

# Winning the Vote: A History of Voting Rights

by Steven Mintz

## VOTING RIGHTS ON THE EVE OF THE REVOLUTION



*The County Election, based on a painting by George C. Bingham, 1854. (Gilder Lehrman Collection)*

The basic principle that governed voting in colonial America was that voters should have a “stake in society.” Leading colonists associated democracy with disorder and mob rule, and believed that the vote should be restricted to those who owned property or paid taxes. Only these people, in their view, were committed members of the community and were sufficiently independent to vote. Each of the thirteen colonies required voters either to own a certain amount of land or personal property, or to pay a specified amount in taxes.

Many colonies imposed other restrictions on voting, including religious tests. Catholics were barred from voting in five colonies and Jews in four. The right to vote varied widely in colonial America. In frontier areas, seventy to eighty percent of white men could vote. But in some cities, the percentage was just forty to fifty percent.

## THE IMPACT OF THE REVOLUTION

The American Revolution was fought in part over the issue of voting. The Revolutionaries rejected the British argument that representation in Parliament could be virtual (that is, that English members of Parliament could adequately represent the interests of the colonists). Instead, the Revolutionaries argued that government derived its legitimacy from the consent of the governed.

This made many restrictions on voting seem to be a violation of fundamental rights. During the period immediately following the Revolution, some states replaced property qualifications with taxpaying requirements. This reflected the principle that there should be “no taxation without representation.” Other states allowed anyone who served in the army or militia to vote. Vermont was the first state to eliminate all property and taxpaying qualifications for voting.

By 1790, all states had eliminated religious requirements for voting. As a result, approximately 60 to 70 percent of adult white men could vote. During this time, six states (Maryland, Massachusetts, New York, North Carolina, Pennsylvania, and Vermont) permitted free African Americans to vote.

## THE CONSTITUTION AND VOTING RIGHTS

The US Constitution left the issue of voting rights up to the states. The only thing that the Constitution said about voting was that those entitled to vote for the “most numerous Branch of the state legislature” could vote for members of the House of Representatives.

## POLITICAL DEMOCRATIZATION

During the first half of the nineteenth century, the election process changed dramatically. Voting by voice was replaced by voting by written ballot. This was not the same thing as a secret ballot, which was instituted only in the late nineteenth century; parties printed ballots on colored paper, so that it was still possible to determine who had voted for which candidate.

The most significant political innovation of the early nineteenth century was the abolition of property qualifications for voting and officeholding. Hard times resulting from the Panic of 1819 led many people to demand an end to property restrictions on voting and officeholding. In 1800, just three states (Kentucky, New Hampshire, and Vermont) had universal white manhood suffrage. By 1830, ten states permitted white manhood suffrage without qualification. Eight states restricted the vote to taxpayers, and six imposed a property qualification for suffrage. In 1860, just five states limited suffrage to taxpayers and only two still imposed property qualifications. And after 1840, a number of states, mainly in the Midwest, allowed immigrants who intended to become citizens to vote.

Pressure for expansion of voting rights came from propertyless men; from territories eager to attract settlers; and from political parties seeking to broaden their base.

Ironically, the period that saw the advent of universal white manhood suffrage also saw new restrictions imposed on voting by African Americans. Every new state that joined the Union after 1819 explicitly denied blacks the right to vote. In 1855, only five states—Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont—allowed African Americans to vote without significant restrictions. In 1826, only sixteen black New Yorkers were qualified to vote.

The era of universal white manhood suffrage also saw other restrictions on voting. In New Jersey, the one state that had allowed women property holders to vote, women lost the right to vote. Twelve states forbade paupers from voting and two dozen states excluded felons. After 1830, interest in voting registration increased. There were also some attempts to impose literacy tests and prolonged residence requirements (ranging up to twenty-one years) in the 1850s.

## THE DORR WAR

The transition from property qualifications to universal white manhood suffrage occurred gradually, without violence and with surprisingly little dissension, except in Rhode Island, where lack of progress toward democratization provoked an episode known as the Dorr War.

In 1841, Rhode Island, still operating under a Royal Charter granted in 1663, restricted suffrage to landowners and their eldest sons. The charter lacked a bill of rights and grossly underrepresented growing industrial cities, such as Providence, in the state legislature. As Rhode Island grew increasingly urban and industrial, the state’s landless population increased and fewer residents were eligible to vote. By 1841, just 11,239 out of 26,000 adult males were qualified to vote.

In 1841, Thomas W. Dorr, a Harvard-educated attorney, organized an extralegal convention to frame a new state constitution and abolish voting restrictions. The state's governor declared Dorr and his supporters guilty of insurrection, proclaimed a state of emergency, and called out the state militia. Dorr tried unsuccessfully to capture the state arsenal at Providence. He was arrested, found guilty of high treason, and sentenced to life imprisonment at hard labor. To appease popular resentment, the governor pardoned Dorr the next year, and the state adopted a new constitution in 1843. This constitution extended the vote to all taxpaying native-born adult males (including African Americans). But it imposed property requirements and lengthy residence requirements on immigrants.

Rhode Island was unusual in having a large urban, industrial, and foreign-born working class. It appears that fear of allowing this group to attain political power explains the state's strong resistance to voting reform.

## THE CIVIL WAR AND RECONSTRUCTION

Although Abraham Lincoln had spoken about extending the vote to black soldiers, opposition to granting suffrage to African American men was strong in the North. Between 1863 and 1870, fifteen Northern states and territories rejected proposals to extend suffrage to African Americans.

During Reconstruction, for a variety of reasons, a growing number of Republicans began to favor extending the vote to African American men. Many believed that African Americans needed the vote to protect their rights. Some felt that black suffrage would allow the Republican party to build a base in the South.

The Reconstruction Act of 1867 required the former Confederate states to approve new constitutions, which were to be ratified by an electorate that included black as well as white men. In 1868, the Republican Party went further and called for a Fifteenth Amendment that would prohibit states from denying the vote based on race or previous condition of servitude. A proposal for a stronger amendment that would have prohibited states from denying or abridging the voting rights of adult males of sound mind (with the exception of felons and those who had engaged in rebellion against the United States) was defeated.

A variety of methods—including violence in which hundreds of African Americans were murdered, property qualification laws, gerrymandering, and fraud—were used by Southern whites to reduce the level of black voting. The defeat in 1891 of the Federal Elections Bill, which would have strengthened the federal government's power to supervise elections, prevent suppression of the black vote, and overturn fraudulent elections, ended congressional efforts to enforce black voting rights in the South.

## THE MISSISSIPPI PLAN

In 1890, Mississippi pioneered new methods to prevent African Americans from voting. Through lengthy residence requirements, poll taxes, literacy tests, property requirements, cumbersome registration procedures, and laws disenfranchising voters for minor criminal offenses, Southern states drastically reduced black voting. In Mississippi, just 9,000 of 147,000 African Americans of voting age were qualified to vote. In Louisiana, the number of black registered voters fell from 130,000 to 1,342.

Meanwhile, grandfather clauses in these states exempted whites from all residence, poll tax, literacy, and property requirements if their ancestors had voted prior to enactment of the Fifteenth Amendment.

## THE LATE NINETEENTH CENTURY

Fears of corruption and of fraudulent voting led a number of northern and western states to enact “reforms” similar to those in the South. Reformers were especially troubled by big-city machines that paid or promised jobs to voters. Reforms that were enacted included pre-election registration, long residence qualifications, revocation of state laws that permitted non-citizens to vote, disfranchisement of felons, and adoption of the Australian ballot (which required voters to place a mark by the name of the candidate they wished to vote for). By the 1920s, thirteen northern and western states barred illiterate adults from voting (in 1924, Oregon became the last state to adopt a literacy test for voting). Many western states prohibited Asians from voting.

## WOMEN’S SUFFRAGE

In 1848, at the first women’s rights convention in Seneca Falls, New York, delegates adopted a resolution calling for women’s suffrage. But it would take seventy-two years before most American women could vote. Why did it take so long? Why did significant numbers of women oppose women’s suffrage?

The Constitution speaks of “persons”; only rarely does the document use the word “he.” The Constitution did not explicitly exclude women from congress or from the presidency or from juries or from voting. The Fourteenth Amendment included a clause that stated, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

In the presidential election of 1872, supporters of woman suffrage, including Susan B. Anthony, appeared at the polls, arguing that if all citizens had the right to the privileges of citizenship, they could certainly exercise the right to vote. In *Minor v. Happersett* (1875) the Supreme Court ruled that women could only receive the vote as a result of explicit legislation or constitutional amendment, rather than through interpretation of the implications of the Constitution. In a unanimous opinion, the Court observed that it was “too late” to claim the right of suffrage by implication. It also ruled that suffrage was a matter for the states, not the federal government, to decide.

One group of women led by Elizabeth Cady Stanton and Susan B. Anthony sought a constitutional amendment. Another group, led by Lucy Stone, favored a state-by-state approach. In 1890, the two groups merged to form the National American Woman Suffrage Association. Rather than arguing in favor of equal rights, the NAWSA initially argued that women would serve to uplift politics and counterbalance the votes of immigrants. Meanwhile, opponents of women’s suffrage argued that it would increase family strife, erode the boundaries between masculinity and femininity, and degrade women by exposing them to the corrupt world of politics.

Women succeeded in getting the vote slowly. Wyoming Territory, eager to increase its population, enfranchised women in 1869, followed by Utah, which wanted to counter the increase in non-Mormon voters. Idaho and Colorado also extended the vote to women in the mid-1890s. A number of states, counties, and cities allowed women to vote in municipal elections, for school boards or for other educational issues, and on liquor licenses.

During the early twentieth century, the suffrage movement became better financed and more militant. It attracted growing support from women who favored reforms to help children (such as increased spending on education) and the prohibition of alcohol. It also attracted growing numbers of working-class women, who viewed politics as the way to improve their wages and working conditions.

World War I helped to fuel support for the Nineteenth Amendment to the Constitution, extending the vote to women. Most suffragists strongly supported the war effort by selling war bonds and making clothing for the troops. In addition, women’s suffrage seemed an effective way to demonstrate that the war truly was a war for democracy.

At first, politicians responded to the Nineteenth Amendment by increasingly favoring issues believed to be of interest to women, such as education and disarmament. But as it became clear that women did not vote as a bloc, politicians became less interested in addressing issues of particular interest to them. It would not be until the late twentieth century that a gender gap in voting would become a major issue in American politics.

## DECLINING PARTICIPATION IN ELECTIONS

Voter turnout began to fall after the election of 1896. Participation in presidential elections fell from a high of about 80 percent overall to about 60 percent in the North in the 1920s and about 20 percent in the South. Contributing to the decline in voter participation was single-party dominance in large parts of the country; laws making it difficult for third parties to appear on the ballot; the decline of urban political machines; the rise of at-large municipal elections; and the development of appointed commissions that administered water, utilities, police, and transportation, reducing the authority of elected officials.

## VOTING RIGHTS FOR AFRICAN AMERICANS

In 1944, in *Smith v. Allwright*, the US Supreme Court ruled that Texas’s Democratic Party could not restrict membership to whites only and bar blacks from voting in the party’s primary. Between 1940 and 1947, the proportion of Southern blacks registered to vote rose from 3 percent to 12 percent. In 1946, a presidentially appointed National Committee on Civil Rights called for abolition of poll taxes and for federal action to protect the voting rights of African Americans and Native Americans.

At the end of the 1950s, seven Southern states (Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia) used literacy tests to keep blacks from voting, while five states (Alabama, Arkansas, Mississippi, Texas, and Virginia) used poll taxes to prevent blacks from registering. In Alabama, voters had to provide written answers to a twenty-page test on the Constitution and on state and local government. Questions included: “Where do presidential electors cast ballots for president?” And “Name the rights a person has after he has been indicted by a grand jury.” The Civil Rights Act of 1957 allowed the Justice Department to seek injunctions and file suits in voting rights cases, but it only increased black voting registrations by 200,000.

In an effort to bring the issue of voting rights to national attention, Martin Luther King Jr. launched a voter registration drive in Selma, Alabama, in early 1965. Even though blacks slightly outnumbered whites in this city of 29,500 people, Selma’s voting rolls were 99 percent white and 1 percent black. For seven weeks, King led hundreds of Selma’s black residents to the county courthouse to register to vote. Nearly 2,000 black demonstrators, including King, were jailed by

County Sheriff James Clark for contempt of court, juvenile delinquency, and parading without a permit. After a federal court ordered Clark not to interfere with orderly registration, the sheriff forced black applicants to stand in line for up to five hours before being permitted to take a “literacy” test. Not a single black voter was added to the registration rolls.

When a young black man was murdered in nearby Marion, King responded by calling for a march from Selma to the state capital of Montgomery, fifty miles away. On March 7, 1965, black voting-rights demonstrators prepared to march. As they crossed a bridge spanning the Alabama River, 200 state police with tear gas, nightsticks, and whips attacked them. The march resumed on March 21 with federal protection. The marchers chanted, “Segregation’s got to fall . . . you never can jail us all.” On March 25, a crowd of 25,000 gathered at the state capitol to celebrate the march’s completion. Martin Luther King Jr. addressed the crowd and called for an end to segregated schools, poverty, and voting discrimination. “I know you are asking today, ‘How long will it take?’ . . . How long? Not long, because no lie can live forever.”

Two measures adopted in 1965 helped safeguard the voting rights of black Americans. On January 23, the states completed ratification of the Twenty-fourth Amendment to the Constitution barring a poll tax in federal elections. At the time, five Southern states still had a poll tax. On August 6, President Johnson signed the Voting Rights Act, which prohibited literacy tests and sent federal examiners to seven Southern states to register black voters. Within a year, 450,000 Southern blacks registered to vote.

The Supreme Court ruled that literacy tests were illegal in areas where schools had been segregated, struck down laws restricting the vote to property-owners or tax-payers, and held that lengthy residence rules for voting were unconstitutional. The court also ruled in the “one-man, one-vote” *Baker v. Carr* decision that states could not give rural voters a disproportionate sway in state legislatures. Meanwhile, the states eliminated laws that disenfranchised paupers.

## REDUCING THE VOTING AGE

The war in Vietnam fueled the notion that young people who were young enough to die for their country were old enough to vote. In 1970, as part of an extension of the Voting Rights Act, a provision was added lowering the voting age to eighteen. The Supreme Court ruled that Congress had the power to reduce the voting age only in federal elections, not in state elections. To prevent states from having to maintain two different voting rolls, the Twenty-sixth Amendment to the Constitution barred the states and the federal government from denying the vote to anyone eighteen or older.

## AN UNFINISHED HISTORY

The history of voting rights is not yet over. Even today, debate continues. One of the most heated debates is whether or not convicted felons who have served their time be allowed to vote. Today, a handful of states bar convicted felons from voting unless they successfully petition to have their voting rights restored. Another controversy—currently being discussed in San Francisco—is whether non-citizens should have the right to vote, for example, in local school board elections. Above all, the Electoral College arouses controversy, with critics arguing that our country’s indirect system of electing a president over represents small states, distorts political campaigning, and thwarts the will of a majority of voters. History reminds us that even issues that seem settled sometimes reopen as subjects for debate. One example might be whether the voting age should be

lowered again, perhaps to sixteen. In short, the debate about what it means to be a truly democratic society remains an ongoing, unfinished, story.