Presidents were to be chosen through a complex mechanism that later came to be known as the "Electoral College." "Electors" in each state were to meet and cast ballots for two persons, and those ballots were to be transmitted to Congress, where they would be opened and counted: the person receiving the largest number of votes would be elected president and the runner-up would become vice-president.⁸¹

But the Constitution left entirely to state legislatures the question of how the electors themselves would be chosen. Article 2, section 1 specified that "each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress." The states were not required to hold popular elections to choose presidential electors, and state legislatures could, whenever they wished, change the "manner" of appointing electors. Not surprisingly, during the early years of the republic, some state legislatures chose presidential electors by themselves, leaving the people of their states no role whatsoever in determining who would wield the executive power of the new federal government.⁸²



The American Revolution, in sum, produced modest, but only modest, gains, in the formal democratization of politics. In more than a third of the states, colonial restrictions on suffrage (or close approximations thereof) remained in force; elsewhere the suffrage was broadened, in some places significantly, in others not. Overall, the proportion of adult men who could vote in 1787 was surely higher than it had been in 1767, yet the shift was hardly dramatic, in part because changes in the laws were partially offset by socioeconomic shifts that increased the number of propertyless

men. By 1790, according to most estimates, roughly 60 to 70 percent of adult white men (and very few others) could vote.⁸³

Yet the contribution of the revolution went beyond the legal changes etched in the state constitutions. The experience of the revolution—the political and military trauma of breaking with a sovereign power, fighting a war, and creating a new state—served to crack the ideological framework that had upheld and justified a limited suffrage. The concept of virtual representation was undermined; the notion that a legitimate government required the “consent” of the governed became a staple of political thought; and a new, contagious language of rights and equality was widely heard. For many participants, values and principles at the heart of the revolution were difficult to reconcile with the practice of denying voting rights to men simply because they were poor or African American. At the same time, the experience of fighting a long and drawn-out war, with a popular rather than professional army, illuminated the importance of the “common people” to the fate of the new nation. By the end of the revolution, the policy of keeping those common people from the polls had become significantly harder to defend than it had been in 1770.⁸⁴