of the era's robber barons: "wealthy men control our railroad corporations," a contributor to *The Nation* pointed out. "What has been the degree of honor and regard for the public good with which these institutions have been managed?"[12]

The intellectual counterattack against critics of universal suffrage made clear that northern liberals, "literary men," those who in later decades would be called opinion makers, were deeply divided over the issue. There were passionate advocates of a broad franchise just as there were passionate critics, and there is no way to tell how many men, literary and otherwise, fell into each camp. What was noteworthy about this public debate—which foreshadowed and then mirrored debates in statehouses across the country—was not the relative strength of the two camps but rather that the debate took place at all. Within a few years of passage of the Fifteenth Amendment, a significant segment of the intellectual community was announcing its distrust of democracy and rejecting the claim that suffrage was a right. The discourse had changed, and the breadth of the franchise—particularly extension of the franchise to the poor, uneducated, and foreign-born—was once again a live issue.

In contrast to the debates of the 1830s and 1840s, advocates of a broad suffrage were back on the defensive: the terms of public discussion were being set by men who believed that universal suffrage had failed, that it was neither viable nor desirable in the socially heterogeneous, industrial world of the late nineteenth century. As scores of contemporary commentators noticed, the tides of political thought had shifted again, and that shift endured well into the twentieth century. In 1918, two Yale historians concluded a two-volume comparative history of voting with the comment that "if the state gives the vote to the ignorant, they will fall into anarchy to-day and into despotism to-morrow." A decade later, William B. Munro, professor of history and political science at Harvard, declared that "eliminating the least intelligent stratum" of the electorate was essential to the nation's well-being.[13]

Despite their shared diagnosis, the intellectuals and reformers who were losing faith in universal suffrage were not of one mind about the prescription. Some, such as Godkin, believed that nothing could be done to shrink the electorate. "Probably no system of government was ever so easy to attack and ridicule," he wrote in 1894, "but no government has ever come upon the world from which there seemed so little prospect of escape. It has, in spite of its imperfections and oddities, something of the majesty of doom." Beneath Godkin's sonorous rhetoric was a shrewd perception of political realities: introducing new barriers to suffrage was far more difficult than simply retaining those already in place. Men who possessed the franchise, and their representatives, could combat—and politically punish—those who sought to disfranchise them. Consequently, Godkin regarded it as "a mere waste of time to declaim against" universal suffrage: the challenge to "educated men" was to develop ways of having good government despite universal suffrage.[14]

Proposals for achieving such a goal began to find their way onto the public agenda in the 1870s and remained there for decades. Among them were less frequent elections, at-large rather than district voting, increased public accountability for office holders, and state control over key arenas of municipal administration. Another proposal that garnered considerable attention was to remove public offices from the electoral sphere and make them appointive. As the *Atlantic Monthly* observed in 1879, "the right of voting cannot be taken away, but the subjects of voting can be much reduced." It was "absurd" to involve the electorate in "the selection of judges and sheriffs, and district attorneys, of state treasurers and attorney-generals, of school commissioners and civil engineers." Democracy in effect could be salvaged by circumscribing its domain.[15]

Other critics were more optimistic about the possibilities of changing the size and shape of the electorate. Some advocated reinstituting property and tax qualifications or imposing literacy tests on prospective voters. More subtle approaches also were proposed, including longer residence periods, stricter naturalization laws, waiting periods before new citizens could vote, complex ballot laws, and elaborate systems of voter registration. Wherever such ideas originated, their endorsement by well-known liberal spokesmen helped to speed their circulation through the political cultures of the North and West, where they quickly acquired a life and importance that reached far beyond the world of northeastern intellectuals.[16]

Purifying the Electorate

The laws governing elections in most states were revised often between the Civil War and World War I. Many states, new and old, held constitutional conventions that defined or redefined the shape of the electorate as well as the outlines of the electoral process. State legislatures drew up increasingly detailed statutes that spelled out electoral procedures of all types, including the timing of elections, the location of polling places, the hours that polls would be open, the configuration of ballots, and the counting of votes. As

had been true before the Civil War, many of these laws were straightforwardly administrative, creating needed electoral machinery and translating broad constitutional precepts into concrete, enforceable rules.[17]

Other laws were more controversial, inspired by partisan interests, enacted to influence the outcome of elections. Prominent among them were laws that affected the weight, or value, of votes cast. The apportionment of state legislative as well as congressional seats was a key issue, generating recurrent conflicts, particularly between urban and rural areas. Linked to apportionment was the location of district boundaries in states and within cities: gerrymandering was a routine form of political combat, practiced by both major parties against one another and against any upstart political organizations. Similarly, technical rules governing the presence of parties and candidates on the ballot also were subjects of contention—since they could encourage, or discourage, third parties and fusion slates. Minute legal details could and did shape the choices offered to voters and the weight of individual votes.[18]

Nonetheless, the most critical laws remained those that determined the size and contours of the electorate. These were of two types. First and most important were those that set out the fundamental qualifications that a man (or woman) had to meet in order to become an eligible voter. The second, of increasing significance, established the procedures that a potential voter had to follow in order to participate in elections. Both types remained under state control, since the Constitution and federal courts continued to say little about suffrage, except with regard to race. In every state, changes in both substantive and procedural laws were proposed and debated, often giving rise to reforms and commonly generating political and ideological conflict.

The legal changes considered by constitutional conventions and legislatures cut in both directions. Some were aimed at enlarging the franchise—either substantively (e.g., by eliminating tax requirements) or procedurally (e.g., by keeping the polls open longer hours, to make it easier for working people to vote). In the early twentieth century, several states, alarmed at the decline of turnout in the middle and upper classes, even considered making voting compulsory—thereby making exercise of the franchise an obligation as well as a right.

More typical of the era, however, were efforts to tighten voting requirements. Justified as measures to eliminate corruption or produce a more competent electorate, such efforts included the introduction of literacy tests, lengthening residency periods, abolishing provisions that permitted noncitizen aliens to vote, restricting municipal elections to property owners

or taxpayers, and the creation of complex, cumbersome registration procedures. Stripping voters of the franchise was a politically delicate operation that generally had to be performed obliquely and without arousing the ire of large and concentrated groups of voters.[19]

The political dynamics of reform defy easy characterization: any full understanding would require dozens of in-depth studies of individual states and cities. Still, certain overarching patterns are visible. Efforts to restrict the franchise commonly emanated from the middle and upper classes, from business and rural interests, as well as professionals; resistance to these efforts, as well as sentiment in favor of looser voting requirements, tended to be concentrated in the urban working class. Republicans were far more likely than Democrats, or third-party advocates, to favor restrictive reforms. Partisan competition played a larger role, and ideology a smaller one, than had been true during the first two thirds of the nineteenth century. Issues of military recruitment and mobilization were not much of a factor until World War I.[20]

Yet there were exceptions to nearly all of these trends. The partisan lineup was not consistent, either geographically or over time; the middle and upper classes were never homogeneous in their views or interests; segments of an ethnically divided and fluid working class periodically championed the cause of restriction; and political machines, long regarded as powerful engines of electoral expansion, sometimes judged that it was in their interest to freeze the size of the electorate. The politics of suffrage were shaped by vectors of class, ethnicity, and party, but these vectors were never identical nor even consistently parallel to one another. The battle lines were bent further by the omnipresent shadow of demands for the enfranchisement of women and by the indirection of proposals that would only partially disfranchise (or enfranchise) members of particular groups. This was more guerilla than trench warfare.

Money and the Vote

> If the law of Massachusetts had been purposely framed with the object of keeping workingmen away from the polls it could hardly have accomplished that object more effectually than it does. It probably was drawn up with just that sinister purpose in view. In order to register it is necessary for the workingman to lose a day or at least half a day in presenting himself personally to substantiate his right to vote—no small sacrifice in the case of

> the hardly driven and badly paid workers in the cotton mills and other poorly remunerated industries. Then, again, the payment of the poll tax of $2 is a prerequisite to voting . . .
>
> The registration and poll-tax law of Massachusetts is essentially unjust and un-American. It virtually debases the right of suffrage to a part of the tax collecting machinery, and instead of making it really, as it is in theory, the birthright of every American citizen renders it a privilege to be secured by a money-payment.
>
> —*Journal of United Labor* (Knights of Labor), 1889

Contrary to received wisdom, economic requirements for voting were not a dead issue after 1850. In addition to being resurrected in the South, such requirements persisted in some northern states and were revived or debated anew in others. (See tables A.10 and A.11.) Although difficult to justify because they violated popular ideological norms, economic qualifications continued to offer opponents of universal suffrage a direct and potentially efficient means of winnowing out undesirable voters.

The unpopularity of economic qualifications was manifested in three states (Massachusetts, Rhode Island, and Delaware), which abolished longstanding property or tax requirements at the end of the nineteenth century. In Massachusetts, the abolition was accomplished by the Democrats, with substantial labor and Irish Catholic support. For decades, the tax requirement had served as an obstacle to poor people's voting and as a drain on the treasuries of both political parties, who often paid the taxes of their constituents. By the late 1880s, the Democratic Party—with more working-class supporters and thus greater financial exposure—reportedly was spending $50,000 at each election to pay the poll taxes of its supporters. Taking advantage of a brief moment of statewide electoral strength, the Democrats pushed through a constitutional amendment repealing the tax requirement in 1891. While campaigning for repeal in the face of vociferous conservative opposition, Governor William Russell claimed that the "tax deprives a man of his vote because of his poverty only" and warned that continued deprivation would only prompt the poor to adopt violent means of seeking change. According to Boston's mayor, the abolition of the poll tax led to an immediate 21 percent increase in the number of persons on the city's voting lists.[21]

In adjacent Rhode Island, the Democratic Party also led a campaign against economic qualifications but with less satisfactory results. (Rhode Island was the last state to require property ownership to vote.) Passed in the 1840s, its electoral laws permitted foreign-born citizens to vote in state elections only if they owned real property; the laws further barred all those without property from voting in city elections in Providence. Combined with an apportionment system heavily biased in favor of rural voters, these laws—which disfranchised roughly one fifth of the state's males and nearly 80 percent of potential municipal voters in Providence—very effectively kept a Republican elite in power.

By the 1880s, however, the Republicans were faltering, in part because of the growing electoral strength of the native-born children of Irish immigrants and because of corruption so flagrant that it repelled some of their traditional constituents. Supported by a coalition of middle-class reformers, advocates of women's suffrage, and labor, the Democrats successfully pressured Republicans into holding a referendum on the franchise in 1888. The electorate then approved the Bourn amendment, which eliminated the statewide property qualification for immigrants. The victory, however, was incomplete: the Bourn amendment extended the property requirement for municipal elections to all cities as well as to town meetings dealing with financial matters. At the same time, it imposed an annual registration requirement on propertyless voters. Consequently, suffrage reform remained an issue in Rhode Island well into the twentieth century, with the Democrats annually introducing legislation to repeal the municipal property requirements. These efforts bore fruit only in 1928, when men and women who did not own property finally were permitted to vote in city elections.[22]

In Pennsylvania, attempts to repeal a taxpaying requirement were even less successful. The issue came to the fore at the constitutional convention of 1872–73: the convention's committee on suffrage recommended that the tax qualification be dropped, a recommendation supported by Democrats and reform Republicans, including the committee's chair, H. Nelson McAllister. McAllister, presenting the committee report, argued that "the right of suffrage" was perhaps not an "absolute personal right" but was a "natural social right," belonging "to a man because he is a man," *not* "because he is a taxpayer." McAllister found repugnant the prospect "of excluding from the right of suffrage any man on the face of the earth because he is poor." Yet McAllister and his allies ran up against the powerful Republican political machine that ruled the state for decades and was well known for paying the taxes of its supporters. William Darlington, a machine Republican, objected strenuously to this "fundamental change" in the state's laws, a change that would allow "those to vote . . . who have no manner of stake in the government." His colleague, Charles Bowman, declared that he would "never vote"

for a proposition "by which vagabonds and stragglers shall have a right to step up to the election polls and cast a vote which will count just as much as the man whose property is taxed thousands of dollars." Thanks more to their political muscle than the power of their arguments, the defenders of a taxpaying requirement carried the day, and the qualification was carried over into the new constitution. Fifteen years later, opponents sponsored a constitutional amendment to repeal the requirement, but the electorate, mobilized by the still-powerful machine (now headed by Matthew Quay, who played a key role in defeating the Lodge Force Bill), overwhelmingly rejected the amendment. Until the 1930s, the only success achieved by reformers was the passage in 1897 of a weakly enforced law that required citizens to pay their taxes themselves.[23]

Meanwhile, a handful of states that did not have property or taxpaying requirements considered imposing them, causing disputes in constitutional conventions in Indiana, Ohio, Colorado, Missouri, and Texas. (The last occurred in 1875, long before the great sweep of southern disfranchisement.) In the 1870s, the electorate of Maine narrowly rejected the adoption of the state's first taxpaying requirement, and the California constitutional convention of 1878–79, which expressly banned property requirements, declined to inscribe in its constitution a similar ban on poll tax restrictions.[24]

In many locales, there were serious debates regarding the implementation of more politically palatable economic qualifications: selective ones that would apply in some elections but not others. The most celebrated contest occurred in New York in the late 1870s, when a commission appointed by the Democratic governor, Samuel Tilden, recommended the creation of a board of finance to control taxation and expenditures in each of the state's cities. In the largest cities, this board was to be elected by men who owned and had paid two years of taxes on property valued at $500 or more; potential voters also could become eligible by establishing that they had paid an annual rent for two years of at least $250. In lesser cities, the same principles would apply, but the valuations were lower. Aimed at New York City's Democratic machine and at working-class voters throughout the state, this proposal was endorsed by the business community, the state's social and financial elite, prominent politicians, major newspapers and magazines, and leading liberal reformers such as Godkin. Characterized by supporters as a means of lowering taxes and making clear to voters "that municipal affairs are business affairs, to be managed on business principles," the measure would have deprived a sizable majority of the state's urban population from participating in decisions affecting municipal taxes or expenditures. The

Republicans introduced the measure to the legislature as a constitutional amendment, where it was approved in 1877. New York, however, required that proposed amendments be passed by two successive legislatures before being submitted to a popular vote, and the following year—unhappily for advocates of municipal property requirements—Democrats gained a legislative majority and blocked passage of the amendment.[25]

Although defeated in New York, selective or municipal economic qualifications were imposed in cities and towns scattered throughout the country. The legislature in Maryland had the authority to impose taxpaying requirements in all municipal elections, and it did so for numerous towns and cities, including Annapolis. Municipal tax qualifications also appeared in Kentucky, Vermont, Texas, and eventually some communities in New York—as well as Rhode Island. Michigan in 1908 decided that only owners of taxable property could vote on any referendum question "which involves the direct expenditure of public money or the issue of bonds." Arizona, Oklahoma, and Utah passed similar legislation, and New York in 1910 restricted school board voting to either the parents of school-age children or property owners in the school district. Kansas, early in the twentieth century, adopted a technique that would be emulated for decades: it created new governmental entities—drainage boards, in this case—that possessed highly specific yet crucial powers, and for which only taxpayers could vote. (For a listing of various tax and property qualifications, see tables A.10 and A.11.)[26]

The legality of selective economic prerequisites for voting was affirmed consistently by the courts. In 1902, for example, the New York Court of Appeals upheld a state law that permitted the village of Fulton to restrict voting on financial propositions to those owning property in the village. Distinguishing between the right to vote in general state elections and the right to vote on municipal financial matters, the court ruled that the legislature had the right and duty "to protect the taxpayers of every city and village in the state." "And what better or more effective method of preventing . . . abuses and protecting . . . taxpayers could be devised," queried the court, "than to restrict the right of voting upon propositions for borrowing money or for contracting debts, to the persons who are liable to be taxed for the payment of such debts?" Similarly, the supreme court of Kansas found a way to rule that the taxpaying requirement for drainage board elections was constitutional, despite the fact that the Kansas Constitution—like many others written at midcentury—expressly banned property and tax qualifications for voting. The court concluded that the precedent established by the enfranchisement of women in school board elections made clear that the provi-

sions of the state constitution applied only to those offices and elections explicitly mentioned in the constitution itself. The U.S. Supreme Court made clear that it too did not see anything unconstitutional about taxpaying or property requirements in *Myers v. Anderson* in 1915. Although the Court overturned the Maryland law that limited suffrage in Annapolis to taxpayers, it did so only because of a grandfather clause that permitted nontaxpayers to vote if they were the descendants of men who had been legal voters in 1868. The Court thus found the law to be racially discriminatory in violation of the Fifteenth Amendment; at the same time, however, it noted that economic discrimination in the form of a property requirement was presumed to be "free from constitutional objection."[27]

This same reasoning permitted numerous states to continue excluding paupers from the franchise. As table A.6 indicates, a dozen states, all in the Northeast and the South, barred from the franchise any man who received public aid. In addition, four states excluded inmates of poorhouses or charitable institutions, and many more throughout the country prohibited such inmates from gaining a legal residence in the town or city where the institution was located. Paupers therefore could not vote unless they were able to travel to their community of origin, an unlikely prospect. With the exception of Arkansas, no state repealed its pauper exclusion law, while many of the statutes aimed at inmates were passed after the Civil War.[28]

The reach of the laws, however, was narrowed. Whatever ambiguity might once have existed regarding the definition of *pauper*, it was well understood in the late nineteenth century that the term applied only to men who received public support. Legislatures and courts also took steps to clarify the temporal dimensions of the exclusions, usually (but not always) specifying that a man was barred from the polls only if he was a pauper at the time that an election was held: prior pauperism was not grounds for disfranchisement. In Massachusetts, the House of Representatives asked the Supreme Judicial Court in 1878 to give an advisory opinion regarding "whether a person who is admitted to have been, and to have ceased to be, a pauper, must have ceased to be such for any definite period of time before he can exercise the right of suffrage." The court concluded that no such period of "probation" was required. "The disqualification of pauperism or guardianship, like that of alienage or nonage, is not required to have ceased to exist for any definite period of time, in order to entitle a man . . . to exercise the right of suffrage." New Hampshire was less generous: anyone receiving aid within ninety days of an election was disqualified.[29]

Despite the temporal limitations, pauper exclusions prevented thousands of men in Massachusetts (and perhaps hundreds of thousands nationwide) from voting. As important, the disciplinary edge to the laws remained sharp: the reason that the Massachusetts House of Representatives sought an opinion from the Supreme Judicial Court was that it hoped to apply the pauper exclusion law to all men who had received relief at any time during the year preceding an election. To do so, it considered requiring local overseers of the poor to report the names of such men to election officials. The legislature's concern stemmed from the dramatic increase in the number of persons seeking public relief during the prolonged depression of the 1870s. Despite abundant evidence that those people were jobless "through no fault of their own," many respectable citizens were convinced that men who sought relief were "slackers," "loafers," and "tramps" who needed to be disciplined: not coincidentally, the same legislature that sought to extend the pauper exclusion law passed "anti-tramp" legislation making it a crime for a jobless man to travel from town to town in search of work. As Charles T. Russell, a critic of these laws, noted, those who advocated the redefinition of *pauper* to include "a person who has within a year received public assistance" believed that paupers were not unfortunate but unworthy, that "once a pauper always a pauper."[30]

That the pauper disqualification could serve as a means of social discipline also was revealed in the course of a strike in New Bedford, Massachusetts, in 1898. When striking textile workers sought public relief to help tide them over months without income, they were told by city officials that receiving such relief would disqualify them from voting in the next election. The announcement sparked an uproar in New Bedford, particularly when one striker, despite illness in his family, withdrew his application for aid so that he would not be disfranchised. After the mayor had been informed of his plight, legal guidance was sought from the city solicitor, who then dug up the Supreme Judicial Court's 1878 opinion and announced that relief recipients could vote if they had ceased receiving aid by election day. The solicitor's report was front-page news in the overwhelmingly working-class city, and advocates of disfranchisement backed off. Nonetheless, the message was clear: poverty could cost workingmen their political rights. Turning to the state for aid had a price and would transform a needy worker into something less than a full citizen. The national magazine of the machinists' union reported on the case in detail, observing that "if the capitalistic class succeeded in robbing every man of his vote who was forced to apply for re-

lief, it wouldn't be long before a great percentage of our citizens would be voteless. There is nothing they fear so much as a vote."[31]

Immigrants Unwelcomed

> In my judgment, whenever the United States finds itself at war with a foreign country, and realizes the need of soldiers, the need of strong bodies, brawny arms and brave hearts, they will be liberal enough in extending the right of suffrage and the facilities to become citizens to our foreign born fellow men. But in times of profound peace, when war's dread alarms are not sounding through the land, they relapse back into the old channel, and require them to serve an apprenticeship before they shall become voters or citizens of the United States.
>
> —Mr. Burns, Ohio
> Constitutional Convention, 1874

Overtly class-based economic restrictions were accompanied by legal changes expressly designed to reduce the number of "undesirable" immigrants who could vote. Beginning in the 1890s, the nation witnessed the growth of a significant movement to restrict immigration altogether, one source of which was widespread middle-class anxiety about the impact of the foreign-born on politics, particularly urban politics. The effort to keep immigrants from the polls, however, was somewhat distinct from the movement for outright restriction, and it bore fruit long before Congress passed the pathbreaking restriction and quota acts of 1921 and 1924.[32]

One critical step in this campaign was the revocation of state laws that permitted noncitizen declarants (those who had lived in the United States for two years and formally filed declarations of their intent to become citizens) to vote. As described in chapter 2, such laws became common in the Midwest in the mid-nineteenth century, and they also were enacted in parts of the South and West after the Civil War. Yet even before the last of these laws were passed, in the 1880s and 1890s, the pendulum of public opinion had begun to swing in the opposite direction. (See table A.12.) As the ratio of immigrant workers to settlers soared and the need to encourage settlement diminished, granting the franchise to noncitizens seemed increasingly undesirable and risky.

At the Ohio Constitutional Convention of 1873–74, for example, a committee recommendation in favor of enfranchising declarant aliens produced

days of stormy debate. Ohio was one of the few midwestern states that had not authorized noncitizen voting, and proponents of the new law, many of them Democrats and some foreign-born, offered a variety of arguments for bringing the state in line with its neighbors. Enfranchising aliens who had filed "first papers" would encourage migration, attach immigrants to American institutions, and justly reward loyal aliens who had fought in the Civil War or might serve in the military in the future. Denying noncitizens the vote stigmatized the foreign-born and implied that they were inferior to recently enfranchised blacks. Opponents of alien suffrage countered with Parkmanesque images of ignorant, foreign-born paupers ill-equipped to participate in democratic politics. They also contended that suffrage ought to derive from citizenship, that it was unconstitutional for the state to usurp the federal government's authority to create citizens, and that it was "dangerous to confer suffrage upon those who owe their allegiance to foreign powers." Reflecting the heat of a simultaneous debate about women's suffrage, some opponents further maintained that it would be unseemly, if not unjust, to enfranchise alien males while women remained voteless.

Embedded in these opposition arguments were strident emotions, a xenophobia that interlaced left-over Know-Nothingism with newly intensified anxieties about racial equality. Lewis D. Campbell, a delegate from the small town of Butler, insisted that the racial equality provisions of the Fourteenth and Fifteenth Amendments heightened the menace of immigration. If alien suffrage were permitted,

> it will be granted not only to the unnaturalized foreigner who comes here from European countries, but also to the unnaturalized African who might be brought over . . . by Dr. Livingstone; and should he capture in the jungles of that benighted land . . . a specimen of the connecting link between man and the animal, as described by the theory of Darwin, and bring him to Ohio, that link could not only claim to become a citizen of the United States, but without naturalization . . . claim to be a sovereign, a voter and an office-holder. . . . The Chinese, the Japanese, and even the Ashantees, who are now at war with England . . . could become voters.

Campbell also feared that wealthy "foreign capitalists," such as "the Rothschilds," could control American elections by "colonizing" aliens into key electoral districts. Just how widespread the fear of blacks, Jews, and the missing link may have been is impossible to determine, but Campbell, a Republican-turned-Democratic Congressman and vice-president of the constitutional

convention, was hardly the only delegate to voice xenophobic concerns. After a week of debate, the proposal to enfranchise aliens in Ohio was defeated.[33]

The debate in Ohio was unusually prolonged and colorful, but there was nothing unusual about either its content or the outcome of the vote: most states rejected alien suffrage proposals in the late nineteenth century, and beginning with Idaho territory in 1874, states that had permitted noncitizens to vote began to repeal their declarant alien provisions. This rollback picked up steam in the wake of the depression of the 1890s and the assassination of President McKinley by an immigrant in 1901; it accelerated again during and after World War I, when concerns about the loyalty of the foreign-born contributed to a rare instance of wartime contraction of the franchise. The last state to permit noncitizens to vote was Arkansas, which abolished the practice in 1926.[34] (See table A.12.)

While alien suffrage was being phased out, numerous states placed new obstacles in the path of immigrant voters: most commonly these were supported by some Republicans, opposed by Democrats, and justified on the grounds that they would reduce fraud. One such obstacle was to require naturalized citizens to present their naturalization papers to election officials before registering or voting. Although not unreasonable on its face, this requirement, as lawmakers knew, was a significant procedural hurdle for many immigrants, who might easily have lost their papers or been unaware of the requirement. "A sad feature" of New Jersey's requirement, observed the *New York Herald* in 1888, "was that many persons will be deprived of their vote, as their papers are either worn out, lost, or mislaid." Particularly when coupled with provisions that permitted anyone present at the polls to challenge the credentials of immigrant voters, these laws placed substantial discretionary power in the hands of local officials.[35]

Another method, mildly echoing Know-Nothing demands, was to prohibit naturalized citizens from voting unless they had been naturalized well before any specific election. Couched as an antidote to mass election-eve naturalizations, these laws placed a unique burden on foreign-born citizens and prevented aliens from deciding to become citizens because they had become interested in the outcome of a particular election. (Since few aliens became citizens as soon as the five-year minimum residency period had expired, such decisions were likely not unusual.) Indeed, in 1887, the Supreme Judicial Court of Massachusetts overturned the commonwealth's statutory one-month waiting period on the grounds that it was not a "reasonable" regulation of electoral procedures but was instead "calculated injuriously to restrain and impede in the exercise of their rights the class to whom it applies." This logic, however, was not embraced in other courts: five states did impose waiting periods on the foreign-born. In New York and California, immigrants had to wait a full ninety days after naturalization before they could vote. (See table A.12.)[36]

The concerns that prompted such efforts to keep immigrants from the polls also contributed to the tightening of federal immigration and naturalization laws between 1880 and the 1920s. Keeping undesirable immigrants out of the country or keeping them from being naturalized was viewed as one of the best "safeguards of the suffrage" by many who were apprehensive about immigrant voters. Immigration and naturalization laws in fact had changed very little between 1802 and the 1880s, although Congress in 1870 passed a law specifying that "aliens of African nationality and persons of African descent," as well as whites, were eligible to be naturalized. (Exactly what *white* meant was debated in the nation's courts for decades.) Beginning in 1882, however, Congress began to narrow the channels through which the flow of European immigrants passed. In that year, it enacted a law that barred convicts, "lunatics," "idiots," and people likely to become public charges from entering the United States. A head tax of 50 cents was imposed on each immigrant, and steamship companies were required to screen their passengers and provide return passage for any who were refused admission. In subsequent years, the list of undesirables was extended to include contract laborers, polygamists, those suffering from dangerous contagious diseases, epileptics, professional beggars, and anarchists.[37]

Between 1906 and 1910, Congress also codified the naturalization laws, prohibiting many "undesirable" foreign-born residents from becoming citizens, setting a time limit on the validity of declarations of intent, and requiring candidates for naturalization to write their own names and present ample proof (including witnesses) of their eligibility and continuous residence in the United States for five years. These laws were unabashedly aimed at making it more difficult for men and women to become citizens, and by all accounts they succeeded, reducing the proportion of immigrants who could vote. Some judges, moreover, applied a political litmus test to potential citizens, refusing to naturalize men "with the slightest sympathy for the principles of Socialism" or trade unionism. In 1912, a federal judge in Seattle even revoked the citizenship of a naturalized citizen who espoused socialism.[38]

The most controversial reform of the immigration laws was the imposition of a literacy or education test for admission to the United States. This idea was first introduced in Congress by Henry Cabot Lodge in 1895: although passed with bipartisan support, it was vetoed by President Grover

Cleveland early in 1897. For the next two decades, it was reintroduced almost annually, garnering the support of a unique, if not bizarre, coalition of northern professionals, many Republicans, southern Democrats, anti-Catholics, anti-Semites, and the American Federation of Labor. Although unstated, the bill's target was clearly the "new" immigrant population, eastern and southern Europeans who had high rates of illiteracy (more than 20 percent in 1914) and who generally were regarded as less desirable than their English, German, Scandinavian, and even Irish predecessors. There also was an unmistakable class thrust to the proposal: as one supporter tellingly argued,

> the theory of the educational test is that it furnishes an indirect method of excluding those who are undesirable, not merely because of their illiteracy but for other reasons . . . there is a fairly constant relation between illiteracy, the amount of money brought by the immigrant, his standard of living, his tendency to crime and pauperism, [and] his disposition to congregate in the slums of cities.

After the turn of the century, literacy qualifications for immigrants twice more were passed by Congress and vetoed, first by William Howard Taft and then by Woodrow Wilson. During World War I, however, concerns about the loyalty of the foreign-born, coupled with a new emphasis on the "Americanization" of immigrants, gave a boost to the measure, and in 1917 Congress mustered enough votes to override Wilson's second veto.[39]

Intense as apprehensions about poor European immigrants may have been, they paled in comparison to American attitudes toward the Chinese and other east Asians: by the final quarter of the nineteenth century, most Americans—and especially those on the West Coast—wanted not only to keep the Chinese from voting but to halt Chinese immigration and even deport those who were already here. The center of anti-Chinese agitation was California, which housed a sizable population of Chinese migrants (but less than 100,000), many of whom had been recruited to help build the nation's railroads. Feared because of their willingness to work for low wages and despised for racial and cultural reasons, the Chinese had never been a significant political presence because they had almost always been treated as nonwhite and therefore ineligible for citizenship. Nonetheless, the Chinese became the target of fierce racism during the depression of the 1870s, one consequence of which was the passage of a series of federal laws, beginning in 1882, that strictly limited and then halted Chinese immigration. (Later variants of the law also banned the Japanese.) Such restriction, according to a congressional committee, was necessary in order to "discourage the large influx of any class of population to whom the ballot cannot be safely confided." It was widely agreed that the Chinese, "an indigestible mass . . . distinct in language, pagan in religion, inferior in mental and moral qualities," constituted such a class.[40]

But these federal laws were not sufficient to satisfy western xenophobes. In California in the late 1870s, anti-Chinese agitators, led by small businessman and Irish immigrant Denis Kearney, took command of the fledgling Marxian Workingmen's Party and used it as a vehicle to capture control of the San Francisco city government and gain significant influence in state politics. The program of Kearney's party, reminiscent of the Know-Nothings, contained an amalgam of progressive, anti–big business (and antirailroad) proposals, rhetoric denouncing the mainstream political parties, and a slew of measures designed to remove the Chinese from the state's economic and political life. One proposal even called for disfranchising anyone who hired a Chinese worker.[41]

Although working class and lower middle class in origin, Kearney's movement quickly succeeded in garnering broad support for the anti-Chinese elements of its program. As a result, the California Constitutional Convention of 1878–79, heavily populated by Workingmen's delegates, passed almost without objection a series of anti-Chinese articles. One delegate claimed that without such laws, California would become "the mercenary Mecca of the scum of Asia—a loathsome Chinese province." Although many of these measures were thrown out by the courts, the suffrage provision of the 1879 constitution remained in force until 1926. It specified that "no native of China" (the wording was aimed at circumventing the Fifteenth Amendment's ban on racial barriers) "shall ever exercise the privileges of an elector in this State." The convention's formal address to the people of California declared that this article was "intended to guard against a possible change in the naturalization laws so as to admit Chinese to citizenship." Similar provisions appeared in the constitutions of Oregon and Idaho.[42]

Educated Voters

> A knowledge of the language of our laws and the faculty of informing oneself without aid of their provisions, would in itself constitute a test, if rigorously enforced, incompatible with the existence of a proletariat.

—Charles Francis Adams, Jr.
"Protection of the Ballot" (1869)

> The great danger of the proposed reform (?) is that it strikes at the root of free government by substituting a qualification of acquirement for the qualification of nature, i.e., Manhood, the only qualification that can safely be set upon the republican franchise. . . . If a republic can be got to admit that the right to vote is dependent upon the ability to read and write it may just as consistently decide that that right is a privilege dependent upon the ability to pay a certain amount of taxes.
>
> —*Coast Seamen's Journal*, 1896

Perhaps the most popular method of constricting the electorate was the literacy or education test. Massachusetts and Connecticut had adopted such tests in the 1850s, and support for them became widespread beginning in the 1870s, as the memories and taint of Know-Nothingism faded. Requiring voters to be literate, particularly in English, had a number of apparent virtues: it would reduce the "ignorance" of the electorate and weed out sizable numbers of poor immigrant voters (outside of the South, the native-born population was almost entirely literate); moreover, it would do so in a way that was ideologically more palatable than taxpaying restrictions or waiting periods for the foreign-born. Literacy tests did not overtly discriminate against particular classes or ethnic groups, and literacy itself was a remediable shortcoming. While the federal government was debating an education test for citizenship, the states began to entertain the possibility of imposing their own tests on potential voters.

An indirect and limited means of promoting a literate electorate was the adoption of the secret or Australian ballot (which first appeared in Australia in 1856 and then was implemented in England in 1872). For much of the nineteenth century, voters had obtained their ballots from political parties: since the ballots generally contained only the names of an individual party's candidates, literacy was not required. All that a man had to do was drop a ballot in a box. Since ballots tended to be of different sizes, shapes, and colors, a man's vote was hardly a secret—to election officials, party bosses, employers, or anyone else watching the polls. (In theory, a voter could write his own ballot, or "scratch" names from a party ballot, but it was difficult to keep such actions confidential.) The Australian ballot was an effort to remedy this

situation and presumably the corruption and intimidation that flowed from it: it was a standard ballot, usually printed by the city or state, containing the names of all candidates for office; the voter, often in private, placed a mark by the names of the candidates or parties for whom he wished to vote.[43]

The first American experiment with the Australian ballot, in Louisville in 1888, was rapidly followed by its adoption almost everywhere in the United States. Despite (or perhaps underscored by) the opposition of machine politicians, the democratic virtues of secret voting were widely apparent. The Australian ballot was, however, an obstacle to participation by many illiterate foreign-born voters in the North, as well as uneducated black voters in the South. In some states, this problem was remedied by expressly permitting illiterate voters to be assisted or by attaching party emblems to the names of candidates; in others, it was compounded by complex ballot configurations that easily could stymie the illiterate. (An Ohio court in 1909 issued a nonbinding dictum questioning whether the state's ballot laws constituted an unconstitutional, back-door education test.) In more than a few states, including New York, rules governing the physical appearance and comprehensibility of the ballot were a partisan battlefield for years. (See table A.13.)[44]

Both before and after adoption of the Australian ballot, many states considered adding more direct and robust literacy tests to the qualifications required of voters. The argument for doing so was three-pronged. Its core, of course, was that illiterate men lacked the intelligence or knowledge necessary to be wise or even adequate voters. A voter who cannot read, insisted E. L. Godkin, "may be said to labor, for all political purposes, under mental incapacity." A delegate to Michigan's constitutional convention of 1907 maintained similarly that "it is of the highest importance that any man who is called upon to perform the function of voting should be not only intelligent but also be able to find out for himself what the real questions before the public are." A second justification, aimed particularly at new immigrants, was that English-language literacy was essential for the foreign-born to become properly acquainted with American values and institutions. The third was that tying voting to literacy would encourage assimilation and education, which would benefit American society as well as immigrants themselves.[45]

Reasonable as these arguments sounded, they often sparked vehement opposition, much of which was grounded in the (accurate) perception that literacy requirements discriminated against foreign-born citizens and were designed to reduce their electoral strength. In New York, where education tests were proposed at constitutional conventions in 1846, 1867–68, 1894, and 1915, a delegate derided them in 1915 as "another attempt upon the

part of the rural communities of this State to restrict the voting capacity of the city of New York where the greatest number of foreigners have their homes." In many states, opponents attacked the proposals as shameful revivals of Know-Nothingism, insulting to immigrants, and violating American traditions: "if literacy were a valid test of voting . . . nearly fifty percent of our early settlers . . . the men who are idolized to-day as the pioneers of civilization . . . would not be entitled to vote." Virtue and intelligence were not confined to the literate, and it was fundamentally unfair to deny people the rights, while imposing the obligations, of citizenship. "You will disfranchise many a man who understands what he is voting on just as well as we do," declared a Michigan delegate. "If a man is ignorant, he needs the ballot for his protection all the more," insisted a New York Democrat in 1868. "If you disfranchise a man because he cannot read and write," argued a member of Missouri's convention in 1875, "then, in my judgment you ought not to call upon him to repair the public highways, you ought not ask him to pay taxes . . . you ought not to call upon him when the enemy invades your country." One of his colleagues even satirized the proposed literacy test and the benefits that it would purportedly bring to his state:

> We might go a step further, and I have no doubt my friends will join me in this. It is desirable that a man should not only know how to read and write but that he should be educated in the higher branches. We might graduate this thing, and say that in 1876 he shall read and write, that in 1878, at the next biennial election he should understand Geography and that in 1880 he shall understand Arithmetic, and we might thus proceed gradually from Arithmetic to English Grammar, and from English Grammar to History, Moral and Mental Philosophy . . . we should have a generation by the time the 19th century closes the most intelligent, the most prosperous, the most happy here in the State of Missouri upon the face of the habitable globe.[46]

The opposition was sufficiently strong that most states outside of the South declined to impose literacy tests. Not surprisingly, northern Democrats, who counted the urban poor among their constituents, generally voted against education requirements. So too did politically organized ethnic groups, regardless of their party affiliation—which helps to explain why no English-language literacy tests were imposed in the Midwest: the German and Scandinavian communities of the Midwest, though often allied with the Republicans, vehemently opposed education requirements. Missouri rejected a literacy test in 1875, as did Michigan in 1907, and Illinois on several occasions, up to and including 1920. In New Mexico, a sizable Spanish-speaking electorate went so far as to write into the state's first constitution that "the right of any citizen . . . to vote . . . shall never be restricted, abridged, or impaired on account of inability to speak, read, or write the English and Spanish languages." In New York, the Democrats, backed by the Irish and later the Italian and Jewish communities, successfully resisted a test until after World War I.[47]

Nonetheless, by the mid-1920s, thirteen states in the North and West were disfranchising illiterate citizens who met all other eligibility requirements. (See table A.13.) In all of these states, the Republican Party was strong; several had large immigrant populations that played important roles in party competition; a handful of others were predominantly rural states with small but visible clusters of poor foreign-born voters; several also had significant Native American populations. In Massachusetts and Connecticut, Republicans were able to beat back recurrent Democratic efforts to repeal the laws that had been passed in the 1850s. Massachusetts, in 1889, demanded that anyone who had not voted for four years had to take a new literacy test; by a ten-to-one majority, voters in Connecticut in 1895 endorsed an amendment specifying that literacy had to be "in the English language." Wyoming, where only 2 percent of the population was foreign-born, instituted a literacy requirement in 1889 both to disfranchise miners and guard against a future influx of immigrants.[48]

Five years later, California enacted a constitutional amendment that disfranchised any "person who shall not be able to read the Constitution in the English language and write his name." The amendment (a precursor of which had been defeated in 1879) originated more in grass-roots pressure than in organized partisan conflict. The idea first was broached in the assembly by a Republican veteran of the anti-Chinese agitation: bipartisan opposition to it crumbled in the face of a petition campaign and then an advisory referendum signaling that nearly 80 percent of the electorate supported an education requirement. Aimed diffusely at the Chinese, Mexican Americans, "the ignorant foreign vote," and "hosts of immigrants pouring in from foreign countries," the amendment—which contained a grandfather clause exempting current voters—then was passed by the legislature with little opposition.[49]

Remarkably, New York, which had the largest immigrant population in the nation, also passed a constitutional amendment instituting a literacy requirement in 1921: prospective voters were obliged either to pass a stringent English-language reading and writing test administered by the Board of

Regents or present evidence that they had at least an eighth-grade education in an approved school. Although similar proposals had been defeated in earlier decades, the Republican-dominated legislature, backed by reform organizations such as the Citizens' Union, succeeded in pushing the amendment through in the aftermath of the war and the antiradical, anti-immigrant Red Scare of 1919. The amendment, which had the potential of disfranchising, among others, hundreds of thousands of Yiddish-speaking Jews, was backed overwhelmingly by upstate voters and even received a majority in New York City. Support for a literacy test also may have been strengthened by the recent enfranchisement of women, which was believed likely to "produce 189,000 more illiterate voters."[50]

The potential impact of these literacy laws—all of which were sanctioned by the courts—was enormous. According to the census (which relied on self-reporting), there were nearly 5 million illiterate men and women in the nation in 1920, roughly 8 percent of the voting-age population. Other sources suggest that in fact the figure was much higher. Twenty-five percent of men who took an army literacy test during World War I, for example, were judged to be illiterate and another 5 percent semiliterate. To be sure, education tests were not always rigorously administered, and several states "grandfathered" men and women who could already vote. Still, literacy requirements, North and South, could be a potent weapon. In New York (the only locale for which data exist), roughly 15 percent of all those who took the English-language literacy test between 1923 and 1929 (55,000 persons out of 472,000) failed; and it seems safe to assume (as did contemporaries) that many more potential voters did not take the test because they thought they had little chance of passing. Thus a reasonable estimate is that a minimum of several hundred thousand voters—and likely more than a million—were barred by these tests, outside of the South. In 1900, one reformer, echoing others, lamented that a literacy test "does not go far enough: it places the hod-carrier who knows his alphabet on a level with the President of Harvard College." Yet there were surely some hod carriers who did not know their alphabet well enough to attain that exalted parity.[51]

Migrants and Residents

> No one knows better than the learned counsel on the other side and the lawyers of this committee the difficulty in modern times of proving a person's residence, no matter what his position in life may be. It has required the Supreme Court to tell Nat Thayer and William F. Weld and John H. Wright where they lived. And the more migratory the population, the poorer the person, the less worldly effects with which he is endowed, the more difficult becomes the question at any particular day or hour where he is residing. He is not a householder, he owns not even a trunk, his worldly goods are on his back or in his pocket, and where he lives it is difficult, of course difficult, to say, whether it be in a palace on the Back Bay or in a pigstye in Ward 17.
>
> —Argument of Arthur T. Johnson in a contested election case, Massachusetts, 1891

Arthur T. Johnson was right: the difficulty of defining or establishing residence indeed was becoming more complex "in modern times," and "the poorer the person," the greater the complexity. As an historian of Boston would discover almost a century later, that city's population was extremely mobile in the 1880s, and rates of mobility rose as one descended the occupational hierarchy. In the city as a whole, only 64 percent of all residents in 1880 were still living there a decade later; for blue-collar workers, the proportion was substantially lower. Indeed, the number of persons who lived in Boston at some point in the 1880s was three times as large as the number who ever lived there at the same time. Boston was not unusual—nor were the 1880s.[52]

Given the peripatetic lives of Americans in general and workers in particular, it is hardly surprising that residency qualifications for voting often were in dispute. In contrast to other dimensions of electoral law, however, these disputes more often were juridical than political. Court cases abounded as citizens challenged their exclusion from the polls (or the inclusion of others) because of their failure to meet residency requirements. At the heart of such conflicts was the difficulty of defining *residence*, particularly in light of the increasingly accepted legal notion that sheer physical presence in a community for a specified length of time was not sufficient for a person to be considered a resident. As the Supreme Court of Colorado put it in 1896,

> We think the residence . . . contemplated [by the constitution] is synonymous with "home" or "domicile," and means an actual settlement within the state, and its adoption as a fixed and permanent habitation; and requires not only a personal presence for the requisite time, but a concurrence therewith of an intention to make the place of inhabitancy the true home.

Physical presence thus had to be accompanied by the intention of remaining in a community for what the courts came to describe as "an indefinite period." Although the concept was reasonable, intention could be difficult to ascertain or prove. Consequently, courts found themselves evolving criteria to gauge the intentions of both individuals and groups (such as ministers and railway workers, who were often on the move), as they tried to apply broadly stated laws to extremely varied situations. On the whole, the insistence on intention tended to make legal residence harder to establish, especially for men whose occupations demanded mobility, but the rules were frequently interpreted with considerable sensitivity to individual circumstances.[53]

Although the rules developed by state courts differed from one another, on one major issue there was uniformity: no jurisdiction questioned the legitimacy of statutes or constitutional amendments establishing residence qualifications—even lengthy residence qualifications—for voting. In 1904, moreover, the U.S. Supreme Court, in *Pope v. Williams*, affirmed the constitutionality of residency qualifications and state efforts to enforce them. Ruling on a Maryland law that required persons moving into the state to make a declaration of intention to become state residents one year before they could cast their ballots, the Court ruled that the "statute does not violate any Federal right of the plaintiff." The Maryland law "is neither an unlawful discrimination . . . nor does it deny to him the equal protection of the laws, nor is it repugnant to any fundamental or inalienable rights of citizens."[54]

While the courts debated the definition of residence, it was left to constitutional conventions, and sometimes legislatures, to determine the appropriate length of residency requirements. In much of the nation, there was a broad consensus that a year's residence in the state was necessary and sufficient for a man to responsibly exercise the franchise, although in many midwestern states the consensus period was six months. More controversial were local, county, and district requirements. Those who favored relatively long periods of residence (usually three to six months) commonly argued that voters needed time to "become very largely interested in the local politics of a county or precinct" and to become "identified with the interests of the community." Almost always, such arguments contained ingredients of class apprehension. "The citizens of any precinct have the right of protection against a floating population," noted an Illinois delegate in 1870. "Our state," observed one of his colleagues, "is now a great railroad state. There are a great number of operatives in the service of these various railroads, who might be transferred to a particular locality . . . and the permanent residents would have their interests voted down by these casual and temporary residents." In some instances,

the class fears were directed upward: "great interests" or "designing politicians" could take advantage of short residency periods to "colonize" men into a particular district in order to win an election.[55]

Opponents of long residency requirements responded in kind: a member of Pennsylvania's constitutional convention in 1872–73 objected that a proposed precinct residence rule would disfranchise thousands of working men who were compelled to move from place to place so that they could live near their places of employment: "You absolutely deprive them of the right to vote, just because they are so poor and so unfortunate that they are forced to change their places of dwelling within two months of election day." "Laboring men and mechanics, as a general thing," insisted a California politician, "cannot live in one place as long as ninety days." In New York in the 1870s, residents of some rural counties, as well as the New York State Teachers Association, also petitioned for shorter county residence requirements.[56]

In the end, as table A.14 reveals, residency rules did not change much outside of the South. California and Colorado increased their required periods of residency, many states tinkered with precinct and county requirements, and Minnesota in 1893 passed an extraordinary law preventing migrant lumbermen and construction workers from gaining residence. As a rule, however, the issue generated only muted partisan warfare, and the prevailing patterns in 1920 were very similar to those in place in 1870. Notably, no state in the North or West, except Rhode Island briefly, adopted the punitive, two-year requirements that were becoming common in the South.

These years also witnessed the codification of residency rules for three increasingly large groups of men whose situations were anomalous: residents of almshouses and other custodial institutions, soldiers and sailors, and students. As noted earlier, many states enacted laws that prevented inhabitants of public (and even private) custodial institutions from becoming legal residents of the communities where those institutions were located. The same rule was applied to military personnel, although most states (to avoid the appearance of disfranchising soldiers) also specified that soldiers and sailors who were away from home did not lose their residence in their original communities. (See table A.14.)

The most difficult case proved to be students at colleges, seminaries, and other institutions of higher learning. In many states, there was substantial sentiment in favor of prohibiting students from gaining residence in the communities where they attended college: claiming that students were not truly members of the community, political leaders cited anecdotes of students being paraded to the polls to vote en masse, of unscrupulous politi-

cians enlisting students to cast their ballots, and of students (who did not pay taxes) voting to impose tax increases on permanent residents. There was, however, a notable degree of resistance to such laws, grounded perhaps in a reluctance to keep respectable, middle-class, native-born men from voting. "I cannot see the propriety of . . . discriminating against intelligent young men attending college," insisted a Pennsylvanian in 1873. Many states did end up specifying that students could not gain legal residence by attending educational institutions, although the courts—and occasionally the legislatures as well—made exceptions for those who did not have other domiciles and could establish their intention to remain in the community where they were studying.[57]

The notion that legal residence was tied as much to intention as physical presence inexorably led states to consider mechanisms for absentee voting—for men and women who were temporarily away from home but intended to return. Although there were venerable precedents for men casting their ballots without being physically present at polling places (in seventeenth-century Massachusetts, for example, men whose homes were vulnerable to Indian attack were permitted to vote without leaving their abodes), absentee voting was rare before 1860: only Oregon, in 1857, made it possible for men who were temporarily away from home to vote. Yet, as noted in chapter 4, the Civil War—and the desire to permit soldiers to vote during the war—severed the link between voting and physical presence in a community. After the war, more and more states made it possible for absent soldiers to vote, particularly if they were stationed within their home state. The laws sometimes specified that they could vote anywhere in the state for statewide offices and anywhere in the district in congressional elections; casting ballots by mail was not the norm. World War I added a new urgency to the issue, since nearly three million men were inducted into the army. Accordingly, by 1918, nearly all states had made provisions for men serving in the military to cast their ballots, at least in time of war.[58]

Soldiers opened the gates to a broader dispensation. The logic of allowing nonresident military personnel to vote seemed to apply almost equally well to others whose jobs forced them to be away from home on election day. The city of Somerville's delegate to the Massachusetts Constitutional Convention of 1917–18 made the point at some length:

> there is a very clear-cut analogy . . . between the votes of the soldiers and sailors on the one hand and such citizens as trainmen and traveling salesmen on the other . . . we are saying here . . . that the absent soldiers and sailors should not be deprived of their enfranchisement at an election . . . because the State or the Nation has extended its own hand and removed these men, for the time, out of their place in the body politic . . . we also have an industrial situation, or rather, an industrial system, and by that system, through no fault of their own, men are removed from their places in the body politic and deprived of their rightful votes. The system of industry which is doing that, which removes these men, is also in the interest of the public good. The sacrifices of the soldiers and sailors are more spectacular, and they are more impressive, but for the common good, these men removed from the voting booth by the system of industry, are toiling and sacrificing. Therefore, it seems to me that the analogy is a perfect one.

Whether or not the analogy was perfect, it was widely accepted: by the end of World War I, more than twenty states had provided for absentee voting on the part of anyone who could demonstrate a work-related reason (and in a few cases, any reason) for being absent on election day. Concerns about fraud generally were alleviated by tight procedural rules and requirements that absentee ballots be identical to conventional ones.[59]

The provision of absentee ballots, however, did not address the largest issue raised by residency requirements: their disfranchisement of everyone who changed residences shortly before an election or who relocated from one state to another in the year before an election. If one accepts the findings of scholars of geographic mobility, the impact of durational residency qualifications had to be substantial, particularly among blue-collar workers, many of whom moved from place to place incessantly. Precisely how substantial is beyond the scope of this study, but a conservative estimate would be that 5–10 percent of the nation's adult population failed to meet the residency requirements at each election; for manual workers, the figure was surely higher—high enough to have potentially changed the outcomes of innumerable elections.[60]

Keeping Track of Voters

The edifice of voting law acquired one additional pillar between the Civil War and World War I: pre–election day registration. Before the 1870s in most states, there were no official preprepared lists of eligible voters, and men who sought to vote were not obliged to take any steps to establish their eligibility prior to election day. They simply showed up at the polls with whatever documentary proofs (or witnesses) that might be necessary. To be

sure, Massachusetts was registering voters as early as 1801, and a few other states implemented registration systems before 1850, but registration was uncommon before the Civil War. Moreover, as noted in chapter 3, most antebellum proposals for registration systems were rejected as unnecessary and partisan.

Between the 1870s and World War I, however, the majority of states adopted formal registration procedures, particularly for their larger cities. The rationale for requiring voters to register and have their eligibility certified in advance of elections was straightforward: it would help to eliminate fraud and also bring an end to disruptive election-day conflicts at the polls. Especially in urban areas, where corruption was believed to be concentrated and voters were less likely to be known personally to election officials, advance registration would give the state time to develop lists of eligible voters, check papers, interrogate witnesses, and verify the qualifications of those who wished to vote. Although machine politicians objected to registration systems because they were discriminatory (especially if instituted only in cities) and many small-town officials thought they were expensive and unlikely to work, proponents were generally able to override these objections with some ease.[61]

Yet the devil was in the details. However straightforward the principle of registration may have been, the precise specifications of registration laws were a different and more contested matter. How far in advance of elections did a man or woman have to register? When would registration offices be open? Did one register in the county, the district, the precinct? What documents had to be presented and issued? How often did one have to register? All such questions had to be decided, and since the answers inescapably had implications for the composition of the electorate, they were a frequent source of contention.

Three examples reveal the contours of the terrain. In New Jersey, a state with a long and colorful history of electoral disputes, Republicans instituted registration requirements in 1866 and 1867. All prospective voters had to register in person on the Thursday before each general election: anyone could challenge the claims of a potential registrant, and no one was permitted to vote if his name was not on the register. In 1868, the Democrats gained control of the state government and repealed the registration laws, stating that they penalized poor men who could not afford to take time off from their jobs to register. In 1870, the Republicans returned to power and reintroduced registration, this time making it applicable only to the seven cities with populations greater than 20,000. Six years later, the law was extended to all cities with more than 10,000 persons and to adjacent communities; at the same time, in a concession to party organizations, the registration procedure was liberalized, permitting any legal voter (such as a party worker) to enroll others by affidavit. During these years, and for decades thereafter, the two parties also feuded over the hours that polls would be open: when the Republicans were able to, they passed laws closing the polls at sunset on the grounds that illegal voting was most likely to occur after dark; the Democrats protested that "sunset laws" kept workers from voting, and when in power, they extended the hours into the evening.[62]

These partisan battles continued to rage (Republicans imposed more stringent registration procedures on Newark and Jersey City in 1888), although for a time the touchstone of conflict became ballot reform rather than registration. During the Progressive era, however, registration became the centerpiece of efforts, spearheaded by middle-class reformers, to limit corruption and reduce the electoral strength of immigrants, blacks, and political machines. In 1911, a package of two bills, the Geran Act and the Corrupt Practices Act, was introduced into the state legislature by a coalition of independents, Republicans, and a few Democrats. After heated debate, during which urban Democrats succeeded in removing some of the legislation's most onerous features, the bills were passed, creating a registration system that applied to every city with a population greater than 5,000 persons. Personal registration was now required, and it had to be renewed whenever a voter moved or failed to vote in an election. Prospective voters were given only four days in which they could register, and at registration a man was obliged not only to identify himself and his occupation but to give the names of his parents, spouse, and landlord, as well as a satisfactory description of the dwelling in which he lived. To no one's surprise, these reforms sharply depressed turnout, particularly among blacks and immigrants.[63]

In Illinois, a durable registration system was hammered into place in the 1880s. It was crafted by the business and social elites of Chicago, who were dismayed by their loss of political control of the city to allegedly corrupt Democratic politicians. Their primary vehicle of reform was the Union League Club, founded in 1879 to promote a third term for Ulysses Grant and to push for reforms that would "preserve the purity of the ballot box." In the early 1880s, the club began to promote registration reform to replace a weak system that had been in effect since 1865. At the same time, it engaged in a kind of political vigilantism, hiring investigators to check polling places and offering a $300 reward to those who helped in the ap-

prehension and conviction of anyone who voted illegally in Chicago in 1883. Despite the club's efforts, the only "fraudulent" voters apprehended eventually were acquitted in court. Yet in 1885, a registration law drafted by the club's members and backed by the city's commercial establishment was passed by the state legislature.[64]

The act provided for the creation of a board of election commissioners, to be appointed by the county courts, in any city or town that chose to adopt registration. (Chicago did so before the 1886 elections.) These commissioners—each of whom was obliged to post a $10,000 bond—were responsible for dividing their communities into precincts containing a maximum of 450 voters. They were to appoint election judges and clerks, who actually administered the process of registration as well as elections in each precinct. To register, a prospective voter had to appear in person before the election judges, on the Tuesday of either the third or fourth week prior to an election. If an applicant's qualifications were challenged (by a judge or any other voter), he was required to file an affidavit of eligibility, which then would be verified by the judges. Following the two days of registration, the clerks, assisted by the police, conducted a house-to-house canvass of the precinct to verify the names of all adult male residents and compile a "suspected list" of improperly registered voters. Anyone whose name appeared on the so-called suspected list would be removed from the election rosters unless he appeared before the judges again, on the Tuesday two weeks prior to any general election, and made a convincing and verifiable case for his eligibility. A new general registration, repeating all of these procedures, was to occur every four years. This "act regulating the holding of elections" was amended, during the following decade, to require that one of the two registration days be a Saturday, that a general registration be held every two years rather than four, and that every proprietor of a lodging or boarding house give the election judges the names and "period of continuous residence" of all tenants.[65]

Three details of the Illinois law revealed its restrictionist thrust. The first was the small size of the precincts: although justified as a means of insuring that election judges would be familiar with their constituents, the creation of tiny precincts meant that anyone who moved even a few blocks was likely to have to register again and meet a new thirty-day residency requirement. The second telling feature was more obvious: there were only two days on which a person could register, a small window by anyone's reckoning. Finally, the burden of proof, for a person who was challenged or whose name showed up on the remarkably labeled suspected list, was placed on the prospective voter himself. A man whose credentials were questioned had to take the time and effort to speedily establish his own eligibility. The Urban League Club congratulated itself that "the foundations for honest elections were now firmly laid."[66]

In California, the registration laws evolved in stages. In the 1850s and early 1860s, men could establish their eligibility through their own declarations; widely voiced concerns about fraud, particularly in San Francisco, led not to statutes but to organized armies of poll watchers who kept an eye on elections. This informal vigilance (a term frequently invoked by the city's elite) was supplanted in 1866 by the California Registry Act. The act was sponsored by a predominantly Republican faction of the Unionist Party: although Democrats denounced the bill as a "fraud and a swindle" and "an act of hostility to the Democratic party," broadly based worries about corruption guaranteed its passage through the legislature.[67]

The Registry Act instructed county clerks throughout the state to prepare Great Registers that would include the names of all legal voters. To enroll, a prospective voter had to appear in person before the county clerk and present evidence of his eligibility, if he was not known personally to the clerk. To the dismay of the Democrats, naturalized citizens were obliged to present their original, court-sealed naturalization papers. In the absence of such papers, an immigrant's eligibility could be established only through the testimony of two "householders and legal voters" and by residence in the state for a full year, double the normal requirement. The Registry Act, moreover, imposed a remarkable deadline on prospective voters: registration had to be completed three months before a general election.[68]

Despite their fears, the Democrats did extremely well in the 1867 elections and became supporters of voter registration—in part because they worried about future Republican chicanery. Five years later, the legislature revised the Registry Act, tightening it in some respects, liberalizing it in others. A special procedure was created to permit registration after the three-month deadline, and the evidentiary burden placed on naturalized citizens was lightened. Yet voters who moved from one county to another were presented with a new obstacle: before registering, they had to present written proof that their prior registration had been canceled.[69]

A more significant tightening of the law, targeted only at San Francisco, took place in 1878. The "Act to regulate the registration of voters, and to secure the purity of elections in the city and county of San Francisco" was sponsored by Republicans and designed, at least in part, to rebuff the insurgent and anti-establishment Workingmen's Party. The act removed con-

trol of the city's elections from the elected board of supervisors and vested it instead in a board of commissioners consisting of the mayor and four appointed county officials; it also created a registrar of voters, appointed by the governor, who was empowered to purge the registers of names suspected to be fraudulent. The 1878 act required each voter to reregister in person before every general election, and most important, it terminated city and countywide registration, demanding that voters register within their own electoral precinct. The precincts were to be created by the commissioners and could not include more than 300 voters. In San Francisco, as in Chicago, any man who moved out of a very small neighborhood was obliged to reregister.[70]

During the Progressive era, California's registration laws were revised further, making it somewhat easier for many men to vote. Naturalized citizens who lacked papers no longer were required to present affidavits from registered voters; paperwork was standardized; the number of places where a person could register was increased; registration was permitted until forty days before an election; and voters who moved could cancel their previous registration while registering in their new place of residence. A few new requirements, however, were added. Biannual registration became compulsory everywhere, not just in San Francisco, and all landlords and lodging-house keepers were required to provide registry officers with lists of their tenants. If a registered voter's name did not show up on these lists, he was sent a citation through the mail demanding that he appear before the election commissions to verify his eligibility within five days. If he failed to appear "at the time appointed, his name shall be stricken from the register of voters."[71]

The examples of New Jersey, Illinois, and California suggest the significance of the fine print in the extremely lengthy and detailed registration statutes adopted by most states from the time of the Civil War through the aftermath of World War I. Nearly everywhere, such laws emerged from a convergence of partisan interest with sincere concern about electoral fraud; the extent to which they prevented honest men from voting varied over time and from state to state. The length of the registration period, its proximity to the date of an election, the size of registration districts, the frequency of reregistration, the necessity of documentary evidence of eligibility, the location of the burden of proof—all of these and others were critical details, subject to dispute, change, and partisan jockeying. Moreover, a close examination of the laws of nearly two dozen states reveals little in the way of national trends. To cite one example, some states, including New York and Ohio, began to insist on annual personal registration in large

cities, while others simultaneously were moving toward systems of permanent registration. Much depended on local conditions and local episodes. New York City in 1908 took a swipe at Jewish voters, many of whom were Socialists, by holding registration on the Jewish sabbath and on the holy holiday of Yom Kippur.[72]

The political dynamics revealed in New Jersey, Illinois, and California frequently were replicated elsewhere. Republicans and reform-minded middle-class independents tended to be the prime movers behind registration itself and behind provisions likely to have a disproportionate impact on poor, foreign-born, uneducated, or mobile voters. Similarly, legislators from rural and semirural districts tended to favor stringent registration requirements that would apply only to city dwellers. (Rural political leaders generally argued that it would be a hardship for their constituents to travel twice each fall, first to register and then to vote.) Resistance to strict registration systems generally came from urban Democrats, from machine politicians who correctly regarded the new laws as attempts to reduce their electoral strength. Yet the targets of registration laws were not always corrupt machines. In 1895, the Republicans who dominated Michigan's legislature passed a reregistration law expressly designed to disfranchise foreign-born voters who supported Detroit's indisputably honest reform mayor, Hazen Pingree. "It will take off the books just about enough Pingree votes to prevent his ever becoming mayor again," declared the bill's sponsor. Pennsylvania's Republicans—who for decades resisted registration laws that would have harmed their own political machine—took similar action against a crusading reformer in Pittsburgh in 1906.[73]

Indeed, in most cities, the machines learned to live with and take advantage of the systems of registration that were imposed on them. They rapidly mastered techniques for insuring that their own voters were registered, and when in power, they often embraced the registration laws as a means of keeping other men and women from voting. As political scientist Steven Erie has pointed out, once securely ensconced, the Irish political machines that dominated city politics in numerous cities often displayed little interest in mobilizing new voters, particularly southern and eastern European immigrants. (In some states, such as Massachusetts, friction with the Irish led numerous new immigrants to support Yankee Republicans.) By mobilizing their own constituencies and supporting cumbersome registration laws that made it difficult for others to vote, Irish political machines could keep a ceiling on their expenses, while reducing threats to their own power—a stance that may well have contributed to the decline in political conflict over registration during

the Progressive era. Political machines flourished during this period, with and without strong registration systems.[74]

Meanwhile, state courts sanctioned the creation of registration systems, as long as they did not overtly narrow the constitutional qualifications for voting. Even when state constitutions did not authorize or instruct legislatures to pass registration laws (more than twenty did so by 1920), the courts generally were sympathetic. "A wise system of registration," concluded an Ohio court in 1885, was an efficacious means "to prevent fraud, insure integrity at the polls, and enable the honest and qualified elector to exert his just influence." The courts did occasionally overturn statutes that seemed too restrictive, such as an Ohio law that opened the registration rolls for only seven days each year and made no provision for voters who happened to be absent during that period. Yet on the whole they endorsed registration as a reasonable component of electoral administration. Courts also upheld the legitimacy of registration laws that applied only to particular classes of cities, despite objections that such laws violated the equal protection clause of the Fourteenth Amendment. As a rule—outside of the South, at least—the courts applied the same principles to primary elections as to general elections.[75]

The impact of these laws was highly variable and depended not only on the details of the laws themselves but also on the ability and determination of political parties to get their own voters registered. Quantifying such an impact is beyond the scope of this study, but it can be said with certainty that registration laws reduced fraudulent voting and that they kept large numbers (probably millions) of eligible voters from the polls. In cities such as Philadelphia, Chicago, and Boston, only 60 to 70 percent of eligible voters were registered between 1910 and 1920; in wards inhabited by the poor, the figures were significantly lower. In San Francisco between 1875 and 1905, an average of only 54 percent of adult males were registered. Electoral turnout dropped steadily during precisely the period when registration systems were being elaborated, and scholars have estimated that one third or more of that drop, nationally, can be attributed to the implementation of registration schemes.[76]

In some places the impact was far more dramatic and instantly visible. In New Jersey, for example, the passage of new registration laws in the early twentieth century was immediately followed by such a sharp plunge in turnout, particularly in the cities, that a New Brunswick newspaper concluded that "the critics who declared that the Geran Act would result in the disfranchisement of thousands were justified." Similarly, in Pittsburgh in 1907, the newly created registration commission crowed, in the private minute books of its meetings, that "the figures speak for themselves as to the good results obtained under the operation of the Personal Registration Act." The number of men registered to vote had dropped from 95,580 to 45,819.[77]

Postscript: Fraud, Class, and Motives

Proponents of ballot reform and elaborate registration procedures—as well as other measures, such as early poll closings—invariably defended such steps as necessary to prevent fraud and corruption. Legislative debates were sprinkled heavily with tales of ballot-box stuffing, miscounts, hordes of immigrants lined up to vote as the machine instructed, men trooping from precinct to precinct to vote early and often. The goal of reform, according to its advocates, was not to shrink the electorate or to prevent certain social groups from voting, but to guarantee honest elections. Unsurprisingly, historians—guided by a written record largely composed by the literate, victorious reformers—often have echoed this perspective: late-nineteenth-century and Progressive-era political reformers have commonly been portrayed as honest middle- and upper-class citizens who were trying to clean up politics, to end the corruption practiced by ethnically based political machines and their unscrupulous business allies.[78]

That such portraits are too monochromatic—and misleading—is suggested by the utterances of the reformers themselves: their antagonism toward poor, working-class, and foreign-born voters was thinly disguised at best, and many of them unabashedly welcomed the prospect of weeding such voters out of the electorate. Still, the question of fraud remains: Was corruption so rampant that the reformers' motives can be taken at face value, that their intentions can be viewed as democratic, whatever the consequences? Should registration laws and ballot reform be understood primarily as weapons in the battle against election fraud, or as techniques for diminishing the breadth of democracy?

The available evidence—inescapably fragmentary and uneven—does not offer definitive answers to such questions. On the one hand, fraud and corruption clearly did exist: complaints came not only from upper-crust reformers but from labor organizations and Populists; moreover, the memoirs of politicians contain numerous acknowledgments of improper and illegal practices. On the other hand, recent studies have found that claims of widespread corruption were grounded almost entirely in sweeping, highly emotional allegations backed by anecdotes and little systematic investigation or evidence.

Paul Kleppner, among others, has concluded that what is most striking is not how many but how few documented cases of electoral fraud can be found. Most elections appear to have been honestly conducted: ballot-box stuffing, bribery, and intimidation were the exception, not the rule.[79]

The evidence also suggests that urban, machine politicians and their ethnic constituents were not alone in skirting or ignoring the borders of legality. Boss Tweed of New York, living in splendor from the abundant kickbacks he received through his largely Irish "organization," was surely the most well-known corrupt politician of the late 1860s and 1870s. But perhaps the most celebrated instance of electoral irregularity in the 1890s occurred in rural Adams County, Ohio, where 90 percent of the electorate, entirely from "old and excellent American stock," was being paid to vote. In addition, coercive pressure to vote (and to vote the right way) came not only from political machines, democratic and republican, but also from employers and corporations.[80]

To cite one little-known but graphic example: in 1914, general elections were held in Huerfano County, Colorado, which at the time was embroiled in a prolonged strike of coal miners against Colorado Fuel and Iron and several other coal companies. The bitter strike already had produced the infamous Ludlow massacre of striking families living in a tent city; it also prompted the federal government to send troops to maintain order. The elections resulted in a victory for the Republican slate of candidates, headed by the powerful sheriff, J. B. Farr. A lawsuit brought by the Democrats, however, revealed a remarkable set of irregularities. The Republicans, working with Colorado Fuel and Iron, had drawn precinct boundaries so that seven precincts in the county were located entirely on company-owned land. On registration days and election day, company guards refused to permit anyone to enter these precincts who was thought to be a union member, an agitator, or a labor sympathizer. Foreign-born scabs who lived in the mining camps then were marched to the polls by company officials: since many were illiterate, they were given printed cards containing the letter *R* and illegally assisted by election judges. These voters were instructed to move the cards along the ballot and place their mark beside any name that had a party designation of *R*. Nearly 90 percent of the vote went to the Republicans in these "closed" precincts, enough to overcome a Democratic majority elsewhere in the county. The violations of the law were so flagrant that the Colorado Supreme Court eventually voided the election, overturning the decision of local (Republican) judges who claimed to have seen no evidence that fraudulent votes had been cast.[81]

What transpired in Huerfano County was not the type of fraud that agitated the relatively well-off and largely Republican men who pushed for strict registration systems and other "honest ballot" reforms. These reformers, who were so sensitive to the dubious practices of urban political machines, rarely mentioned abuses by employers, and their support for registration procedures applicable only to cities ignored the possibility of rural corruption. Many of the reformers, moreover, ended up joining the Democrats in turning a blind eye to the flagrant disfranchisement of blacks and poor whites in the South. The measures they proposed to "purify the ballot box" were aimed largely at particular ballot boxes and particular voters.

This is not to say that reformers' claims about fraud were mere window dressing, cynical efforts to mask partisan motives or antidemocratic intentions; such cynicism surely was present among some advocates of registration laws and ballot reform, but there was more to it than that. As Kleppner and others have pointed out, corruption was a word with many meanings, and reformers deployed the term to refer to practices that seemed (to them) inappropriate as well as illegal. Paying people to get out the vote seemed corrupt, as did paying poll taxes so that constituents could vote—even if there were no direct partisan strings attached to the payments. Reformers also believed that votes were corrupt when they were prompted by narrow self-interest—as, for example, when a man voted the way his ward boss asked him to, in return for the favor of a job or a free coal delivery.[82]

In addition, it seems altogether likely that many proponents of electoral regulation were genuinely offended by the state of political practices: they believed that fraud was epidemic, particularly in the cities. Yet that belief was itself linked to and shaped by class and ethnic tensions. Respectable middle-class and upper-class citizens found it easy to believe that fraud was rampant among the Irish or among new immigrant workers precisely because they viewed such men as untrustworthy, ignorant, incapable of appropriate democratic behavior, and not a little threatening. Stories about corruption and illegal voting seemed credible—and could be magnified into apprehensive visions of systematic dishonesty—because inhabitants of the slums (like blacks in the South) appeared unworthy or uncivilized and because much-despised machine politicians were somehow winning elections.

An analogy in our time might be the widespread notion that many recipients of welfare, usually black and Hispanic, were "cheating the system" in the 1980s and 1990s. Despite the lack of systematic evidence, Ronald Reagan's oft-repeated anecdote about a woman who drove a Cadillac to pick up her welfare check seemed persuasive and resonant to Americans who were pre-

disposed to see poor people of color as lazy and dishonest. The late-nineteenth-century reaction to Francis Parkman's portrait of the electorate was similar: political leaders felt justified in modifying electoral laws based on anecdotes and broadly stated impressions. In both cases, widespread convictions were spawned by germs of fact, cultured in a medium of class and ethnic (or racial) prejudice and apprehension.

Two Special Cases

Infamous Crimes

While revising other features of their electoral laws, states extended the disfranchisement of felons and ex-felons. Roughly two dozen states had taken such action before the Civil War; by 1920, all but a handful had made some provision for barring from suffrage men who had been convicted of a criminal offense, usually a felony or "infamous" crime, one that in common law prohibited its perpetrator from testifying under oath in court. (See chapter 3 and table A.15.) In the South, these measures often were more detailed and included lesser offenses, targeting minor violations of the law that could be invoked to disfranchise African Americans.[83]

Elsewhere, the laws lacked socially distinct targets and generally were passed in a matter-of-fact fashion. Constitutional conventions and legislatures sometimes quibbled over the changing definition of felony and over specific lists of crimes that would bring disfranchisement. (Electoral fraud was on everybody's list.) There also was some disagreement—and some variety, from state to state—regarding the duration of the exclusion. In almost all states, felons were disfranchised while they remained in prison; in many, disfranchisement was implicitly or explicitly permanent, although many states made it possible for ex-felons to be restored to their civil rights, usually by the governor. Rarely, however, were objections voiced to the principle of disfranchisement in either legislatures or constitutional conventions. The courts upheld such laws, concluding that the states had both a right to disfranchise ex-felons and a compelling interest in doing so. In 1890, the U.S. Supreme Court validated the exclusion of felons in elections held in federal territories.[84]

The widespread support for such laws is noteworthy because, as recent legal analysts have pointed out, there has never been a particularly persuasive or coherent rationale for disfranchising felons and ex-felons. In their classical and English origins, these laws were primarily punitive in nature, and the punitive thrust clearly was present in the United States for much of the nineteenth century. Yet the efficacy of disfranchisement as a punishment was always dubious, since there was no evidence that it would deter future crimes; nor (except in the case of voting crimes) did disfranchisement appear to be an appropriate or significant form of retribution. For this reason, perhaps, the states in the late nineteenth century drifted toward a different rationale: that disfranchisement of felons was necessary to protect the integrity of elections and—in the words of a much-cited Alabama Supreme Court decision—"preserve the purity of the ballot box." Proponents argued that men who could not be legally relied on to tell the truth (which was formally why they could not testify in court) would corrupt the electoral process. They also expressed the fear that enfranchised ex-felons might band together and vote to repeal the criminal laws. Both arguments were at best conjectural.[85]

Why then were felons and ex-felons disfranchised, so widely and with so little debate? The answer appears to reside in a notion that generally was unspoken but infiltrated all debates about suffrage during this period: this was, simply, that a voter ought to be a moral person. Although state laws rarely made explicit mention of moral standing as a qualification for suffrage and the difficulty of imposing a morality test was manifest, the idea persisted that there were moral boundaries to the polity. Discerning or agreeing on those boundaries admittedly was difficult—as the debates over pauper exclusions and corruption revealed—but men who had been convicted of crimes were easy to distinguish and label.

Full membership in the political community therefore depended on proper behavior and perhaps even proper beliefs: coexisting uneasily with the broad claim that the franchise was a right was the resurgent notion that the state could draw a line between the worthy and the unworthy, that it could determine who was fit to possess the rights of citizenship. Disfranchising felons in effect was a symbolic act of political banishment, an assertion of the state's power to exclude those who violated prevailing norms. It is telling that one of the most important court cases involving these issues dealt with a Utah law that made it a crime (and therefore a cause for disfranchisement) for a man to practice, or even advocate, bigamy. Equally revealing, perhaps, is the fact that the same state legislature that drafted New York's literacy test expressed its disapproval of the political opinions of some citizens by preventing five legally elected Socialists from taking their seats. The speaker of the New York assembly declared that "socialist ballots" would not be recognized until the party had become "thoroughly American."[86]

Native Americans

> Again, there is no overwhelming political necessity, as in the case of the negroes, requiring us to make citizens of the Indians. When we remember that our country is being invaded, year by year, by the undesirable classes driven out of Europe because they are a burden to the government of their birth; that as many as seventy thousand immigrants have landed on our shores in a single month, made up largely of Chinese laborers, Irish paupers, and Russian Jews; that the ranks are being swelled by adventurers of every land—the Communist of France, the Socialist of Germany, the Nihilist of Russia, and the cut-throat murderers of Ireland—that all these persons may become citizens within five years, and most of them voters under State laws as soon as they have declared their intentions to become citizens—we may well hesitate about welcoming the late "untutored savages" into the ranks of citizenship.
>
> —G. M. Lambertson, "Indian Citizenship," *American Law Review*, 1886

Native Americans continued to occupy a special place in American law and society. At the close of the Civil War, the vast majority of Native Americans, although born in the United States, were not citizens, and they could attain citizenship only through treaties, not through the naturalization laws that applied to white foreigners. Unlike blacks and immigrants, they were not needed for their labor, but the lands that they controlled were coveted by settlers, miners, and railroad corporations. Although extolled as noble savages by the humanitarian reformers who controlled Indian policy for much of the late nineteenth century, they were the targets of a war of attrition, as well as a resettlement program, that rapidly destroyed the way of life of some of the largest tribes. They were also few in number, totaling less than 250,000 at their population nadir in 1900.

In 1865, most Native Americans were unable to vote, largely because they lacked citizenship; and for the next sixty years the ability of Indians to become citizens traveled a bumpy and circuitous road. The Fourteenth Amendment set things in motion with its declaration that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." In response to claims that the amendment effectively transformed Indians into citizens, the Senate Judiciary Committee, in 1870, issued a report rejecting that interpretation. Native Americans who retained relations with their tribes, the committee concluded, were not

born under the jurisdiction of the United States and thus were not covered by the amendment. A year later, a federal district court in Oregon agreed, holding that Indian tribes were "independent political communities" not fully subject to the legal jurisdiction of the national government. In 1884, in the landmark case of *Elk v. Wilkins*, the U.S. Supreme Court ended debate on the issue by concluding that the Fourteenth Amendment did not confer citizenship on John Elk, an Indian who was born on tribal lands. The Court further maintained that Elk, who had left his tribe and lived in Omaha, could not attain citizenship simply by assimilating: whether he had "so far advanced" as to "be let out of the state of pupilage" was a decision to be made by the nation whose ward he was. Accordingly, Elk's right to vote—he had brought suit after being unable to cast a ballot in Omaha—was not protected by the Fifteenth Amendment.[87]

Nonetheless, it was the formal policy of the United States to encourage Indian citizenship and Indian assimilation into American society. Although Congress continued to grant citizenship through treaties with individual tribes until 1871, the major thrust of policy became the conferral of citizenship on Indians who were abandoning tribal ways and becoming "civilized." In 1887 Congress passed the General Allotment (or Dawes) Act, which granted citizenship to all Native Americans who "adopted the habits of civilized life," as well as those who accepted private allotments of what had been tribal lands. (One key goal of the act was to free up tribal lands for white settlement.) Thanks in part to the General Allotment Act and in part to a congressional act passed in 1901, more than half of all Indians were citizens by 1905. This number was augmented after World War I, when citizenship was conferred upon Indians who had served in the military and been honorably discharged. Finally, in response to partisan politics in the West, bureaucratic politics in Washington, and the wartime service of Native Americans, Congress in 1924 declared that all Indians born in the United States were citizens.[88]

Meanwhile, states had been taking steps on their own. In Massachusetts in 1869, for example, Republicans and ex-abolitionists who thought it hypocritical to deny Indians the same rights they demanded for southern blacks succeeded in passing legislation declaring all Indians to be "citizens of the Commonwealth . . . entitled to all the rights, privileges and immunities" of citizenship; foreshadowing the Dawes Act, the Indian Enfranchisement Act also provided that all Indian lands would revert to individual ownership and therefore could be sold to non-Indians. By the early twentieth century, as table A.16 indicates, nearly all states with Native American populations

had enacted similarly double-edged constitutional or statutory provisions. On the one hand, they—explicitly or implicitly—enfranchised some Native Americans, generally those who had assimilated or "severed their tribal relations." At the same time, states disfranchised Indians who continued to belong to tribes, or were "not taxed" or "not civilized."[89]

The prevailing policy was clear, if difficult to apply: Native Americans could become voters, but only by surrendering or repudiating their own culture, economic organization, and societal norms. Membership in the polity was conditioned on good behavior, on adopting a culture and style of life deemed appropriate by the states that had militarily conquered the Indian tribes. Since good and appropriate behavior was not always forthcoming, many of the states with the largest Native American populations proceeded to devise new rationales for disfranchising Indians after the Citizenship Act of 1924 was passed.

Sovereignty and Self-Rule

An important by-product of the evolution of voting laws, South and North, was the increasingly precise delineation of the powers of federal, state, and municipal governments in determining suffrage law. During Reconstruction, the federal government had asserted its jurisdiction in unprecedented ways with the passage of the Fourteenth and Fifteenth Amendments, as well as the enforcement acts. For several decades thereafter, federal activity to protect the rights enshrined in those amendments persisted, even in the North. Between 1877 and 1893, more than half of all federal appropriations for electoral supervision were expended in New York.[90]

Yet the tilt toward the nationalization of the right to vote proved to be both short-lived and fragmentary. Congress's decisions to adopt a narrow version of the Fifteenth Amendment, to repeal key provisions of the enforcement acts, and not to enact the Lodge Force Bill effectively left the federal government on the sidelines during most contests over the franchise. Washington's role was circumscribed further by Supreme Court decisions that definitively severed the link between citizenship and suffrage and that interpreted the Fifteenth Amendment as prohibiting only the most flagrant and intentional forms of discrimination. Indeed, the court cases spawned by the Fourteenth and Fifteenth Amendments led to a formal articulation of state supremacy that was merely implicit in the nation's Constitution. As the Supreme Court declared in *Pope v. Williams* in 1904, "the privilege to vote in a state is within the jurisdiction of the state itself, to be exercised as

the state may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal Constitution." States in effect could do as they wished, as long as they did not disfranchise men solely and overtly because of race. Had the Wilson amendment passed, of course, the story would have been different: many of the restrictions on suffrage adopted by northern and western, as well as southern, states would have been unconstitutional. But those who had opposed the Wilson amendment because it would inflate the power of the national government had won a long-lasting victory: suffrage in 1915 was not much more of a federal concern than it had been in 1800.[91]

The courts also drew increasingly numerous, if sometimes jagged, lines between state constitutional authority and the power of state legislatures. While the states had great freedom to set suffrage qualifications in their constitutions, state legislatures had far less latitude. Suffrage remained a matter of fundamental or constitutional, rather than statute, law: legislatures, as a rule, were permitted to enact laws that concretized or carried out constitutional provisions, but they did not possess the power to alter suffrage qualifications. Practices, though, varied among states; as noted in chapter 4, several southern legislatures enacted disfranchising laws without bothering to amend their constitutions, and some state courts permitted legislatures to take steps that blurred the boundaries between procedural and substantive regulation. A New York court, for example, found in 1920 that "legislative regulations" could be reasonable even if they burdened citizens unequally: "the wit of man cannot devise a method transcending all inequality and discrimination."[92]

In many states, moreover, the courts allowed legislatures to adopt nonstandard suffrage qualifications in referenda or in elections for offices that were not explicitly named in state constitutions. In 1893, for example, the Florida Supreme Court concluded in the oft-cited case of *Lamar v. Dillon* that "where the Constitution does not fix the right of suffrage or prescribe the qualifications of voters, it is competent for the legislature . . . to do so." Such reasoning made it possible for voting to be restricted to taxpayers or property owners in state elections dealing with public expenditures; it also opened the doors for women to vote in school board elections.[93]

The same reasoning revived the possibility of municipal franchise qualifications different from those obtaining in state elections. In contrast to their late-eighteenth- and early-nineteenth-century predecessors, however, such qualifications could not be determined by cities and towns alone. As discussed in chapter 2, the legal subservience of municipalities to states was well established in American law by the mid-nineteenth century: Judge John "Dillon's

rule"—that state power over municipalities was "supreme and transcendent," that municipalities had no "inherent right of local self-government which is beyond legislative control"—was articulated at length in a landmark treatise published in 1872. Despite several jurisprudential challenges, it remained dominant, in part because conservatives believed that property interests would be better protected by state governments than by cities. Dillon himself supported some taxpaying restrictions on voting and eventually left the bench to become a prominent railroad lawyer. Dillon's rule, however, did permit municipalities and state legislatures to jointly agree on distinctive suffrage qualifications for municipal elections, particularly in states that enacted "home rule" provisions for cities. Although never widespread, distinctive municipal franchise regulations were adopted in Tulsa, Kansas City, Deer Park, Maryland, and Oklahoma City, among other places, and they continued to surface throughout the twentieth century.[94]

The New Electoral Universe

> Though the sovereignty is in the people, as a practical fact it resides in those persons who by the Constitution of the state are permitted to exercise the elective franchise.
>
> —Judge Thomas M. Cooley, 1868

> I cannot attempt to describe the complicated and varying election laws of the different States.
>
> —James Bryce, 1888

By the beginning of World War I, the ebullient, democratic political culture of the mid-nineteenth century had given way to a more constrained and segmented political order. Throughout the nation, large slices of the middle and upper classes, as well as portions of the working class, had ceased to believe in universal suffrage—and had acted on their beliefs. In the South, blacks and many poor whites had been evicted wholesale from electoral politics. In the North and West, exclusions were on a smaller scale, but still numerous: depending on the state or city in which he lived, a man could be kept from the polls because he was an alien, a pauper, a lumberman, an anarchist, did not pay taxes or own property, could not read or write, had moved from one state to another in the past year, had recently moved from one neighborhood to another, did not possess his naturalization papers, was unable to register on the third or fourth Tuesday before an election, could

not prove that he had canceled a prior registration, been convicted of a felony, or been born in China or on an Indian reservation. Although some women had gained the franchise, and all others would within a few years, the same dense cluster of voting laws applied to them as well. It can be no surprise, in light of this legal history, that turnout at elections dropped during the latter half of this period. Voting was not for everyone.[95]

This sustained, nationwide contraction of suffrage rights had several root causes. Stated most broadly, those who wielded economic and social power in the rapidly changing late nineteenth century found it difficult to control the state (which they increasingly needed) under conditions of full democratization. In the South, the abolition of slavery, coupled with the beginnings of industrialization and the compelling need for a docile, agricultural labor force, created pressures that overwhelmed fledgling democratic institutions. In the North and West, the explosive growth of manufacturing and of labor-intensive extractive industries generated class conflict on a scale that the nation had never known. As Max Weber noted long ago, it is during periods of rapid economic and technological change that class becomes most salient and class issues most prominent. The United States was not the only country whose political institutions were profoundly shaken by the stresses of industrialism.[96]

Yet these economic and class factors would not by themselves, in all likelihood, have produced such a marked and widespread narrowing of the entries to voting booths. Equally critical was the fact that the threatening lower orders consisted largely of men who were racially different or came from different ethnic, cultural, and religious backgrounds. What transpired in the South seems unimaginable in the absence of racial hostility and prejudice. Similarly, the changes in voting laws in the North and the West were made possible, and shaped, by the presence of millions of immigrants and their children, indeed by the very foreignness of Jews and Chinese, of the Irish and Italian Catholics, of Indians and Mexicans. Their ethnic identities, fused with their class position, made these new (or Native) Americans seem both *threatening* and *inferior*, *necessary* and *legitimate* targets of political discrimination; rolling back the franchise would have been a far more difficult task in a racially and ethnically homogeneous society. It was the convergence of racial and ethnic diversity with class tension that fueled the movement to "reform" suffrage.

One other factor, admittedly more speculative, also may have played a role: the absence of war. In light of the rest of the nation's history, it does not seem coincidental that this prolonged period of franchise contraction occurred dur-