

Supplementary Material

Chapter 5: The Jacksonian Era – Democratic Rights/Voting

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**Congress Debates Alien Suffrage (1836)<sup>1</sup>**

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*In 1836, Congress considered whether states could constitutionally permit aliens to vote in federal elections. This matter arose when the national legislature was debating whether to admit Michigan into the Union. The controversial provision in the proposed Michigan Constitution permitting some aliens to vote declared, "In all elections, every white male citizen above the age of twenty-one years, having resided in the state six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant, of the age aforesaid, who may be a resident of this state at the time of the signing of this constitution, shall have the right of voting as aforesaid." Democrats insisted that states had the power to decide who could vote in federal elections. Whigs insisted that only citizens of the United States could vote in federal elections. Democrats prevailed. Michigan was admitted to the Union with a constitution that sanctioned alien voting.*

*Most northwestern states before the Civil War sanctioned alien voting. Illinois, Wisconsin, Michigan, and other western communities sought new residents. Laws permitting aliens to vote were thought sound means for encouraging immigration. The Illinois law permitting alien voting was sustained by the state supreme court in *Spragins v. Houghton* (1840). Justice Smith's majority opinion surveyed the constitutional history of Illinois and then declared,*

*the authorities of the constitution . . . intended to extend the right of suffrage to those who, having by habitation and residence identified their interests and feelings with the citizen, are upon the just principles of reciprocity between the governed and governing, entitled to a voice in the choice of the officers of the government, although they may be neither native nor adopted citizens.*

*The young Stephen Douglas and young Abraham Lincoln disputed the result in *Spragins*. Douglas was the lawyer who successfully defended the right of aliens to vote in Illinois. Lincoln, a Whig representative in the state legislature, opposed that right. When considering both *Spragins* and the excerpt below, can you think of any reason why more pro-slavery northern politicians such as Stephen Douglas were more inclined to support alien voting than more anti-slavery northern politicians such as Abraham Lincoln?*

REPRESENTATIVE THOMAS L. HAMER (Democrat, Ohio)

. . .

It is an error not very uncommon to suppose that the right of suffrage is inseparably connected with the privileges of citizenship. A slight investigation of the subject will prove that this is not so. The privileges are totally distinct. A State cannot make an American citizen who, under the constitution of the United States, shall be entitled to the rights of citizenship throughout the Union. The power belongs to the Federal Government. We pass all the naturalization laws, by which aliens are transformed into citizens. But, on the other hand, we have no control over the right of suffrage in the different States. That belongs exclusively to State legislation and State authority. It varies in almost all the States; and yet who ever supposed that Congress could interfere to change the rules adopted by the people in regard to it? No

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<sup>1</sup> *Register of Debates in Congress*, 24th Cong., 1st Sess. (1836), 4246–57.

one, I presume. Why then attempt to control it here? Other States have adopted the same provisions. Look at the constitutions of Ohio and other new States, and you will find that they require residence only, and no citizenship, to enable a man to vote. Each State can confer this right upon all persons within her limits. It gives them no rights beyond the limits of the State. It cannot make them citizens, for that would violate the naturalization laws; or rather, it would render them nugatory. It cannot give them a right to vote in any other State, for that would infringe upon the authority of such State to regulate its own affairs. It simply confers the right of aiding in the choice of public officers whilst the alien remains in the State; it does not make him a citizen; nor is it of the slightest advantage to him beyond the boundaries of Michigan.

But it is said aliens may elect a member to this House: or elect members of the Legislature, who will elect Senators to the other House of Congress. True, they may do so; and how are we to prevent it? The federal constitution makes no provision upon this subject, except to declare that Representations to this House shall be elected by "people," (not citizens) who "have the qualifications requisite for electors of the most numerous branch of the State Legislature." But the qualifications requisite to vote for the House of Representatives, or House of Commons, in each State, is left entirely to State regulation. . . . If this constitution does not set up a rule plainly at variance with the federal constitution, we are bound to receive it. All we can do is, to inquire if it be a republican constitution, and not inconsistent with the paramount law of the Union? The objection to this instrument seems to be that it is too republican; it extends the right of suffrage entirely too far to suit the views of certain gentlemen. It is seldom, nowadays, that we meet with an instrument of this solemn character, to which such an objection will apply. Most of them run to the opposite extreme, and instead of carrying out, practically, the great principle that man is capable of self-government, and can be safely entrusted with the management of his own affairs, their framers seem to have been solicitous to guard the people against themselves, and to curtail their powers and privileges as much as possible. I am glad to see a liberal spirit prevailing in Michigan. Their constitution is worthy of the age in which we live, and it would be well for some of the older members of the confederacy if they would follow the example which has been set by our younger sister.

REPRESENTATIVE DAVID RUSSELL (Whig, New York)

Mr. RUSSELL moved to amend the bill, so as to provide that none but free white male citizens should be voters.

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. . . [The proposed Constitution of Michigan] places aliens who may not have arrived in Michigan one hour before the adoption of that constitution upon an equality with citizens in the exercise of the important right of suffrage—in total disregard of the provisions of the constitution of the United States, the laws of Congress, and the fact of naturalization. . . . Sir, I intend no imputation upon the virtuous and the industrious foreigners who reside in Michigan. . . . [My] objection is to that idle, vicious, destitute, and turbulent class of foreigners, whose habits and propensities render them burdensome to any country, and who have been transported hither to diminish the burden of pauperism at home, and many of whom, soon after their arrival in our country, become inmates of our poor-houses and penitentiaries. This, sir, is the class from which I would admonish you to withhold the native born citizen's birthright. But, sir, the question presented is not one of mere expediency, but of constitutional power; yet, sir, if there is any one evil more to be deprecated by our citizens than another, it is that which by our laws converts with unexampled celerity aliens into citizens.

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. . . I hold that all political power must be derived from the people—the true course, in our country, of all power; and that the exercise of the right of suffrage is a political right, would none but citizens can rightfully enjoy; and that the right of determining what foreigner may exercise that power has been delegated to Congress by the people, through that provision in the federal constitution which authorizes Congress "to establish a uniform rule of naturalization."