Land of the Freeholder: How Property Rights Make Local Voting Rights*

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Abstract

A large body of research documents the dominance of homeowners in local politics. There has been little scholarship, however, on the role that voting institutions have played in empowering homeowners from this country's inception; indeed, most accounts describe property qualifications for voting and officeholding as largely fading from view by the mid-1800s. Combining a novel analysis of state constitutions and constitutional conventions with data on state statutes, this article explores the emergence of property qualifications for voting, with a particular emphasis on their role in local politics. We find that, counter most historical narratives, property requirements persisted well into the 20th century, with almost 90 percent of property requirements restricting voting and officeholding at the local level. Most centered on local bond referenda, school districts, and land use—suggesting that homeowner citizens were granted particular political control over local taxation and public services. These requirements were largely clustered in the American South and West—emerging alongside Jim Crow laws and mass availability of federal public lands—and were not eliminated until the Supreme Court took action. This article illuminates the important role that voting institutions played in linking homeownership with American democratic citizenship, especially at the local level.

*Thanks to Sarah Anzia, Molly Brady, Mirya Holman, Spencer Piston, Jessica Trounstine, and Vanessa Williamson for helpful advice and feedback. We also greatly appreciate data from Molly Brady, Will Marble, and Clayton Nall. All errors are our own.

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> "Those who hold and those who are without property have ever formed distinct interests in society." — James Madison, Federalist 10

> "...if you own something, you have a vital stake in the future of our country. The more ownership there is in America, the more vitality there is in America, and the more people have a vital stake in the future of this country."
> — President George W. Bush, June 17, 2004[1]

Homeowners dominate contemporary local politics. They participate at far higher rates (McCabe 2016; Einstein, Glick and Palmer 2019; Yoder 2020), are electorally powerful (Trounstine 2008; Mullin 2009), and comprise virtually all elected officials—even in cities with large majorities of renters (Einstein, Ornstein and Palmer 2021). Their disproportionate influence comes with stark consequences for American local governments: land use and housing policies that favor the interests of homeowners have spurred high housing costs, sprawling and environmentally destructive land use, racial and economic segregation, and unequal access to high-quality public goods (Mullin 2009; Glaeser 2011; Hsieh and Moretti 2015; McCabe 2016; Trounstine 2018; Einstein, Glick and Palmer 2019).

Much of the research that explores the political power of homeowners starts in the 1900s and explores their role in political machines (Trounstine 2008), land use politics (Burns 1994; Fischel 2001; Mullin 2009; Oliver, Ha and Callen 2012; Trounstine 2018; Einstein, Glick and Palmer 2019), and the distribution of public resources (Burns 1994; Trounstine 2018). But, there has been little exploration into how *voting institutions* may have explicitly empowered homeowners, drawing an inextricable link between property ownership and democratic citizenship. Indeed, local voting rights for the most part have not been systematically studied. As at other levels of government, there are a myriad of ways that local governments have restricted the franchise, including limiting voting to property owners, holding elections off-cycle, imposing strict residency requirements, and creating tiny precincts in order to create barriers to registration (Mullin 2009; Trounstine 2008; Anzia 2014). Only off-cycle elections, however, have been documented and analyzed systematically at the local level (Berry and Gerson 2010; Anzia 2014; Kogan, Lavertu and Peskowitz 2018; Dynes, Hartney and Hayes 2021).

[1] `https://georgewbush-whitehouse.archives.gov/news/releases/2004/08/20040809-9.html`

Data challenges create formidable obstacles to the study of local voting rights. Detailed historic information about city political institutions and voting patterns is often available only for a small subset of cities (Trounstine 2008, 2018; Anzia 2014). In our analysis of state constitutions and statutes for this manuscript, we find that mentions of local voting are often entirely absent or located separately from other language about suffrage. Rather than treating local voting as a broader issue of political rights, state constitutions instead frequently discuss it in the context of education, spending, and taxation.

In this article, we systematically document the emergence of local property requirements to illuminate the ways in which state and local governments have used *electoral institutions* to enhance the political standing of homeowners. We make three central claims. First, American voting institutions enshrined the homeowner citizen far longer than previously appreciated in historical and political science scholarship—persisting over a century after most accounts indicated the removal of property requirements. Second, this reification of the homeowner citizen is especially pronounced at the *local* level, where voting rights have been virtually unexamined. Third, virtually all local property requirements affect bond referenda and school elections, suggesting a distinctive connection between the homeowner citizen and a right to direct control over local taxation and public services.

In many respects, a study of property requirements is a tough test for finding political institutions that favor homeowners: among the many franchise restrictions imposed by local governments, property requirements are the most explicitly discriminatory against non-property owners. Moreover, by the 1850s, they were deeply unpopular in many circles in American politics—viewed as undemocratic and un-American (Keyssar 2000). In this context, their emergence at the local level would seem relatively less likely compared with other less obviously discriminatory franchise restrictions, such as strict residency requirements.

Using a novel analysis of *all* state constitutions alongside existing data on state statutes, we create a longitudinal database of local property requirements. We find that *many* states imposed local property requirements; unlike property requirements for state and federal elections—which were implemented in the colonial era—most local restrictions emerged in the late 1800s and early

1900s and were disproportionately located in the Jim Crow South. They thus coincided with a time period of profound democratic backsliding in American politics (Key 1949; Kousser 1974; Keele, Cubbison and White 2021). These requirements most frequently limited bond referenda and school elections to property owners—ensuring that only homeowners would have a say over important local spending decisions for decades of critical local policymaking. Some restricted local political offices, such as county supervisors, to homeowners. Moreover, many state constitutions used *language* that implicitly favored homeowners: freeholders. For example, they described the institutions that helped to form local government charters as "freeholder charters." While these charters, for the most part, do not explicitly restrict participation to property owners, they use language the connotes property owner influence and importance. Such language is likely dissuasive to non-property owners (Einstein, Palmer and Glick 2019). In many places, they created local governments that bent strongly towards the interests of property owners. These policies are especially striking since, at America's inception, local voting eligibility was often laxer than at the state and federal levels (Keyssar 2000).

This article unveils the spread of local property requirements, and connects them with America's continued lionization of homeowners in its public policy and political institutions. What it *does not* do is show how these requirements shape voter turnout among specific demographic groups. A small body of research suggests that the preferences of renters and homeowners may not be especially different (Vines and Glick 1967; Oliver, Ha and Callen 2012)—even on issues of land use (Hankinson 2018) (though see Einstein, Palmer and Glick (2019)). An exploration of historical voting data and disparities is beyond the scope of this article—and, indeed, may be impossible in most locations given the paucity of historical voting data for local elections. Our central aim in this article is to highlight the ways in which American public policy has constructed a close connection between homeownership and democratic citizenship—a link which may help to explain why our policies are so distorted in favor of homeowners.

In many ways, this work has analogues to Americans' construction of taxpaying as essential to democratic citizenship (Williamson 2017; Walsh 2018). As with property ownership, many American states from the very beginning have deemed "taxpaying" necessary for informed political

participation (Keyssar 2000). Indeed, taxpaying and property qualifications go hand-in-hand; many of the more modern property qualifications apply to local contests related to bonds and taxation. Taxpaying status (and homeownership) lent pro- and anti-school desegregation forces legal credence in the century long battle over American school integration (Walsh 2018).

In addition to constructing the taxpaying citizen, political institutions helped to create and reinforce a *homeowner citizen*. While these two concepts are obviously intertwined, property ownership is distinct from taxpaying. Taxpaying on its own, for example, does not necessarily imply ownership or longevity in a community. Our voting institutions laid the groundwork for America's reification of the taxpaying homeowner as the ideal democratic citizen.

This article proceeds as follows. First, we briefly outline the history of the use of property restricts on suffrage in American politics. Next, we introduce our novel analysis of state constitutions before moving to a discussion of state constitutional proceedings. We then turn to legal challenges of homeownership requirements and the role of the Supreme Court in ending such restrictions in most places. We conclude by discussing the implications of these local franchise restrictions for the power of homeowners in modern American local politics.

Property Rights and Voting

America's forefathers largely viewed property ownership as essential for the exercise of political rights, like voting. Citing the work of political theorists like Aristotle and Rousseau, political leaders during the colonial area argued that property owners were: (1) committed community members interested in state public policy and political decision-making and (2) had sufficient independence so that their votes could not be manipulated or bought (Keyssar 2000). In short, property ownership equipped Americans for the most critical tasks of citizenship.

Property Rights in the Constitution

Curiously, the importance of land ownership or freeholds is not emphasized in the U.S. Constitution, despite its prominent place in most of the state charters and constitutions at the time of the Constitutional Convention. The Fifth Amendment prevents the taking of private property without compensation, but that is the only formal protection for property holders. However, property

requirements were a topic of debate at the Constitutional Convention, and a motivating factor for the Convention itself. Shays' Rebellion in particular raised concerns about taxation, property rights, private debts, and paper money (Parker 1991). At the Convention, several delegates argued in favor of restricting the electorate to freeholders. For example, James Madison argued:

> The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature... Whether the Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in States where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject in its merits alone, the freeholders of the Country would be the safest depositories of Republican liberty. In future times a great majority of the people will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case, the rights of property & the public liberty, will not be secure in their hands or which is more probable, they will become the tools of opulence & ambition, in which case there will be equal danger on another side.

Similarly, John Dickinson argued that "It is said yr. restraining by ye Constitution the rights of Election to Freeholders, is a step towards aristocracy–is this true, No. – we are safe by trusting the owners of the soil–the Owners of the Country–it will not be unpopular–because the Freeholders are the most numerous at this Time–The Danger to Free Governments has not been from Freeholders, but those who are not Freeholders..."

Oliver Ellsworth advocated against freeholder restrictions: — "The rule is this–he who pays and is governed ought to have a right to vote–there is no justice in supposing that Virtue & Talents, are confined to Freeholders" — as did Benjamin Franklin, who focused on the rights of the former soldiers in the Revolutionary Army, stating "I am afraid by depositing the rights of Elections in the Freeholders it will be injurious to the lower class of Freemen–this class have hardy Virtues and gt. Integrity–the late war is a glorious Testimony in favor of plebian Virtue."[2]

The debate centered on issues of class and aristocracy. Would restricting the franchise create a landowning aristocracy, or, conversely, would allowing non-freeholders to vote create an aristocracy of wealthy urban interests who, by employing these non-freeholders, be able to influence and control

[2]The Records of the Federal Convention of 1787 [Farrand's Records, Volume 2]. `https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(fr00247))`

their votes? The question was ultimately settled without specifying the requirements for electors, leaving the decision to the states. In the early years of America's nationhood, state-level property requirements were endemic.

State Property Qualifications

Almost *all* of the original states had some type of property requirement for voting in state and federal elections or serving in state or federal office. This inextricable link between property and the most essential rights of citizenship had seemingly largely diminished by the mid-1800s, with most states doing away with explicit property requirements by the start of the Civil War (Keyssar 2000; Engerman and Sokoloff 2005; Herron 2017). It returned during Jim Crow at the state level, with many states in the South introducing property requirements alongside poll taxes, literacy tests, and Understanding Clauses to limit Black people from exercising the franchise (Key 1949; Kousser 1974; Keele, Cubbison and White 2021).

Yet, this account—which emphasizes eligibility for voting in state and federal elections (and running for state/federal office)—may miss important political institutions that further entrenched the connection between homeownership and democratic citizenship: voting rights at the local level. Indeed, in his seminal work on southern politics, V.O. Key, Jr. (1949) mentions in a footnote that property requirements at the local level persisted long after they faded away for state and federal elections:

> Several states, including 'Georgia and Mississippi, have had requirements that in order to vote persons should have paid all taxes assessed against them. These suffrage standards were not a requirement that a person be a taxpayer to vote but that he should have paid taxes levied against him. The great depression killed off these requirements; many leading citizens, temporarily in straightened circumstances, were delinquent in paying their taxes. *Property ownership, however, remains a requirement for voting in local referenda on bond issues and related questions in several southern states* [emph. added] (pp. 557).

Other than this footnote, no further mention is made of these local property requirements. Indeed, work on voting rights has generally focused on the removal (or addition of) franchise restrictions for state and federal contests. While Keyssar's (2000) exhaustive exploration of the history of American voting describes some local property requirements, their mention is mostly confined

to the appendix. Vines and Glick (1967) use property requirements for local bond referenda in Louisiana to investigate whether such qualifications create higher-quality electorates and political representation. *None* of these studies systematically explores the emergence of local property requirements, or their potential connection to modern discussions reifying the link between property ownership and democratic citizenship.

Local Voting Rights

A confluence of factors in the latter part of the 19th century and the first half of the 20th created favorable conditions for the emergence of property requirements for voting in or running for local office. In the South, white supremacists forced a series of state constitutional conventions aimed quite overtly at limiting the franchise for Black people, who had obtained some semblance of representation and political power during the Reconstruction. Scholars have long documented and studied the effects of these measures in state and federal contests, and their lingering effects on political representation (e.g. Keele, Cubbison and White 2021; Key 1949; Nimmo and McCleskey 1969; Matthews and Prothro 1963; Lawson 1999; Kousser 1974); there is no reason to expect that these dynamics did not also extend to local contests.

This is especially the case because local contests are lower salience. Property requirements for voting were highly controversial—even in the Jim Crow South, where white politicians were largely united in their desire to deeply restrict the franchise on the basis of race (Keyssar 2000; Pratt 2017). While these debates may have prevented the passage of property requirements in prominent state and federal elections, in local contests around school elections or local bond referendum, for example, property requirements may have proven less controversial.

Moreover, local politics may seem more obviously about the interests of property owners, making it easier for policymakers to justify restricting the franchise to those households. Local governments frequently incorporate so that local residents can obtain control over land use (Burns 1994)—an issue that is inextricably linked with the financial interests of homeowners (Fischel 2001). Other issues, such as bond referenda, on their faces primarily affect property taxpayers—making it a conceptually small leap to restrict the franchise to only those voters who own property, and thus directly pay property taxes. (Renters are, of course, in reality affected by both bond referenda

and property tax increases, more generally. These effects are simply not as visible.) Indeed, all of these factors may lead property owners to believe that they have a distinct right to local public services: as an example, claimants in school desegregation cases frequently cited their status as homeowners when articulating their rights to local schools (Walsh 2018). These political pressures in favor of property owners may be especially acute in rural places in which landowners cultivate large acreages (Mumford 1971).

There may be some countervailing pressures against the reification of the homeowner citizen in larger cities. Immigration to large American cities actually created significant political conflict over the promulgation of property requirements in local contests. Growing European immigration was disproportionately clustered in America's large, industrial cities. Once they became citizens, these newcomers became a formidable electoral bloc, forging the basis for powerful political machines and monopolies in many communities (Erie 1988; Trounstine 2008). This meant that powerful party institutions had strong electoral incentives to push against measures like property requirements, which would have prevented many immigrants from voting.

On the flipside, opponents of these political machines worried about "good governance" and the political corruption practiced by urban political machines. They pushed, instead, for a variety of measures that would restrict the franchise, thereby diluting the power of these machines (Erie 1988; Bridges 1997; Trounstine 2008; Anzia 2014). As with many other local voting institutions, local property requirements may thus have been the subject of considerably disagreement between these powerful forces.

In the last analysis, then, we should generally expect local property requirements to persist—even as such qualifications at other levels of government become less palatable—due to the low salience of local elections. We should anticipate that these requirements will be relatively more likely in the South and West—where racial preferences and an agrarian economy favor them—and comparatively less prevalent in more urbanized areas where immigrant voting blocs predominate.

Studying State Constitutions and Statutes

To document the proliferation and prevalence of local property requirements, we use the constitutional provisions and state statutes documented Keyssar (2000) and Mumford (1971), our own analysis of all state constitutions using the Wallis (2002) database, and state websites and legal databases to find the text of historic state laws and any constitutions missing from Wallis (2002). For each state constitution, we coded whether it contained: (1) any property requirement to vote or run for office; and (2) if so, whether the restriction pertained to voting or candidacy (or both), and whether it applied to the federal, state, or local levels.

We illustrate the presence of *any* property requirements in state constitutions and statutes in Figure 1. At this country's inception, property requirements predominated in all but three colonies. While a few new states added property requirements through 1820, most states had abandoned property requirements by the start of the Civil War.

One intriguing exception to this trend—New York—illustrates the racist intent behind property requirements. In 1821, New York added the following provision to its state constitution, requiring all non-white residents to own property in order to vote:

> Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; but such citizen shall have been for thirty days next preceding the election, a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

In opposing this provision, Delegate Ezekiel Bacon claimed that this provision effectively aimed to exclude all Black people from voting:

> It was an attempt to do a thing indirectly which we appeared either to be ashamed of

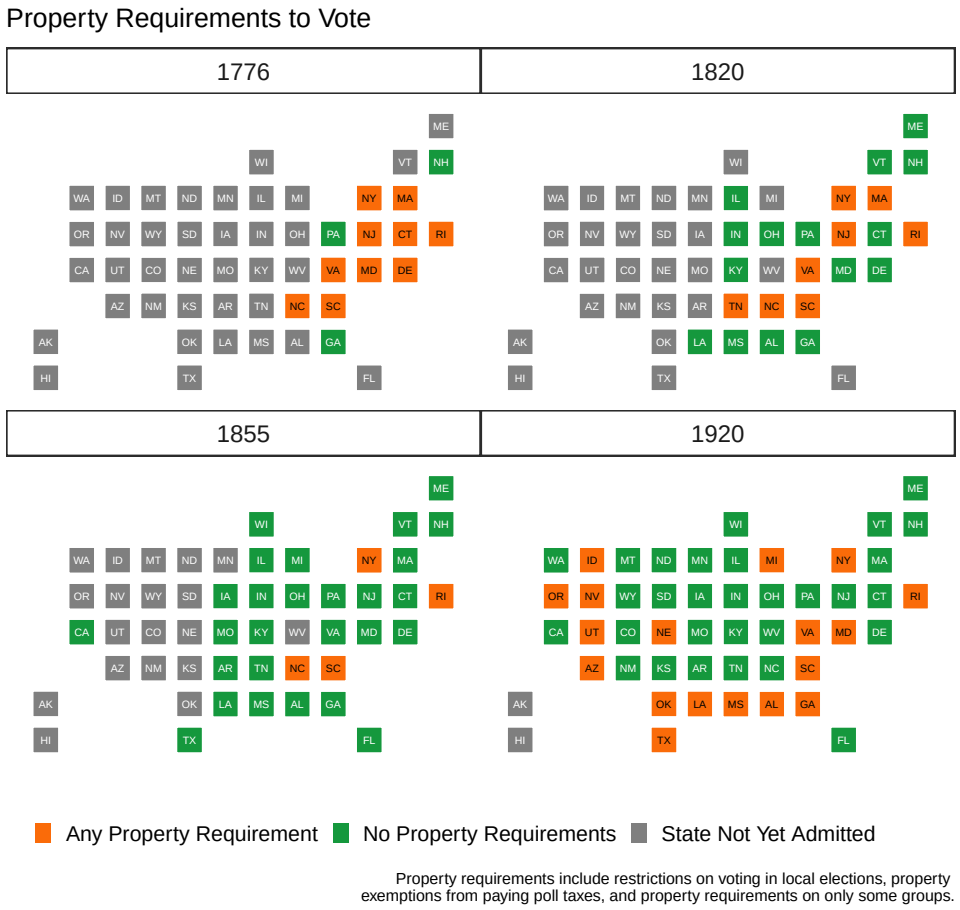

Figure 1: Property Requirements by State Over Time. Property requirements collected from state constitutions and amendments, and include restrictions on voting in local elections, property exemptions from paying poll taxes, and property requirements on only some groups.

> doing, or for some reason chose not to do directly, a course which he thought every way unworthy of us. This freehold qualification is, as it applies to nearly all the blacks, a practical exclusion, and if this is right, it ought to be done directly. By the adoption of this too, we involved ourselves in the most obvious inconsistency, declaring, thereby, that although property either real or personal, was no correct test of qualification in the case of a white man, it was a very good one in that of a black one (Liebman 2018).

New Yorkers revisited their voting requirements multiple times in the ensuing decades leading up to the Civil War. While they removed some impediments to white voters, including onerous residency and taxpaying requirements, the racist property requirements persisted (Liebman 2018).

Indeed, even after the Civil War, the racially disparate property requirements proved difficult to overturn. At the 1866 constitutional convention, a committee chaired by Republican Horace Greeley contended:

> Whites and blacks are required to render like obedience to our laws and are punished in like manner for their violation. Whites and blacks were indiscriminately drafted and held to service to fill our State's quotas in the War whereby the Republic was saved from disruption. We trust that we are henceforth to deal with men according to their conduct, without regard to their color. If so, the fact should be embodied in the Constitution (Liebman 2018).

Still, an amendment to eliminate the racist property requirement failed to pass. It was not until 1869—when New York ratified the 15th amendment—that the state eliminated property requirements that explicitly targeted non-white people. As a consequence, in the 1872 New York Constitution, the state deleted the property requirement and longer residency requirements for Black people (Liebman 2018). This case illustrates the importance of the courts in maintaining or eliminating property requirements—and the potential fragility of our current voting institutions. We return to this in greater depth later in this paper.

In many respects, New York laid the groundwork for the Jim Crow South to use property requirements to effectively exclude Black people from the franchise. While the southern states had to eschew such explicitly racist language, New York illustrated the potential of using *economic* restrictions as *racial* restrictions. As Bacon observed above, while the state did not preclude *all* Black people from voting, the structure of the property requirements suggested that this was the state's primary goal.

Figure 1 illustrates that the post-Civil War renaissance of property requirements *in both state and local contests* was disproportionately clustered in the post-Reconstruction South. During Reconstruction, many constitutions featured egalitarian measures that expressly ensured voting rights regardless of property ownership—part of Reconstruction's broader push for equality in political representation (Herron 2017). For example, Louisiana's 1868 constitution required that, "The general assembly shall pass no law requiring a property qualification for office." Florida's 1865 constitution includes a similar provision: "That no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State." Alabama's 1868 constitution simply stated, ""No property qualification shall be necessary to the election to, or holding of any office in this state." In 1875, Alabama's constitution explicitly incorporated racial equity into its disavowal of property requirements: "No educational or property qualification for suffrage or office, nor any restraint upon the same on account of race, color, or previous condition of servitude, shall be made by law." During Reconstruction, southern constitutions converged on political equality (Herron 2017).

Post-Reconstruction, white supremacy reigned supreme, with multiple states passing provisions—including property requirements— whose express purpose was to prevent Black people from voting and gaining political power (Kousser 1974; Mickey 2015; Keele, Cubbison and White 2021). Many southern states included literacy requirements to vote, and then allowed for property owners to be exempted from these tests. Louisiana's 1913 constitution provides one such example:

> If he be not able to read and write, as provided by Section 3 of this article, then he shall be entitled to register and vote if he shall, at the time he offers to register be the bona fide owner of property assessed to him in this State at a valuation of not less than three hundred dollars on the assessment roll of the current year in which he offers to register, or on the roll of the preceding year, if the roll of the current year shall not then have been completed and filed, and on which, if such property be personal only, all taxes due shall have been paid. The applicant for registration under this section shall make oath before the registration officer or his deputy, that he is a citizen of the United States and of this State, over the age of twenty-four years; that he possesses the qualifications prescribed in section one of this article, and that he is the owner of property assessed in this State to him at a valuation of not less than three hundred dollars; and if such property be personal only, that all taxes due thereon have been paid.

Similarly, Alabama's 1901 constitution allowed large property owners—including women—with the

following characteristics to vote, even if they did not meet state literacy requirements:

> The owner in good faith in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situate in this state, upon which they reside; or the owner in good faith in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate situate in this state, assessed for taxation at the value of three hundred dollars or more, or the owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of personal property in this state assessed for taxation at three hundred dollars or more; provided, that the taxes due upon such real or personal property for the year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined

Given low rates of Black property ownership in the Jim Crow South (Kousser 1974; Pratt 2017), these provisions in practice only applied to white men and women.

These property requirements were not without controversy, even in post-Reconstruction southern states bent on excluding the Black vote. While southern constitutional conventions in this era were largely in agreement about the importance of limiting the Black vote, many delegates worried that measures like property requirements would disenfranchise poor white voters. Indeed, these concerns were the impetus behind measures like the Understanding Clause, which allowed voters to bypass literacy tests if they could show "understanding"—a subjective evaluation that permitted poll workers to discriminatorily exempt poor white voters, but not Black people, from literacy requirements (Keele, Cubbison and White 2021).

Debates about property requirements became quite contentious in several southern states. In Mississippi, a push for property requirements for voting failed during the 1890 Constitutional Convention because of concerns over disenfranchising white voters. Judge J.A.P Campbell became one of the most public supporters for enhancing the political power of property owners in a letter to the *Clarion-Ledger*. He argued in support of plural voting, in which property owners, especially those with larger plots of land, would be able to cast additional votes: "Our claim is that the intelligence and wealth of the South are chiefly with the whites; and, therefore, they should govern in the interests of all classes." Such a move would put power, he contended, in the "hands of the intelligent" (Pratt 2017, pp. 76). Other delegates backed more stringent property requirements on similar grounds, arguing that they would ensure a higher quality voting pool, and, even more

importantly, effectively disenfranchise most Black voters in the state if set at the appropriate levels.[3]

The Farmers' Alliance—worried about the exclusion of less educated white voters—responded by opposing both property and education requirements. They petitioned the constitutional convention to exclude both types of franchise restrictions (Pratt 2017). Constitutional delegate W.A. Boyd objected to any property or educational requirements at the constitutional convention on the grounds that white male suffrage was a "human right" (Pratt 2017, pp. 82). Notably, *none* of the opponents of property requirement worried about *Black* access to the franchise. Indeed, one history of the 1890 constitutional convention observes: "By that afternoon, on the twenty-seventh day of the convention, the debate centered on educational and property qualifications. Though delegates expressed misgivings as to how this would affect white voters, none mentioned a concern about African Americans." One delegate, in fact, instead questioned whether the state needed to abide by the 15th Amendment when designing the constitution (Pratt 2017, pp. 77). Ultimately, these efforts succeeded in stymieing property requirements for the most part—though other important franchise restrictions (literacy tests and poll taxes) persisted.

Mississippi explicitly drew its inspiration for property requirements, literacy tests, and poll taxes from northern states. The Judiciary Committee at the 1890 constitutional convention observed in its report: "As might be expected, when the [federal] Constitution was framed and adopted, each State had a rule of its own. Some States, many of them, required the elector to own a freehold estate of a certain value; others a certain annual income from a freehold; others property of defined worth; and Connecticut prescribed that the voter should be of quiet and orderly behavior." Senator James George of Mississippi forcibly defended the state's right to use these franchise restrictions in its new constitution in Congress, noting that many of the state's efforts were inspired by their northern counterparts. Pratt (2017) describes his congressional speech:

> In his aggressive but defensive posture, George turned to the hypocrisy of northern states and argued that they also had a history of property qualifications as well as literacy qualifications, pointing in particular to Connecticut. Despite an irritated Senator Joseph Hawley's response (R-Connecticut), George forcibly contended that he had researched

[3]Black property ownership in Mississippi during the late 1800s was higher than many delegates bent on disenfranchisement realized. Many Black people would still have been able to vote under some of the property requirement proposals circulated during the 1890 constitutional convention (Pratt 2017).

> Connecticut when he was planning to work on the Mississippi Constitution. George then turned to restrictions placed on African American citizens of Massachusetts and Rhode Island. Until recently, Massachusetts had not allowed service on juries or in the militia, even after emancipation. Rhode Island's right to the franchise was extended only through the Fifteenth Amendment, and the state did not allow intermarriage or licensing for taverns (pp. 62).

In short, debates over using property to determine voting eligibility for state and federal contests were: (1) explicitly racist; (2) inspired by earlier voting restrictions; and (3) deeply controversial because their class-based bias would impact the political rights of white people.

A focus on these important, highly visible voting requirements misses the proliferation of property requirements at the local level—and the extent to which post-Civil War property requirements disproportionately emerged in local contests. We turn to exploring these requirements empirically in the next section.

Local Voting Rights

The above state-level maps dichotomously display whether or not states featured property requirements. They show a growing post-Reconstruction increase in property requirements, especially in the South. What these maps mask is the extent to which these new requirements disproportionately restricted the franchise to property owners for *local contests*. Figure 2 turns to these state requirements for local elections, using a mix of data from state constitutions and statutes. Unlike previous figures, this map *only* displays property requirements for local elections. As of 1940, 17 states had property requirements for voting in local contests. Just under 90 percent of state-level property requirements from 1920 applied to local-level contests; *all* of the property restrictions outside of the Jim Crow South were qualifications for local elections and officeholding.

These new restrictions typically limited the franchise to property owners in school elections, local bond referenda, or decisions about local land use, such as road placement. Homeowner citizens thus were granted particular political powers over taxation and public services in their local communities. Florida is illustrative. Their 1838 and 1865 constitutions both expressly banned the use of property requirements in Article 1, Section 4: "That all elections shall be free and equal, and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be

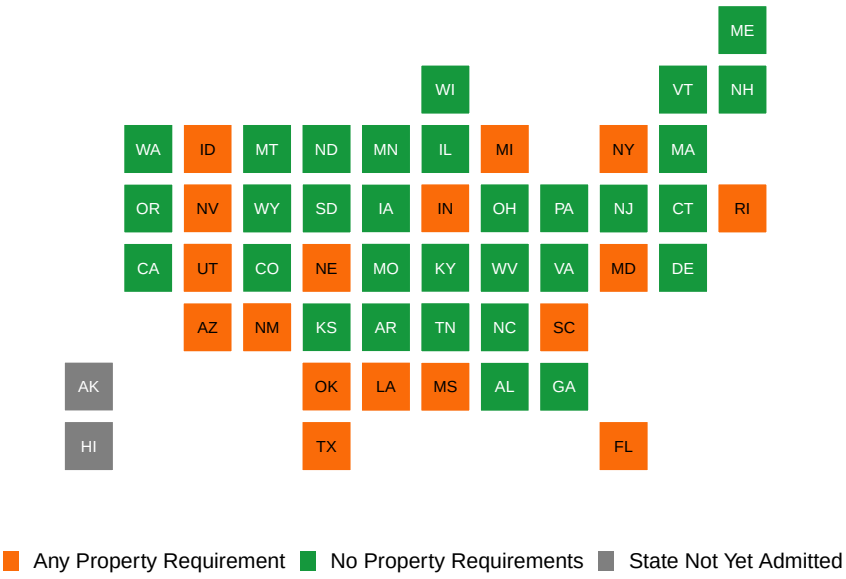

Figure 2: Property Requirements to Vote in Local Government in State Constitutions and Statutes, 1940

required in this State." They did not seemingly add any property requirement to their constitution until 1924 in Amendment 46, when they required all voters in bond referenda to be freeholders:

> The Legislature may provide for special tax school districts to issue bonds for the exclusive use of public free schools within any such special tax school district, whenever a majority of the qualified electors thereof who are freeholders shall vote in favor of the issuance of such bonds.

In 1930, Florida added a similar requirement for bonds more generally with the passage of Amendment 51:

> Districts or Municipalities of the State of Florida shall have power to issue bonds only after the same shall have been approved by a majority of the votes cast in an election in which a majority of the freeholders who are qualified electors residing in such Counties, Districts or Municipalities shall participate, to be held in the manner to be prescribed by law; but the provisions of this act shall not apply to the refunding of bonds issued exclusively for the purpose of refunding of the bonds or the interest thereon of such Counties, Districts, or Municipalities.

Importantly, the language of the constitutional amendments leaves ambiguous whether "freeholder" is being used as a synonym for citizen, or whether it functions as a property requirement. Florida law clarified its intention in the 1968 constitution by explicitly referring to "owners of freeholds" when defining voter eligibility in these local contests.

Florida was hardly alone in adding these types of restrictions for local elections. Idaho's 1890 constitution excluded non-property owners from voting in school district elections, local bond referenda, and irrigation district elections. Louisiana restricted local bond referenda to "property taxpayers" in its 1898 constitution, and included similar provisions in its 1913 and 1921 constitutions. In 1909, Michigan passed a statute allowed women who were property owners to vote in local elections:

> Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money or the issue of bonds, every woman having the qualifications of male electors who has property assessed for taxes in any part of the district or territory to be affected by the result of such election shall be entitled to vote thereon.

New York also included a provision by statute that allowed women to vote on tax issues and in town meetings (1906) and on bond issues (1910)—again, so long as they were property owners (Keyssar 2000). These statutes underscore the connection between property ownership and citizenship: while women in these communities were generally not viewed to be competent democratic citizens, property ownership conferred upon them the capacity to participate in politics. These property qualifications proved quite durable in some places: Michigan maintained local property requirements in its 1964 constitution when it restricted votes on ad valorem tax increases to "electors in, and who have property assessed for any ad valorem taxes." While local property requirements were clustered in the South and West, they prevailed in every region of the country.

Some also restricted certain political offices to property owners. Despite ultimately eschewing property requirements *for voting* in its 1890 constitution, Mississippi required that members of its county Boards of Supervisors own property. Indeed, Mississippi in many respects followed a similar trajectory to Florida. Its 1832 and 1862 constitutions both explicitly banned property requirements for suffrage: "No property qualification for eligibility to office, or for the right of suffrage, shall ever be required by law in this State." In 1890, after a deeply controversial debate over whether or not to

include property requirements for suffrage, the state constitution featured a property requirement for officeholding: "No person shall be a member of the board of supervisors who is not a resident freeholder in the district for which he is chosen. The value of real estate necessary to be owned to qualify persons in the several counties to be members of said board shall be fixed by law."

Mississippi helps to illustrate why local property requirements may have been more politically palatable than similar requirements for state or federal contests. Mississippi's constitutional convention featured extensive and highly public wrangling over whether or not to include property requirements for suffrage (Pratt 2017). In contrast, discussion over property requirements for local office holding were quite limited. Indeed, debate was brief: Delegate Boyd, who had earlier opposed property requirements for suffrage, brought forward an amendment to eliminate property requirements for the Board of Supervisors. It was quickly tabled by a resounding vote of 93-25. This rapid resolution highlights the low salience of local contests. There was scarcely any debate at constitutional conventions over the implementation of these proceedings. Perhaps revealing the low regard in which these contests were held, some states offered women the right to vote in school board elections and other local contests prior to them earning suffrage at the state or federal level (Keyssar 2000).

Largely invisible in debates, law review articles, and histories of the moment, local property requirements proliferated after the Civil War. Their disproportionate clustering in the Jim Crow South is at least powerfully suggestive of racial animus as a key motivator for their promulgation. Moreover, these property requirements lasted far longer than what an account solely centered on federal and state contests might anticipate. At the local level, these laws persisted through the 1960s in some states, such as Louisiana and Florida.

Property Requirements Move West

Restrictions on voting in local elections persisted throughout the first half of the twentieth century, the Civil Rights movement, and the signing of the Voting Rights Act in 1965. Much of this expansion took place in the West. Sixteen states continued to restrict voting on local bond referenda, school board elections, and other local elections through the 1960s (Mumford 1971, n.2–3), with half of them located in the western United States. Figure 3 maps these states. In two of these states

(Nevada and Wyoming), bond referenda elections used a dual-ballot system in which property owners would vote on one ballot, and non-property owners who were otherwise qualified votes would vote on a different ballot; majorities of both sets of voters were required for the referendum to pass (other states also used a two-ballot system in some instances). In the other fourteen states only 'taxpayers or owners of taxable property" could vote one some types of bond referenda (Mumford 1971, p.17).

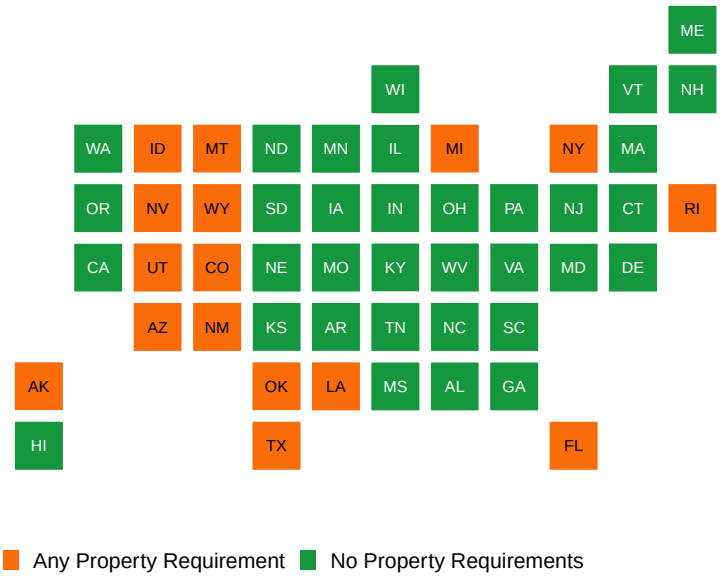

Figure 3: Property Requirements for Bond Referenda in 1968

This expansion of property qualifications into the West is consistent with the unique importance of landownership in rural communities—and in the American West in particular. The federal government granted its enormous land holdings in the West to loggers, miners, ranchers, and homesteaders, disposing of almost 1.3 billion acres of public land (Ruple 2020). Migration to the American West was inextricably linked with the acquisition of land and homeownership. It is perhaps unsurprising that the region formalized the connection between property rights and voting rights.

The growth in property requirements for local contests also comports with the relatively low salience of local elections. During Idaho's 1890 constitutional convention, delegates argued forcefully against the use of property and educational requirements for voting and officeholding in stating and federal contests. Delegate Reid offered the following amendment to ensure that both property and educational qualifications were constitutionally forbidden:

> I offer the following amendment. In Section 20, line 1 after the word "property" insert the following "or educational." The object of the amendment is simply that in prescribing that no property qualification shall be required, that no educational qualification shall be required either. I don't thinks-a man should be required to read and write or any other qualification, to entitle him to vote. I have seen some; of the best men in the country that , had to sign their names with a cross-mark, and they were just as safe depositaries of the business of the state as the graduate of a university, and I do not think an educational qualification should be required; I hope the amendment will be adopted.

The topic of educational qualifications provoked debate among convention delegates. Delegate Morgan worried: "If this amendment was inserted, a man who could neither read or write could appear as a candidate for superintendent of schools in the county, and there would be no law against it." Delegate Hayburn suggested a ten-year delay on the implementation of an educational qualification to allow any interested political participant the time to learn to read and write.

Hayburn provided a racial justification for his proposal that would have been at home in the Jim Crow South. He observed:

> They are dividing these Indian lands in severality, and putting them in a position where they can demand the franchise, and if we had a provision that no person after a certain time could vote unless they could read and write, we would prevent these people voting. If this law was made in the northwestern states where public school books are in Norwegian and Swedish, that would compel them to learn to read the English language and it would be so much better for the nation.

His colleague, Delegate Lewis, noted (with enthusiasm) that such a provision would also exclude members of the Mormon Church: "There is another reason. It is a well known fact that in the Mormon church a very large percentage of the members of that church in this territory today are unable to read or write, and the source of their strength is the fact that in their ignorance they have absolute control of all their material affairs." This proclamation led to an extended and

contentious debate about Mormon political influence, spurring repeated calls for order from the Chair. Ultimately, Reid's amendment to add "or educational" resoundingly failed to pass.

Immediately after this robust debate, Delegate Shoup proposed an amendment that allowed property qualifications to apply to school elections and bond referenda: "Amend by inserting after the word 'office' in the second line the words 'except in school elections or elections creating indebtedness."' There was no debate recorded after this amendment, suggesting it provoked little interest or controversy. It passed easily, leading the Idaho constitution to read: "No property qualification shall ever be required for any person to vote or hold office, except in school elections or elections creating indebtedness." This move paved the way for property requirements in local contests with little fuss.

Freeholder Charters

In addition to these more clearly spelled out property requirements, many state constitutions also highlighted the involvement of "freeholders" in the context of local politics. In particular, many state constitutions introduced "freeholder charters," which empowered "boards of freeholders" with the task of creating municipal governments. Missouri's 1875 constitution is one such example:

> Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five-years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof.

California's 1879 constitution features remarkably similar language (Hagman and Disco 1970). The similarity of language in this and other contexts is not surprising. Previous research on state constitutions has shown that states borrowed heavily from one another in constructing their policies (Engstrom et al. 2021). Indeed, our analysis of Mississippi showed that these efforts were, at times, consciously cited by policymakers.

These freeholder charters do not, for the most part, define freeholder in terms of property ownership. In most places, it appears to have been interpreted as simply a resident or citizen of a particular place. Nonetheless, freeholder has a specific meaning and origin in American politics. In early constitutional charters, it was exclusively used to indicate property ownership—and to restrict the franchise to just those who owned property. Its use may have implicitly indicated that local politics were the purview of white male property owners, even if such restrictions were not explicitly spelled out in the constitution.

New Jersey's recent reckoning with its own "freeholders" illuminates this point. New Jersey's county executives were known as members of the Board of Chosen Freeholders since the country's inception (Connors 1975).[4] With the growing national salience of racial justice in the wake of the 2020 murder of George Floyd by the police, New Jersey political leaders sought to change the term, citing its racist and classist past. The New Jersey governor, the state senate president, and the assembly speaker released a joint statement about the term: "It's past time for New Jersey to phase out the term 'freeholder' from our public discourse—a term coined when only white male landowners could hold public office. This is not a matter of political correctness; it is a corrective action to replace an outdated designation that is rooted in institutional prejudice.[5]" They ultimately succeeded in August 2020 with the passage of S855, which changed the office from "chosen freeholder" to "county commissioner." Lt. Governor Sheila Oliver said of the new legislation: "Changing the title of 'Freeholder' is long overdue. People know the term is offensive and refers to a time when only white male landowners could hold public office. As a former Freeholder, I was fully aware that this title was not inclusive of African American woman such as myself. History is constantly evolving, and our terminology needs to keep up with it to be more reflective of where we are as a society."[6] While symbolic, the choice of language can enhance trust

[4]Colonial charters also included property requirements for voting. For example, the "The Fundamental Constitutions for the Province of East New Jersey in America, Anno Domini 1683" specifies that "The persons qualified to be freemen, that are capable to choose and be chosen in the great Council, shall be every planter and inhabitant dwelling and residing within the Province, who hath acquired rights to and is in possession of fifty acres of ground, and hath cultivated ten acres of it; or in boroughs, who have a house and three acres; or have a house and land only hired, if he can prove he have fifty pounds in stock of his own..." (Section II).

[5]https://www.nj.com/politics/2020/07/county-freeholders-no-more-murphy-top-democrats-say-term-born-from-racism-and-has-to-go.html

[6]https://www.nj.gov/governor/news/news/562020/20200821b.shtml

in government and an individual's sense of efficacy in politics; or, it can dissuade and disengage.

Limitations

Using state constitutions as a primary source provides a novel lens to systematically document franchise restrictions, especially in local elections. It comes, though, with important limitations. First, there may be other voting restrictions in city charters or state laws that we do not capture by studying state constitutions and constitutional amendments. We address this somewhat by supplementing our analysis of state constitutions with data collection on relevant statutes from Keyssar (2000) and Mumford (1971). But, we are almost certainly missing some provisions from state or local statutes.

Second, there are a myriad of other voting restrictions that may, in practice, strongly favor homeowners without explicitly restricting renters from the franchise. For example, many states implemented residency requirements and made them longer for eligibility in local contests; the logic for such restrictions was that local politics required longer residency in order to obtain sufficient knowledge to act as an informed voter (Keyssar 2001, pp. 120). In the 1880s, Illinois combined residency requirements and small precinct sizes to create barriers to suffrage: the state created very small precincts, and then required that prospective voters appear before election judges 3-4 weeks before an election in order to register to vote. The small precinct size was justified as a means of ensuring that the judges knew their prospective voters. In practice, it meant that anytime a resident moved just a few blocks, they had to register to vote all over again and meet a new 30-day residency requirement (Keyssar 2001, pp. 124). San Francisco pursued a similar strategy (Keyssar 2001, pp. 126).

In many respects, then this article understates the extent to which voting institutions skew local politics in favor of homeowners. Indeed, residency requirements strongly favor homeowners, who tend to stay in one place far longer than renters (Ansolabehere, Hersh and Shepsle 2012). It shows, however, the most *explicit* tools that directly target the political rights of those who do not own property—and the extent to which local politics distinctively institutionalized the political power of the homeowner citizen.

The End of Property Requirements

These property requirements finally ended in 1969 and 1970 through a series of Supreme Court decisions and subsequent lower court cases that found that most property requirements violated the Equal Protection Clause of the Fourteenth Amendment.

First, in 1969, the Supreme Court decided *Kramer v. Union Free School District No. 15* (395 U.S. 621), a challenge to a New York law that allowed some school districts to restrict voting to property holders and the parents or guardians of enrolled children. Morris Kramer, a resident and eligible voter in the Union Free School District who did not own property nor have children in the schools, challenged the law under the Equal Protection Clause. In deciding the case, the Supreme Court built upon its voting rights decisions over the preceding decade, which struck down various state election laws, including malapportioment in districting plans (*Reynolds v. Sims*, 1964), poll taxes (*Harper v. Virginia State Board of Elections*, 1966), and local government districts (*Avery v. Midland County*, 1968). In *Kramer*, as well as *Cipriano v. City of Houma*, the Supreme Court extended these decisions to local governments as well. Chief Justice Warren, writing for the majority, argued that "statutes distributing the franchise constitute the foundation of our representative society. Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government."[7] and that the restriction of the franchise in school board elections did not survive strict scrutiny and serve a "compelling state interest." While states could choose what matters could be decided by election versus by the legislation or local governments (such as appointing rather than electing the school board), "if a challenged state statute grants the right to vote to some *bona fide* residents of requisite age and citizenship and denies the franchise to others, the Court must determine whether the exclusions are necessary to promote a compelling state interest."[8]

On the same day as it ruled on *Kramer*, the Supreme Court also issued a per curium opinion in *Cipriano v. City of Houma* (395 U.S. 701), a challenge to a Louisiana law that allowed only "property taxpayers" to vote on issuing revenue bonds for municipal utilities. Cipriano, was a non-

[7] 395 U. S. 626
[8] 395 U. S. 627

property owning taxpayer and otherwise eligible voter, and sued to challenge the results of a special election approving the issuance of a new bond. Extending the *Kramer* decision to bond referenda, the Supreme Court overturned the Louisiana law because there was no compelling state interest in restricting the franchise on such bonds. The per curium opinion argued that "the operation of the utility systems – gas, water, and electric – affects virtually every resident of the city, nonproperty owners as well as property owners. All users pay utility bills, and the rates may be affected substantially by the amount of revenue bonds outstanding.... Property owners, like nonproperty owners, use the utilities and pay the rates; however, the impact of the revenue bond issue on them is unconnected to their status as property taxpayers. Indeed, the benefits and burdens of the bond issue fall indiscriminately on property owner and nonproperty owner alike."[9] In 1970 the Supreme Court extended this decision to all general obligation bonds in *City of Phoenix v. Kolodziejski* (399 U.S. 204), where Justice White, writing for the majority, argued that "The differences between the interests of property owners and the interests of nonproperty owners are not sufficiently substantial to justify excluding the latter from the franchise."[10]

Following these decisions, similar laws in other states were challenged and overturned by state and lower federal courts. For example, in Texas, in a dispute over a bond authorization election for the construction of a library, a federal district court invalidated a law requiring a two-ballot system where a majority of all voters and a majority of taxable property owners had to vote to issue the bond. The court found the two-ballot system unconstitutional, and that only the results of the ballot that allowed all voters would be used for the referendum (Macbeth and Soafaer 1975). In other instances, states reinterpreted their existing laws to reflect these court decisions. In Florida, state law required candidates for some special districts to be freeholders (defined by the state as a property owner). In 1978 the Florida Division of Elections issued an opinion that, based on recent federal and state cases, such a restriction was no longer valid and could not be enforced.[11] *Kramer* was also the basis for striking down laws preventing college students from registering to

[9] *Cipriano v. City of Houma*, Page 395 U. S. 705

[10] *City of Phoenix v. Kolodziejski*, Page 399 U. S. 209

[11] The freeholder language remains part of Florida law today, but is interpreted as "resident." See Florida Division of Elections Document DE 78-22, *Freeholder Requirement To Be A Candidate; Port Everglades Authority. FLA. CONST. ART. VII, s. 9, ch. 59-1157, Laws of Florida*, April 28, 1978.

vote at their college dormitories, another common restriction that prevented non-property owners from participating in local elections.[12]

While these cases ultimately ended property restrictions in most states, some property-based voting restrictions persist, most notably in water districts (Mullin 2009). In *Salyer Land Company v. Tulare Lake Basin Water Storage District* in 1973[13] and *Ball v. James* in 1981,[14] the Supreme Court upheld water district laws in California and Arizona that limited voting for the water districts' boards of directors to landowners, whose votes, rather than being equal, were apportioned on the basis of the acreage they owned. Justice Rehnquist, writing for the majority in *Sayler*, argued that "not only does the district not exercise what might be thought of as'normal governmental' authority, but its actions disproportionately affect landowners," and therefore the voter restrictions did not violate the Equal Protection Clause of the Fourteenth Amendment. These cases reflect the limits of *Kramer* and *Cipriano* — the Equal Protection Clause doesn't prohibit all restrictions on who can vote, but requires that such restrictions are narrow construed, and not for general purpose governments.

One interesting element of *Kramer* is that it was Earl Warren's last opinion, issued the week before his retirement, and, with *Cipriano*, marks the culmination of the Warren Court's jurisprudence extending voting rights and striking down restrictions on voting. That local elections came last, after voter registration state and federal elections, redistricting, poll taxes, and methods for electing officials, fits the common pattern that local governance and politics is often ignored by our political system or seen as less important than national and state politics (Hersh 2020).

While the *Kramer*, *Cipriano*, and *City of Phoenix* Supreme Court cases laid the foundation for the end of most property requirements for local elections, the water district cases highlight how these cases could be narrowed or overruled by future decisions. Such an outcome is not outside the realm of possibility. One area where lower courts have allowed property requirements is voting on business improvement districts (BIDs).[15] In Connecticut, the Connecticut Historic Districts Act requires a two-thirds vote by all property owners in the proposed district as a preliminary

[12] *Worden v. Mercer County Board of Elections*, Supreme Court of New Jersey.
[13] 410 U.S. 719 (1973)
[14] 451 U.S. 355 (1981)
[15] *Kessler v Grand Central District Management Association* 158 F3d 92 (2d Cir 1998).

step to creating a new district, before consideration by the city council (Merrill 2010).[16] In a 2010 symposium, a prominent legal scholar advocated for further use of property requirements in some areas of local governance, and that they may be justified in part because property owners may be better informed than non-owners (Merrill 2010). The author notes that this may be permissible under current Supreme Court precedents, writing "While the Supreme Court has yet to affirm property-based voting in special purpose districts outside the water conservation context, nothing in *Ball* or *Sayler* suggests that the exception to the one- person, one-vote principle is limited to water conservation districts." In an era of democratic backsliding and increasing interference of state governments into local governance, it is easy to imagine efforts to weaken the voting rights of non-property owners (Grumbach 2021; Lieberman et al. 2019).

Popularity of Homeownership Programs

While property qualifications are for the most part unconstitutional today, the ideas undergirding them remain popular. In his first term as president, George W. Bush spoke often of the "ownership society," the ideal structure where each family owns their own home, and, in doing so, is more independent and less reliant on the government. While the ownership society also included individual control over health care, retirement plans (including privatizing Social Security), and education, home ownership was a central plank of the platform; the White House page on the ownership society featured homeownership as the second element of the platform: "The President believes that homeownership is the cornerstone of America's vibrant communities and benefits individual families by building stability and long-term financial security."[17] The ownership society was a common theme in President Bush's reelection speeches in 2003 and 2004, including his 2004 address to the Republican National Convention.

The value of homeownership, and its importance for building strong communities, is not a conservative or Republican policy, but one embraced by both parties. Barack Obama highlighted homeownership as central to his housing policy. In a prominent speech, he emphasized homeown-

[16] "An affirmative vote of two-thirds of property owners is therefore a condition precedent for the adoption of a historic district but does not itself have any legal force. The action that creates the district is the ordinance adopted by the city council. The statute contains no procedure for abolishing a historic district once one has been created." (Merrill 2010, p.288)

[17] https://georgewbush-whitehouse.archives.gov/news/releases/2004/08/20040809-9.html

ership as a key component of the American dream: "Now, last Tuesday, I went to Tennessee to talk about the first cornerstone, which is how do we make sure that we're creating good middle-class jobs here in the United States of America. Today I've come to Phoenix to talk about the second component, which is the most tangible cornerstone that lies at the heart of the American Dream, at the heart of middle-class life—and that's the chance to own your own home. The chance to own your own home."[18]

Indeed, this view of homeownership as integral to democratic citizenship extends to members of the general public (McCabe 2016). A September 2020 East Cambridge Neighborhood Conservation Commission meeting meeting is emblematic. A member of the public spoke strongly against the representation of renters in this forum, "They keep saying about renters having input, renters are transient. They're not property owners. So they're not going to be living in the neighborhood forever. They may live for a few months, they may may live for a few years. But, I can totally understand why the renters should *not* have input in deciding whether or not it should be a Conservation District. It doesn't make sense to me." In a survey of 20 large cities—places with disproportionate numbers of renters—respondents were twenty percentage points more likely to rate homeowners as trustworthy than apartment renters.[19] Among renters, 30% reported trusting homeowners more than apartment renters, compared to 44% of homeowners. Only 9% of renters and 4% of homeowners reported having a higher level of trust in renters than homeowners.

Race, Political Inequality, and Property Requirements

Property requirements are almost by definition classist. But, they are also racist. Indeed, in some places, like New York, this racism was codified in the constitution. In other places, the racist origins reveal themselves in political debates and the words of proponents. American public policy and discriminatory behavior have jointly made it far harder for non-White people to access property—and thus, in many places local democratic citizenship.

Many state constitutions in the 1700s and 1800s contained provisions that expressly banned Black, indigenous, and Asian people from owning property or even living in certain places. Oregon's

[18] https://obamawhitehouse.archives.gov/the-press-office/2013/08/06/remarks-president-responsible-homeownership

[19] Authors' analysis of survey data from Marble and Nall (2020).

1857 constitution banned Chinese people from holding property: "No Chinaman, not a resident of the state at the adoption of this constitution, shall ever hold any real estate, or mining claim, or work any mining claim therein. The Legislative Assembly shall provide by law in the most effectual manner for carrying out the above provisions." This provision was not repealed until a 1946 constitutional amendment. Illinois' 1848 constitution forbade Black people from even settling in the state, let alone owning property: "The general assembly shall, at its first session under the amended constitution, pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State; and to effectually prevent the owners of slaves from bringing them into this State, for the purpose of setting them free." Others created property tax provisions with the express purpose of protecting the political and financial interests of slaveholders (Einhorn 2001).

Beyond these constitutional provisions, American public policy has consistently made it harder for non-white people to own property, and has devalued what property non-white people have been able to purchase. Federal housing policies made it more difficult for non-white people to access government-backed mortgages that opened up homeownership for so many white people. These policies permitted or ignored the realities of private market discrimination, and, in some cases, engaged in outright racial discrimination when deciding which communities to subsidize and which to neglect (Katzelson 2005; McCabe 2016; Rothstein 2017). Local zoning policies ensure that affordable housing does not get built in high-opportunity communities, entrenching racial and income segregation (Trounstine 2018).

Perhaps nowhere is the intersection between race and property ownership more visible than in school desegregation battles. White families used their property owning status as a cudgel to claim exclusive rights to segregated public schools. In response, advocates for desegregation frequently selected property-owning Black families as claimants because they their status of homeowners and taxpayers would confer greater judicial sympathy. Walsh (2018) notes the power of property owning and taxpayer status in conferring whiteness: "Levels of wealth, property ownership, and taxpayer status were fundamentally important in even allowing many cases to be brought, and the power of claims as taxpayers engendered sympathies within certain courts that highlighted the way the

category of taxpayer could serve as yet another code for whiteness and legitimacy in the imaginary of citizenship (pp. 48)."

American public policy has defined property ownership as an essential component of democratic citizenship. Then, time and time again, it has subsidized white property ownership while locking out other racial and ethnic groups from achieving this cornerstone of the American dream. We have all but ensured that white homeowners predominate political conversations—especially at the local level where the connection between property ownership and politics has proven remarkably persistent.

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