The TWO FACES of AMERICAN FREEDOM

Aziz Rana
THE TWO FACES OF AMERICAN FREEDOM
THE TWO FACES OF AMERICAN FREEDOM

Aziz Rana

HARVARD UNIVERSITY PRESS
Cambridge, Massachusetts
London, England
2010
For my parents and Odette
Long having wander’d since, round the earth having wander’d,
Now I face home again, very pleas’d and joyous,
(But where is what I started for so long ago?
And why is it yet unfound?)

—Walt Whitman, “Facing West from California’s Shores” (1860)
Introduction: Liberty and Empire in the American Experience 1

1 Settler Revolt and the Foundations of American Freedom 20

2 Citizens and Subjects in Postcolonial America 99

3 The Populist Challenge and the Unraveling of Settler Society 176

4 Plebiscitary Politics and the New Constitutional Order 236

Conclusion: Democracy and Inclusion in the Age of American Hegemony 326

Notes 351

Acknowledgments 397

Index 399
THE TWO FACES OF AMERICAN FREEDOM
INTRODUCTION: LIBERTY AND EMPIRE IN THE AMERICAN EXPERIENCE

It is not surprising for members of a political community to follow their domestic elections closely or to celebrate the victory of favored candidates. It is surprising, however, when individuals do the same for a political contest taking place in a distant country, to which they have little apparent relationship and in which they have no capacity to influence the outcome. Yet, in the days before and after Barack Obama’s election as president of the United States, not only did individuals throughout the world pay rapt attention to the results, many engaged in spontaneous celebrations. Few of those who took part in such political fanfare were U.S. citizens. In places like Kenya and Indonesia, most had never visited the United States (nor were they ever likely to), and at no point during the election had their daily concerns surfaced as part of the political discussion.

This global attention suggests two remarkable features about how America finds itself currently embedded in the international order. First, Obama’s victory highlighted the continuing power of the American example. In recent years, national prestige has been badly tarnished by the global unpopularity of foreign wars as well as by the much-publicized human rights violations of detainees. But, for communities across the globe, the fact that a multiracial man of middle-class background could reach the presidency spoke to another vision of the country. It emphasized the vitality of the American dream—the notion that in the United States everyone has the opportunity to achieve economic success, social respectability, and political office. To the extent that American commentators focused on the international response at all, this was their primary interpretation: the outpouring of affection illustrated the United States’ undiminished standing as the “first nation” among equals and as a symbol of liberty.
At the same time, the world’s interest in the election dramatized a second, less explored feature. The United States today enjoys tremendous and perhaps historically unparalleled economic, military, and political power. In the wake of the recent financial crisis, some domestic commentators have questioned whether the country is losing this international preeminence, especially to emerging states such as China. Yet, despite the fear of decline, by most barometers America’s position as sole global superpower remains firm. Its output amounts to 20 percent of the world’s total and nearly doubles that of China, the next closest country. In terms of sheer military might, the United States accounts for almost half of global defense expenditures, a number equal to the following twenty nations combined. As of 2009, some 516,273 military service members—not including Department of Defense civilian officials—were deployed abroad, stationed across 716 reported overseas bases and present in approximately 150 foreign states (nearly 80 percent of the world’s countries). The United States employs this authority directly and indirectly to shape international institutions, to intervene in the domestic politics of foreign countries, and to enlist weaker nations to implement American goals. Perhaps more than anything else, the world’s fixations with the U.S. presidential election spoke to this reality. Scenes of rapt attention and celebration thus presented a vision of those at the very edges of American power looking to the center to see what the future might hold. It also suggested a startling disjunction: while American citizens were largely unaware of these groups or of how U.S. influence affects them, those at the periphery by contrast felt bound to the country and its practices.

This book is an effort to make sense of the transformations in the relationship between American liberty and American power. The present moment is hardly the first time that the United States finds itself exercising authority over communities that are not considered properly American. In fact, the American Revolution itself was centrally concerned with basic disagreements between colonists and British administrators regarding the meaning of political membership as well as how governments may appropriately assert power over both insiders and outsiders. In the following pages, I engage in a large-scale act of historical reconstruction that begins with the national founding and explores the degree to which American projections of power have become unmoored from clear democratic ideals. In the process, I reinterpret the lasting implications of our political origins and shed light on how questions of settler identity, economic independence, and ethnic assimilation grounded popular contests
regarding social inclusion and the substantive meaning of freedom. In particular, I argue that most of the American experience is best understood as a constitutional and political experiment in what I term settler empire and that we cannot understand how accounts of expansion, immigration, race, and class have been intertwined at various historical moments without appreciating the larger ideological and institutional context.

This historical reconstruction focuses broadly on how a uniquely American ideal of freedom entailed imperial frameworks, which over time undermined the very promise of this ideal. The earliest projections of American power were the product of a specific approach to collective freedom held by Anglo settlers. These colonists saw their own internal account of liberty as necessitating external modes of supervision and control. This account of freedom, which emphasized continuous popular mobilization and direct control by insiders over the sites of political and economic decision making, provided generations of Americans with a basic vision of social possibility. However, the promise of such liberty was historically linked to practices of subordination. Many settlers believed that the preservation and enhancement of their own democratic institutions required Indian dispossession and the coercive use of dependent groups, most prominently slaves, in order to ensure that they themselves had access to property and did not have to engage in menial but essential forms of work. This fact embodies the two faces of American freedom: our long-standing difficulty in imagining liberty without suppression and free citizenship without the control of subject communities. Yet, for all its brutality, settler empire was the servant of a unique and robust view of self-rule, seen by many as crucial to the fulfillment of emancipatory ambitions.

Despite these origins, at key periods in the nation’s history, reformers and social movements sought to expand the meaning of liberty and to imagine this American ideal without either subordination or empire. Their efforts ultimately failed, and by the twentieth century the vision itself had atrophied. As a consequence, external authority today is largely disconnected from its historic and guiding commitments. Just as the United States has gained such international primacy that its domestic elections are now global political events, the internal concepts of freedom that previously directed efforts of economic and political expansion have become marginal. In a sense, American politics today is at a crossroads. The United States’ paramount position in the world remains
steady. Yet, at home, public life is marked by striking popular uncertainty and a persistent desire for basic change. Although ideas of liberty and democracy remain collective watchwords—in invoked almost ritualistically by politicians—the current mood is one of ambivalence over what such words amount to and how they could be achieved in everyday life. In the absence of a substantive ideal of freedom, the goal of projecting power has placed security at the center of political discourse and has entrenched hierarchical forms of economic and political rule—most evident in corporate consolidation and the rise of an expansive executive. Therefore, while many of the harshest features of the United States’ imperial past have been eliminated, what distinguishes the present is not the end of external forms of authority over outsiders—both those abroad and those who live within our borders. It is instead that empire, so to speak, has become the master rather than the servant of freedom.

For all the popular discussion of change, our institutions seem akin to permanent social facts, neither the work of tangible and continuous political activity nor truly alterable by future collective effort. To the extent that Americans are serious about reconceiving governing practices, it is essential to recognize the deep linkages between external power and internal normative commitments. Today, we face a series of connected challenges about the nature of membership in the American political community as well as the frameworks of both domestic and global authority. To make sense of these challenges, it is important to appreciate not only such internal-external linkages but also the degree to which the parameters of political possibility are structured by past struggles over inclusion and collective liberty. This means coming to grips with many of the basic questions that shaped and continue to influence the American experience. In particular, to what extent has the United States been constitutionally organized as a project of empire, and how have legal frameworks shifted over time? How is the United States’ self-understanding as an immigrant nation tied to its settler roots, and to what extent has immigration sustained or challenged notions of internal freedom? And how have ideas of race and class been joined in national accounts of economic and political self-rule, and to what degree has racial exclusion fostered or undermined class equality? Providing an answer to these questions allows us to perceive the contours of our institutional arrangements as well as the opportunities that exist at present for their potential revision.
INTRODUCTION

The Myths of U.S. Exceptionalism and Constitutional Perfection

This project of historical excavation involves engaging with the dominant narrative of the national experience: American exceptionalism. The idea of the United States as standing outside the contested histories of Europe, particularly its bitter conflicts over social standing and class, continues to provide a powerful mythology of American identity. Yet it is precisely this mythology that undermines our ability to think critically about current institutions as well as to perceive what is truly distinctive about the American project. What distinguishes the national experience is not the lack of meaningful struggle over class. Rather, it is the way in which a robust ideal of republican freedom emerged through practices of external coercion and control. Only by interrogating the historical interconnection between internal freedom and external subordination can we understand the development of our political and legal institutions and thus recognize both the difficulties and possibilities implicit in the contemporary moment.

In 1793 the French American farmer J. Hector St. John de Crèvecoeur produced perhaps the earliest systematic effort to articulate the idea of U.S. exceptionalism, famously beginning his *Letters from an American Farmer* with “What then is the American, this new man?” Along with highlighting a variety of factors including local customs, religious beliefs, and social attitudes such as self-reliance, Crèvecoeur viewed the relative equality and independence of freeholders as fundamentally separating the new polity from Old Europe. Four decades later, Alexis de Tocqueville restated the argument, maintaining that the United States presented a wholly novel experiment in modern politics due to the lack of a landed aristocracy and the fact that “ever since the birth of the colonies” Americans enjoyed a condition of democratic equality. In twentieth-century historiography, this claim was most strongly tied to Louis Hartz’s seminal book *The Liberal Tradition in America*, where he maintained that the United States had been gripped by a “Lockean consensus” that deemphasized the importance of social questions of class and focused instead on the protection of negative individual liberties such as property rights and freedom of speech. As Rogers Smith notes, today this Tocquevillian thesis is both an essential aspect of collective self-understanding and a crucial means of venerating established institutions. Smith writes, “Analysts of American politics since Tocqueville have seen the nation as
a paradigmatic ‘liberal democratic’ society, shaped most by comparatively free and equal conditions and the Enlightenment ideas said to have prevailed at its founding.”

Ultimately, the most lasting legacy of American exceptionalism is the manner in which it reinforces the inevitability and legitimacy of governing practices. Since, according to this view, the United States from the very beginning avoided the inegalitarian difficulties plaguing Europe, its earliest leaders essentially solved the problems of monarchical despotism and class conflict. Rather than being the product of large-scale and unfolding collective efforts, institutions are instead presented to us as gifts from mythic founders—outside the bounds of popular contest or continued struggle. American exceptionalism thus produces a second basic myth, what Mark Tushnet describes as the deification of a “perfect Constitution.” Under this idealized view, “the existing Constitution . . . is entirely adequate to meet the perceived needs of contemporary society.” As a result, when faced with new challenges and social problems, judges, lawyers, and politicians by and large see their work as an act of preservation, in which their primary function is to impose the proper constitutional solution and thus to defend the appropriateness of established institutions. Political opponents may have differing interpretations of the Constitution, but they can all agree that the prevailing system of government, when adequately construed, provides the correct remedies.

Reinforcing these related ideas of exceptionalism and constitutional perfection is a literary culture in which the most popular historical works are panegyrics to great statesmen of the past, seen as larger-than-life figures to whom we are collectively indebted. Each year, it seems that a new biography praising the wisdom and subtlety of the Founding Fathers is produced, emphasizing their skill in political creation and the importance of such wisdom for social order. Despite the reality of increased political hierarchy and its accompanying public unease, the dominant forms of historical memory offer little assistance in imagining social alternatives. Rather than serving as instruments to question the necessity or legitimacy of institutional structures—or to provide templates for future action—exceptionalism and constitutional perfection simply reaffirm the notion that the present is permanent and unavoidable.

A central reason for why American exceptionalism fails as a useful tool for assessing the current moment is because it reads the national past solely from an insider’s perspective. In other words, it produces an
account of the U.S. experience that completely ignores the second dimension of American liberty—namely, the constitutive role of external power in shaping internal notions of membership and collective freedom. As many have noted, the mythology of exceptionalism and democratic equality disregards a historical record riddled with ethnic, racial, and sexual exclusion, not to mention real class inequalities and conflicts. For instance, Smith in his seminal book on U.S. citizenship, *Civic Ideals*, argues that American identity has been permeated by a multiplicity of traditions, both liberal democratic and ideologically illiberal: “The multiple traditions thesis holds that American political actors have always promoted civic ideologies that blend liberal, democratic republican, and inegalitarian ascriptive elements in various combinations designed to be politically popular.” But even Smith’s critique of exceptionalism tends to present these “multiple traditions” as insular and discrete—“none too coherent compromises among the distinct mixes.” The result is to keep the democratic heritage isolated from and uncontaminated by practices of racial ascription and status hierarchy. Yet the United States’ historical record suggests more than a past failure to live up to the ideals of liberty. Rather than separate currents flowing into the well of American values, the democratic ideals themselves gained strength and meaning through frameworks of exclusion. Projects of territorial expansion and judgments about who properly counted as social insiders helped to generate and sustain the very accounts of liberty.

The basic consequence of this conceptual failure to link insider freedom to practices of subordination is that for current political discourse the real struggles that produced the country’s institutions remain opaque. Without a clear sense of how these institutions developed, it has been equally difficult to imagine the circumstances and conditions required for their reform and improvement. In a sense, by focusing only on one side of the American experience, we are cloaked from both the tragedy and the hope embedded in social practices and political disagreements. Yet, developing a more complete account of the national project, and thus of the present predicament, involves making a move that is counterintuitive for many Americans. It means assessing how our collective past participates in the colonial history of European expansion. Only by recognizing this shared history can we adequately appreciate how the external uses of American power continue to affect our normative commitments and constitutional structures.
American Settlerism in Comparative Perspective

Like similar experiments in imperial conquest, the United States’ earliest beginnings and political founding were first and foremost as a settler society. While the image of the pioneer settler has become a staple of American popular culture, the centrality of settler colonialism to the development of national institutions and ideas remains essentially hidden in collective consciousness. The dominant approaches to imagining the settler experience either praise the heroism of the rugged pioneer or denounce American settlement for its treatment of indigenous peoples. Both variants fail to recognize how the emancipatory and exclusionary aspects of the experience were deeply intertwined. They consequently contribute to an oversimplified and stultifying understanding of collective history. Prevailing accounts also neglect the ways in which reading the American past against that of settler societies more broadly can shed light on both what is shared and what is unique in the U.S. experience. By contrast, this book seeks to identify the ideology and practices of settlerism in its early forms and its later mutations, and to draw out how American identity emerged through historic practices of empire building. These practices were seen as politically necessary means to the collective ends of democratic self-government and economic independence.

Technically, settler societies are characterized by substantial and long-lasting imperial populations, which seek to transplant home country ways to the new environment. As Ronald Weitzer writes, colonies of settlement generally produce extensive political and economic institutions that “achieve[ ] de facto or de jure political independence from [the imperial] metropole.”12 This de facto autonomy tends to promote decentralized and less hierarchical modes of internal political authority. Just as important, in such communities the descendents of colonists also wrest political supremacy from indigenous groups; they maintain this supremacy permanently or for many generations and develop complex ideologies to legitimate such enforced inequality.13

In the history of imperial expansion, there were two distinct modern periods of settler colonialism. The first wave included what Caroline Elkins and Susan Pedersen call the “new world colonies,” exemplified by European settlement in the United States, South Africa, Australia, and elsewhere.14 These colonies were typified by efforts to claim indigenous territory exclusively for settler communities, territory that was repeatedly described as virgin or empty. Moreover, the primary approach to the
local population was driven less by the desire “to govern indigenous peoples or to enlist them in their economic ventures than to seize their land and push them beyond an ever-expanding frontier of settlement.” New World colonies consistently sought to weaken metropolitan authority over settler life and to employ de facto relationships of autonomy to press both for full independence and for the complete removal of indigenous groups.

The second wave took place during the late nineteenth and early to mid-twentieth centuries and included European and Japanese settlements across parts of Africa and Asia. In contrast to the New World colonies, these later efforts generally confronted indigenous populations whose size and strength on the ground left settlers as a distinct numerical minority. This resulted in a central difference with the earlier wave of colonization. Both settlers and metropolitan officials were unable simply to depopulate the territory. Rather, they engaged in “protracted negotiations or struggles with always more numerous indigenous populations.” These realities meant that while colonists may have sought greater autonomy from their home countries, in the final analysis they remained politically—and especially militarily—dependent on metropolitan authority for their continued social supremacy and privilege. Without home country support, colonists faced the persistent danger of becoming small minorities in a hostile political community.

In a sense, the key distinctions between twentieth-century settlerism and its earlier form in the New World help to explain why Americans today rarely conceive of themselves as tied to a settler past or ideological project. As Patrick Wolfe, a scholar of Australian society, notes, the basic logic of the early settler wave was not the exploitation of indigenous groups but rather native elimination. This elimination took the form not merely of violence against local communities or the dissolution of indigenous political and economic practices. It also meant that settlers sought to replace native society as such and to “erect a new colonial society on the expropriated land base.” In a sense, the vision of indigenous territory as empty land was part and parcel of settler efforts to transform themselves into “natives” and to escape the very category of colonialism. In keeping with this, the desire to see the United States as an exceptional nation was partially built on the need to distance the country from its European origins and to assert an authentically local American character or way of life.

Yet, by failing to place the national project within the context of settler colonialism, public discourse in the United States essentially forgets
the conditions that gave rise to American accounts of liberty and their implications for contemporary politics. When describing the democratic features of American founding, scholars and commentators unwittingly isolate only the internal aspects of the settler colony. Thus most discussions of national origin fail to appreciate how these internal features developed as a result of settler interaction with an external and excluded native population. As Michael Mann points out, settler democracies have been linked historically to projects of ethnic and political cleansing. The emphasis on ethnicity as a justification for economic and political control has meant that such democracies are intricately bound up with organic notions of citizenship. These notions depict the political community as an inseparable union based on ethnic and cultural affinities and tied to a particular plot of land. For Mann, the historical precondition for democratic government in settler societies often has been the subjugation, forced removal, or outright murder of those deemed outsiders. Mann writes:

These were distinctly democratic communities, yet their ethnic cleansing of the natives was usually worse than that committed by the colony’s less democratic imperial authorities. The Spanish, Portuguese, and British Crowns, Viceroy and Governors, and the Catholic and some Protestant Churches, tended to be milder toward the natives than were the settlers themselves—which is why most Indians supported the British in the American Revolutionary War. Second, deliberate genocidal bursts were more common among British than Spanish or Portuguese settlers. In both cases we find that the stronger the democracy among the perpetrators, the greater the genocide.¹⁸

Thus a focus on settlerism provides us with the tools to connect the emancipatory and oppressive features of the American experience. Settler society’s ethnic basis flattens internal inequalities while justifying the construction of dependent external communities, be they slaves or indigenous natives. By solely viewing the internal characteristics of the settler colony, many commentators never confront the extent to which our democratic ideals were themselves produced and sustained by colonial domination.

This is not to say that the American self-understanding as a historically exceptional political and social project is simply false. Rather, what makes the American experience distinctive must be read in light of its
comparative continuities. American commentators and citizens often view aspects of national history to be uniquely homegrown, when in fact they are present to varying degrees in numerous settler societies, as diverse as the French in Algeria, the English in Northern Ireland, the European Jewish community in Israel/Palestine, and the Chinese in Taiwan. Among others, these qualities often include greater equality within the settler colony than in the imperial metropole or home country; a cultural sense of being “chosen” as an ethnic or religious community for a historical mission; a greater emphasis on militarism due to perceived threats from indigenous and foreign populations; and, finally, a wariness of metropolitan social and political customs, which are depicted at times as corrupt or decadent.19

Even the idea of a frontier as distinctively American obscures similar claims made by other settler societies. For example, while a century ago Frederick Jackson Turner famously argued that the frontier experience was essential to shaping American individualism and democratic self-government,20 Afrikaners in South Africa and Anglo settlers in Australia presented nearly identical arguments (at virtually the same historical moment) to explain the egalitarianism and uniqueness of their own communities. For Afrikaner nationalism, the Great Trek, the large-scale migration of Dutch-speaking farmers known as Voortrekkers into the South African heartland in the 1830s and 1840s, was both a narrative of political independence and a celebration of European expansion. According to this frontier mythology, Afrikaner pioneer settlers sought not only new land for grazing but also freedom from British tyranny by establishing the republics of the Orange Free State and the Transvaal.21

Yet, as Seymour Martin Lipset notes, what does make the American example of settlerism distinctive is “in starting from a revolutionary event, in being ‘the first new nation,’ the first colony, other than Iceland, to become independent.”22 Beginning with the onset of European imperialism in the sixteenth century, the United States is the first example of a successful settler revolt against metropolitan rule. Certainly, other settler communities have used violence to reduce or eliminate overweening control by colonial authorities. Afrikaners in South Africa fought two ultimately unsuccessful wars against British power, the Anglo-Boer Wars in 1880–1881 and 1899–1902, to maintain republican control over the Orange Free State and the Transvaal.23 In Ireland, commentators often forget that the first twentieth-century revolt was not the Easter Rebellion of 1916 but the September 28, 1912, signing by nearly half a million English
Protestants of the Solemn League and Covenant to defend Ulster from the threat of Irish Home Rule. Nonetheless, as will be discussed throughout the book, the success of the revolt by the thirteen British colonies spawned a unique settler ideology. This ideology fused ethnic nationalism, Protestant theology, and republicanism to combine freedom as self-rule with a commitment to territorial empire. Such self-rule involved the elimination of all modes of arbitrary authority and required individuals to assert actual decision-making power over economic and political relations, through productive control and democratic participation. As a consequence, American settlerism was organized around four basic components. First, in radicalizing those seventeenth-century republican ideas that were increasingly prevalent in England, settlers came to view economic independence as the ethical basis of free citizenship. Centuries of Americans saw control over the instruments and conditions of work as providing insiders with a collective experience in autonomy and moral independence. Primarily through land ownership and individual proprietorship, settlers sought to create an internally egalitarian and participatory political community. Second, Americans viewed the basic engine of republican freedom to be conquest. Without new territory for settlers, the ethical benefits of “free labor” could not be made generally accessible. In other words, as a political necessity, settlers viewed republicanism as constitutively bound to empire and expansion.

Third, settler society presumed that republican principles at root were not universally inclusive. In other words, most settlers believed that not everyone could enjoy the benefits of economic independence. They argued that the nature of agricultural life meant that for some to engage in the dignified work marked by productive control, there would have to be others who participated in forms of labor long perceived to be degraded—such as tenancy, wage labor, and domestic service. Thus, for settlers there existed at the heart of republican notions of economic independence a basic divide between free and unfree work. Over time, Americans solved this problem by employing subordinated external groups, particularly African slaves, to engage in the most oppressive modes of production. And they justified both the expropriation of native land and the control of dependent laboring communities through arguments about ethnic and religious superiority.

Fourth, settlers recognized that in order to sustain a project of republican freedom and territorial conquest, they would necessarily need new
migrants beyond the initial flows of English colonists. As a result, they created remarkably open immigration policies for Europeans deemed co-ethnics and thus co-participants in the republican project. This meant that for most of the American experience, the U.S. border was essentially a port of entry for European immigrants who were often quickly incorporated into the political community. This incorporation included practices that today would be quite surprising, such as the prevalence of noncitizen voting and noncitizen access to federal land out west. On the one hand, the territorial need for immigrants checked the most xenophobic tendencies within settler society over the course of the nineteenth century, by expanding the ethnic and religious categories for who could count as American. On the other hand, it also hardened the divide between social insiders and subordinated outsiders. Thus, while many new European immigrants may have had immediate access to the conditions necessary for free citizenship and equal political participation, Indians, blacks, or Mexicans who had long lived on the land were denied these basic rights. In essence, they existed as colonized populations within the territory of the United States in ways akin to twentieth-century settler structures of indigenous control, in which “a caste division . . . [was] built into the economy, political system, and the law, with particular economic activities and political privileges . . . reserved for members of the settler population.”

Rather than settlerism and immigration existing as two distinct accounts of the American experience, for most of the collective past the idea of the United States as an immigrant nation was directly bound to settler needs and institutions of privilege.

By appreciating this settler structure of American society and its continuities with other examples of colonization, we are able to recognize perhaps the greatest difficulty with current discussions of the historical record. Even when the interconnections between internal liberty and external subordination—the two faces of American freedom—are raised in popular discourse, settler exclusivity is almost always viewed as an original sin. It embodies a past episode that while reprehensible has little to say about the development of collective institutions. However, settler exclusion was more than a distant period of conquest and subordination; it provided the basic governing framework for American life for over three centuries. This was because the goals of economic independence and democratic self-rule rested on a continual project of expansion. American political identity was intricately tied to assumptions about imperial
power and the need for external control over indigenous and dependent communities.

In emphasizing how settlerism set the ideological and structural parameters for collective life, my point is decidedly not to demean or reject the past. Our accounts of liberty may well have emerged precisely in the context of slavery and native expropriation. These contexts were the living embodiment of freedom’s antithesis: bondage and servitude. However, any one-sided rejection of settlerism, due to its brand of Anglo supremacy and social subordination, would necessarily ignore how such circumstances gave birth to a liberating vision of collective possibility. For most of the American experience, this vision articulated and justified a historically new political creature—an independent and imperial settler state.

Yet, at decisive historical moments, it also led some Americans to imagine a republicanism that was both inclusive and disconnected from territorial conquest. In essence, these reformers saw the ideal of democracy as a guiding social practice, which was bound neither philosophically nor politically to existing forms of bondage. They imagined an alternative identity for the country, one that would revise dramatically the uses of external power and thus create a new, universal, and nonimperial American polity. In a sense, they suggested the real exceptionalism of the American project: the effort to strip republican ideals of their oppressive roots and to make free citizenship broadly accessible to all.

The Book in Outline

Each chapter of the book explores the conceptual relationship between the settler experience and notions of liberty during a given historical period. In Chapter 1 I detail the legal and political basis for Anglo colonization of North America and the ways in which settler ideology combined a rich understanding of collective freedom with the project of empire. I then reconceive the central causes and consequences of the American Revolution by reinterpreting the Revolution as a settler revolt over the future of imperial colonization. By the 1760s, London’s imperium had grown exponentially, extending from Indian Bengal to French Canada and transforming almost overnight into a global and culturally diverse effort in colonial administration. For Anglo settlers, the emerging imperial order was a threat to both their vision of republican freedom and their position of social supremacy vis-à-vis marginalized groups. Through
revolt, colonists reaffirmed the inherent link between internal liberty and external subordination and established an independent settler empire along the lines of the old imperial status quo. The ultimate result was a political community motivated by the promise of republican self-rule and imprisoned within a deeply limited vision of social inclusion.

Chapter 2 describes how, for small farmers and townspeople, the experience of revolutionary upheaval promoted a radicalizing of collective ambitions—what I refer to as the populist form of republican liberty. For such groups, achieving meaningful independence required energizing government power and linking it to a self-assertive popular will. However, this vision confronted a basic postcolonial predicament, one not unfamiliar to the independent African and Asian polities that emerged in the twentieth century. Anglo settlers found themselves embedded in a world of competing European states, in which the goal of achieving substantive independence from Europe ran squarely against the implementation of populist politics. As a result, small farmers and townspeople came to see government authority, as employed by commercial and political elites, as a threat to what remained of popular autonomy. This sense was reinforced by the fact that federal power became increasingly associated with territorial expansion and the congressional assertion of the old imperial prerogative. Retreating from their original revolutionary vision, farmers and artisans sought instead to police state activity and protect their own social status by imposing this prerogative on marginalized groups. As a consequence, the new United States developed a rigid politics of duality, which separated free citizens from an increasingly complicated structure of control over (among others) slaves, emancipated blacks, semisovereign Indian tribes, and Mexican citizens.

In Chapter 3 I describe the reemergence and flourishing of the robust populist account of republican freedom, which accompanied a general reevaluation of social goals and institutional arrangements generated by the Civil War, industrialization, and the closing of the frontier. In this context, a sweeping protest movement, organized through the Farmers Alliance, the Knights of Labor, and the People’s Party, sought to adapt economic and political self-rule to new collective realities. At their most expansive, radical agrarian and labor activists suggested a more universal and nonimperial mode of popular politics, which engaged in a thoroughgoing critique of external American power and its corrosive effects on internal liberty. They sketched, although often incompletely, a vision
of freedom without empire. In the end, the defeat of the Populist revolt meant that when later reformers sought to challenge internal and external modes of authority, they faced institutions and practices that had grown more deeply embedded with each passing year.

In Chapter 4 I chart the rise of the alternative vision of constitutional and political life that took root in the wake of the Populist movement. This new consensus, which culminated in the constitutional order established by the New Deal, ultimately involved abandoning the notion of freedom as self-rule. It dismantled settler institutions and ideals and created a new statecraft along the lines of the United States’ European rivals, transforming the American presidency, perhaps ironically, into an apt successor to the English crown. In the process, New Dealers emphasized security—from both want and foreign threat—as the main collective goal, instead of economic independence or participatory citizenship. This commitment to security involved developing a strong and flexible executive, able to respond aggressively to social crises at home and abroad. It also meant reconfiguring the old imperial prerogative, centralized now in the presidency, as a routine and general mode of state authority rather than a specialized method for policing the boundary between insiders and outsiders. In international affairs, while the country refrained from pursuing a traditional colonial empire, the United States nonetheless increasingly sought global dominance and justified such policies as necessary for domestic and foreign safety. This projection of power helped to reinforce the new constitutionalism, in which the executive served as an authoritative representative body and spoke broadly on behalf of “we the people.”

By way of a conclusion, I pursue more directly the current implications of this historical reconstruction, focusing on post–New Deal reform projects and modes of mass mobilization. I look especially at the implications of popular efforts at greater political and economic inclusion, such as for blacks and women. These efforts have taken two basic trajectories. On the one hand, they have served to strengthen prevailing institutions by incorporating elites from previously marginalized groups into arenas of corporate and governmental privilege. Yet, on the other hand, they have at times also made explicit the ties between internal dependence and external power and, in the process, reasserted the goal of a universal and nonimperial republican politics. In fact, the civil rights movement can be read as our most recent collective attempt to revive dormant accounts of freedom as self-rule and to connect such accounts to a full-throated
critique of American interventionism. Today the goal of inclusion continues to have this dual potential—to sustain governing hierarchies and to challenge them fundamentally. Despite this ambiguity, it remains the best available avenue for reviving a robust vision of republican freedom and for joining this vision to the ideal of an open political community. In particular, the question of immigration—the appropriate economic and political status of immigrants within our borders—provides a central method for engaging structurally with the meaning of internal and external authority.

Social Criticism and the Uses of History

Before turning to the project in earnest, a short note about the methodology of the book is warranted. Although the subsequent chapters follow a basic chronology and offer novel interpretations of past events, this effort is not a work of traditional historical scholarship. Rather, I see this project as a form of social criticism, in which history is presented in the service of today’s problems as well as tomorrow’s latent possibilities. My focus on the historical past is ultimately instrumental; it seeks to illuminate how the American experience itself holds the normative tools for grappling with the current moment and for imagining emancipatory alternatives.

In many ways, the book is an experiment in what Michael Walzer has called “connected criticism.” By this, Walzer means that there are two ways to engage in normative argument. On the one hand, a person can stand outside a particular social community, as if he or she were a “dispassionate stranger,” and assess local arrangements on the basis of principles derived from universal justice. On the other hand, a critic can approach his or her views as part of an internal argument within the practices of a given society and seek to reshape collective life by reference to shared traditions, histories, and values.28 My decision to engage in the second brand of social criticism is a conscious one, motivated by an appraisal of our present conditions.

Today, it is difficult for many of us to imagine real social alternatives, ones that challenge prevailing hierarchies and justifications for internal and external power. In a way, the highly analytical forms of theorizing evident in political philosophy only reinforce the seeming gulf between governing institutions and utopian ideals. As one seminal example, in A Theory of Justice John Rawls hopes to shed light on the problems of
contemporary life by presenting a perfectly realized condition of justice. He does so by engaging in a complex thought experiment, in which he imagines what political decisions people would make when placed in the “original position.” The problem with this abstract form of utopianism is that it unwittingly underscores our dominant sense of collective uncertainty. Such ruminations about ideal conditions are severely disconnected from the everyday facts of diminished popular authority and political alienation. Although this form of utopian thinking embodies one avenue for social creativity, it never attaches the promise of improvement to a vision of practical agency. Moreover, it fails to suggest the cultural tools within the American experience that make these accounts of justice not just universal aspirations but rather constitutive elements of our local and contested debates over social possibility.

In excavating the ideological visions that shaped specifically American struggles, I hope to articulate a robust account of human freedom embedded in our past. In a sense, I would like to underscore how seemingly radical arguments about economic control, political participation, and imperial legacy—arguments that we ordinarily do not associate with American identity—have been at the heart of internal projects of change and social renewal. In its own way, this project is therefore an attempt to construct an alternative image of the nation’s founding and experience, one that can replace the traditional accounts of exceptionalism and constitutional perfection. In the process, it asserts that one of the central pitfalls of the current public discourse is precisely the preservationist impulse, which tends to flatten our rich and varied traditions of political argument. Thus a primary task for the social critic is to show how apparently marginal views of freedom and social membership are themselves foundational aspects of our identity. This means making us appreciate as our own practices and ideas that at present appear distant and culturally foreign.

In the end, simply reproducing the political actions of our predecessors will not be enough to make society less authoritarian. Even in those historical periods when Americans sought to universalize republican freedom and dislodge the commitment to economic and political independence from the reality of colonial rule, settler thinking nonetheless compromised such efforts in collective hope. But what these previous moments do provide are the basic contours for making sense of our current problems and the possible shape that democratic control might take.
They present a means for critiquing the institutions and concepts that have dominated contemporary thinking. In our era of American primacy abroad and democratic unease at home, the past suggests how individuals might again assert popular power and how such power could be made compatible with a fuller and more inclusive moral identity.
In Virginia and the Carolinas they have a vast multitude of slaves. Where this is the case in any part of the world, those who are free, are by far the most proud and jealous of their freedom. Freedom is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there, that freedom, as in countries where it is a common blessing, and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior of servitude, liberty looks, amongst them, like something that is more noble and liberal.

—Edmund Burke, “Speech on Conciliation with the Colonies” (1775)

No event in national history is as shrouded in mythology as the American Revolution. For historians and theorists of American exceptionalism, it marks out the American project as a unique site for political freedom. Hannah Arendt in *On Revolution* writes, “The colonization of North America and the republican government of the United States constitute perhaps the greatest, certainly the boldest, enterprises of European mankind.” She bemoans that the American example, rather than the French one, did not become the revolutionary model and that its act of political construction remains a historical outlier. “The sad truth of the matter is that the French Revolution, which ended in disaster, has made world history, while the American Revolution, so triumphantly successful, has remained an event of little more than local importance.”

For Arendt, the exceptionalism of the Revolution springs from two related facts. First, it was a spontaneous act by individuals to create a new political beginning. By crafting a set of institutions, the Founding Fathers engaged in the purest form of freedom—the collective act of political creation. Moreover, what made this revolutionary act so liberating
was that it was fundamentally political rather than social. According to Arendt, whereas politics is marked by shared and spontaneous action in the public realm, society is characterized by common drives to produce and consume within an economy. These drives mimic the natural ones of production and reproduction that serve the ends of biological necessity. Such mimicry means that society, unlike the public realm, does not allow people to exhibit either their uniqueness or capacity for free action. Arendt argues that the American Revolution, unlike the French, did not concern social standing or economic well-being and thus transcended both instinct and necessity. Instead, it embodied the liberating political attempt to institutionalize a public sphere, which would provide a permanent house for freedom.

While Arendt’s distinction between the social and the political has been justly criticized, her account of the American Revolution continues to inform how scholars imagine the national founding and, in particular, the supposed radicalness of colonial independence. No recent thinker has been more associated with defending this proposition than Gordon Wood. In his seminal book, *The Radicalism of the American Revolution*, Wood disagrees with much of the Arendtian thesis while still arguing for America’s historical uniqueness as a republic founded on liberty. For Wood, the Revolution’s emancipatory character lay precisely in the fact that it addressed the social question and drastically altered social standing in the colonies. He describes the event as an assault on aristocratic privilege and claims that, “In a monarchical world of numerous patron-client relations and multiple degrees of dependency, nothing could be more radical than this attempt to make every man independent.”

Yet, like so many arguments premised on American exceptionalism, those offered by Arendt and Wood fundamentally mistake what in reality was exceptional about the Revolution. They do so because the authors ignore the fact that America was a settler society and that the Revolution, an Anglo settler revolt, was as much about the nature of imperial colonization as it was about political beginning. In this chapter, I argue that at stake in the conflict between England and her colonies was the meaning and purpose of British Empire. For well over a century prior to revolt, North American expansion had been—to an extensive degree—a decentralized and autonomous project of settler colonization. Common ancestry, religion, land use, and notions of liberty linked colony to metropole and helped to ensure that settler conquest was consistent with the greater interests of England. Yet, as British imperium grew, it became increasingly
diverse, extending to peoples and parts of the world never before connected in modern European history. The need to maintain control over such a culturally disparate empire directly conflicted with local colonial autonomy, autonomy long enjoyed by settlers and seen as a basic ancestral right. Settler revolt was consequently as much about the past as it was about the future. It expressed the belief that in asserting independence colonists could reclaim a lost imperial status quo.3

By placing the Revolution within a debate over the meaning of empire, we can perceive the basic difficulties with the accounts offered by Arendt and Wood. Settlers sought to defend their long-granted privileges and thus their cultural and political supremacy from what at the time was far more distinctive: an emerging empire that seemed to view meaningful royal protection as a right of all subjects regardless of ethnicity and considered religious toleration essential to imperial authority. In other words, Arendt’s new house for freedom was in many ways the reconstruction of an old colonial consensus, only now one that jettisoned British supervision. Moreover, settler revolt was a decidedly social event, concerned with the loss of hegemony entailed by the inclusion of marginalized groups such as natives, Catholics, and even slaves. This social impetus for revolution also highlights the shortcomings of Wood’s narrative. Only from the insider perspective of settlers can one view revolt as a radically equalizing moment. I contend that, in point of fact, such equality was predicated on reinforcing the dichotomy between friend and enemy, between those included as free citizens and those excluded as threats to settler freedom.

Ultimately, the failure by both Arendt and Wood to appreciate this social dynamic speaks to perhaps the greatest flaw of arguments from revolutionary radicalism. These narratives seek to keep the revolutionary experience uncontaminated from those forms of subordination that gave it sustenance. Rather than Arendt’s pure act of freedom or Wood’s universalizing discourse of equality, revolutionary ideals were at root dependent on a host of exclusivities. Such exclusivities underscored the inextricable ties, for Anglo settlers, between liberty and empire. In the years preceding revolt, colonists developed a remarkably robust account of freedom, one that saw self-rule as requiring economic, political, and spiritual independence. Liberty presupposed the individual’s ability to assert control over all the primary sites of collective life. However, the precondition for this vision was both the expansion of slavery and the expropriation of indigenous groups. Not unlike other historical experiments in
settler colonization, the internally emancipatory features of settler society politically necessitated external domination. This essential connection between liberty and subordination shaped the institutions of the early republic and has exerted a lasting impact on the direction of collective life. Only by recognizing this dichotomy can we appreciate what was historically novel in our collective experience—the attempt by an independent settler society to intertwine republicanism with empire.

In the following pages, I argue that British efforts to make imperial power more culturally inclusive, particularly after its global war with France, jeopardized settler supremacy and internal freedom. This approach counters previous narratives of the Revolution, which emphasize the colonists’ republican ideology and wariness of British authority but fail to situate these views within the larger argument over the future of settler colonialism. By describing in extensive historical detail the legal, political, and economic contexts in which American settlerism emerged, I hope to present the often disquieting ideological roots of freedom as self-rule. In doing so, the goal is not only to offer an alternative account of the Revolution, and our national founding, but also to highlight the tragedy and the hope implicit in American liberty. In essence, both this tragedy and this hope provide the backdrop for long-standing efforts to imagine how supremacy and freedom could be disentangled.

The first section of this chapter provides my interpretation of the legal and political basis for the initial settlement of North America, paying particular attention to the ways in which Anglo colonists carried from the Elizabethan conquest of Ireland a set of ideological presumptions and imperial practices about indigenous dispossession. In the second section I explore a surprising feature of the very earliest period of colonization, the fact that both settlers and conquered populations were treated similarly as subjects of an immutable and discretionary royal power, not unlike that operating in Spanish or Portuguese dominions. The result was that settlers and natives each faced coercive modes of authority, and, as a consequence, some social fluidity existed between colonists and marginalized groups like slaves and freed blacks. As I argue in the third section, it was only as settler institutions became more autonomous from external supervision and were increasingly imbued with republican ideas that a new status quo emerged on the ground. Such a framework rigidly separated free Anglo settlers from colonized subjects, who alone could be ruled through imperial force. This discussion draws together the basic features of settler life prior to the French and Indian War and describes the developing
account of freedom as self-rule, which marked colonial societies in the decades before the Revolution.

Finally, in the fourth section I detail British attempts to reorganize the new polyglot empire and highlight how policies toward French Canadians, Native Americans, and African slaves threatened to unravel the basic tenets of settler life. By discussing the relationship between slavery and liberty, I also assess how metropolitan-settler disagreements suggested two fundamentally incompatible accounts of freedom operating in London and in the colonies. For settlers, greater tolerance and ethnic inclusiveness meant depriving all British subjects—regardless of British ancestry or Protestant faith—of economic and political self-rule. Rather than universalizing freedom, new practices simply truncated the meaning of liberty and reduced Anglo colonists to the level of their cultural inferiors. As a conclusion, I provide the outlines for the new republic’s reformed vision of empire, based largely on the previous colonial status quo and driven by commitments to republican independence and territorial expansion. Ultimately, this chapter seeks to lay the theoretical foundations for settler notions of both liberty and conquest; it analyzes the collective struggles and processes that gave birth to the American ideal of freedom as self-rule and the American project of settler empire.

Establishing the Legal and Political Basis for American Settlement

To understand what Anglo colonists imagined they were fighting for and arguing against, we need to take a step back and assess the initial justifications for settlement. This means revisiting the distant past and reconstructing the social dilemmas, cultural assumptions, and political practices, now lost from collective memory, that defined colonial America. To a large extent, these practices were borrowed from the experience in Ireland and emphasized the way in which heathenism and savagery disqualified local communities from claiming legitimate sovereignty over their own land. In addition to looking at the Irish experience, in this section I consider how legal jurists and colonial administrators, such as Sir Edward Coke and John Locke, sought to establish the foundations for Anglo colonization. English conquest presupposed that while new indigenous populations were the king’s imperial subjects, such status did not necessarily bring with it meaningful rights, and these conquered groups could be ruled as the Crown saw fit.
A central argument of this chapter is that the Revolution was ultimately a revolt over the shifting status of Anglo colonists in the British Empire and over which group—settlers or London administrators—should direct imperial expansion. In order to appreciate the link between early North American colonization and later settler restiveness, it is helpful to highlight the state of the British Empire just prior to the Revolution. In particular, due to dramatic and global territorial growth, London administrators began articulating the importance of restructuring notions of royal subjectship.

In the early 1760s, Britain and its colonies celebrated a series of victories over Bourbon France, culminating in 1763 with the Treaty of Paris, which consolidated British control of Canada and established the empire as the dominant political force in North America. Against this upsurge of popular confidence, an anonymous pamphlet appeared in 1761 titled *The Reasons for keeping Guadaloupe at a Peace, preferable to Canada explained in five letters from a Gentleman in Guadaloupe to his Friend in London*, which questioned the political, economic, and moral value of global conquest. This decidedly minority position would later be described as the “little Englisher” approach and become most associated in Whitehall with the Duke of Bedford. While the desire for permanent political supremacy over France made this perspective a practical non-starter, the views expressed suggest much about the basic nature of the British Empire in the seventeenth and eighteenth centuries and the fundamental changes wrought by both war with France and other imperial adventures at the time.

The author presented several arguments against the retention of New France, the most obvious being that the economic benefits brought by the fur trade would be outweighed by the cost of supporting and protecting the new possession. The writer also argued that the cultural and political nature of this new territory ran contrary to British traditions and the structure of British settlement abroad. As Philip Lawson summarizes, “The people of New France . . . were an alien race, with a different culture and religion that would demand special handling. Their allegiance would forever be suspect, and the only hope of securing a loyal population rested with a permanent garrison of troops in the main areas of settlement and trade.” The author continued his argument by articulating the reasons why Britain should instead maintain the West Indian islands while
returning Canada to France. To begin with, the American colonies were increasingly undermining their own dependent economic and trading status and would become more amenable to British policies if a foreign Canada remained to check settler ambitions. Second, the possession of Guadeloupe would draw the American colonies into a trading community, which would serve British economic needs and more tightly bind the colonies to the empire. Presciently evoking events to come, the author wrote that unless there was continued French presence and a strengthened West Indies, “so extensive and fertile a country as North-America” would not “long remain dependant upon . . . Great-Britain” without profound “jealousies” undermining metropolitan authority.⁸

At root, this “little Englander” view saw imperial Britain as primarily a trading empire rather than one built on territorial expansion. As the writer contended by drawing a lesson from history, territorial expansion brought with it greed, corruption, and innumerable threats to the maintenance of civil rule at home and abroad:

Spain, in the beginning of the last century, was the dread of Europe. . . . But behold the fatal consequences of such pernicious measures in a state. Spain grasped at conquests in a foreign country in the new world, so far above the extent and ability of the mother country that she dispeopled herself: and though she conquered those countries, the inexhaustible fountain of those precious mettles that the world hunt after with so insatiable an appetite, yet she gradually declined from those mistaken maxims to the state she is now in.⁹

In questioning the wisdom of territorial conquest, the “little Englander” view recognized the radical changes such conquest meant for British imperial rule. Prior to the 1760s, the British Empire was essentially a small and mostly homogenous collection of American colonies, in which Anglo-Protestant settlers expanded metropolitan territory and economic power in North America and the Caribbean. These settlers brought with them British political concepts and institutions, in particular a template for colonization drawn from the conquest of Ireland. Moreover, during most of the eighteenth century, whatever wealth and power the home country acquired from these colonies was relatively limited, as compared with Spanish possessions and their “inexhaustible fountain” of gold.¹⁰ To speak of the British Empire was really to describe a series of colonial settlements that reproduced Old World customs, in
which Anglo settlers saw themselves as privileged and free subjects of Britain.

However, the extensive territorial additions of the 1760s brought an unprecedented multitude of new peoples within British dominion, including previous colonies of foreign powers as well as acquisitions in India and elsewhere in Asia. As D. K. Fieldhouse notes, by the early nineteenth century this emerging British Empire was “of such size and complexity that [it was] entirely new in European colonial history.” According to contemporary estimates, in 1763 such expansion meant that Britain now claimed power over “an additional seventy-five thousand French Canadians, approximately thirty thousand planters, slaves, and Caribs in the Ceded Islands, perhaps one hundred thousand Native Americans, a smattering of Spanish colonists in the Floridas, and, it was believed, anywhere between ten and twenty million people in the Bengal.”

This massive addition of new peoples threw into relief problems of how to maintain order over such a diverse empire and raised profound questions about what legal structure and basic rights applied to these new subjects. In the eighteenth century, the idea of subjectship retained the medieval implications of a personal bond attaching between lord and vassal. A subject enjoyed such status either due to birthright or from conquest or naturalization. The relationship between subject and sovereign carried with it a series of obligations and rights. While the subject owed the sovereign allegiance, the Crown in turn owed the subject protection. In a sense, this newly polyglot empire faced a basic dilemma regarding the meaning of subjectship for non-Anglo peoples, particular their relative status vis-à-vis Englishmen at home and in the colonies. Were conquered peoples simply denied any relevant protections, did they possess the same position and rights as natural-born Englishmen, or did an alternative framework hold?

In 1768 William Knox, later the undersecretary for the American Department, asserted with regard to new possessions in India, “They are British colonies, and the inhabitants are British subjects, though governed by their own laws, or laws framed by the East-India company.” Knox was attempting to square the circle regarding status and rights by categorizing all individuals falling under British authority as subjects. Yet local customs rather than English traditions and political institutions would establish the rights attaching to native subjects in faraway dominions. For colonial administrators, the culturally diverse nature of the
emerging empire required two basic shifts in long-standing practice: greater imperial centralization and increased toleration of indigenous laws. In doing so, Knox and other administrators found themselves challenging (often unwittingly) basic assumptions of Anglo-Protestant colonization and, as a result, the political supremacy of settlers within the empire.

The Irish Experiment in Colonization

The critical national experience that did most to set the stage for the colonial settlement of North America was the effort in the late sixteenth century to conquer Celtic Ireland.15 Perhaps the clearest connection between such efforts and the future colonization of North America is that numerous gentlemen and families, often from the English West Country, played crucial roles in both the settlement of Ireland and later American expeditions. Besides Walter Raleigh, Humphrey Gilbert, Ralph Lane, and Thomas White, there were dual connections that lasted well into the seventeenth century and included “such obvious cases as the Winthrop, Calvert, and Penn families.”16 Yet, even more critically, out of its experience in Ireland, England developed a set of legal justifications for territorial conquest as well as methods for asserting power and maintaining political control over native communities.

Beginning in 1565, the English government sought to extend its dominion past the “Pale”—namely, Dublin and its direct surroundings—and to bring all of Ireland under the control of the Crown, in the process “planting” the region with Anglo farmers. As with most Elizabethan attempts at expansion, this project was undertaken by private individuals who were given royal licenses to conquer and settle Irish land for both personal and public profit. Although these efforts could be explained for economic and strategic reasons, the Crown and its colonists were faced with two interlinked legal and ethical questions: First, what gave the Crown legal right to new lands? And second, how could it justify removing the indigenous population and replacing it with English settlers?

The initial question of rights to land could be solved with relative ease, since according to the proponents of colonization the Norman conquests of the twelfth and thirteenth centuries established ownership over most of Ireland. While indigenous groups had reasserted control over all but the “Pale,” the British argued that such occupation did not extinguish the right of conquest, and therefore the native Irish were trespassers on
land possessed by the Crown. In fact, the British government went so far as to claim that inheritance from the earls of Ulster, a line of long extinct Norman conquerors, established the queen’s legal title to the land. Unfortunately, the Norman precedent was less suited to Elizabethan plans for controlling the indigenous population. Although the Normans had driven off the Celtic ruling elite from conquered lands, they had never displaced the general population and instead kept the native Irish as agricultural tenants. This framework was maintained by their descendents, the Old English, whose nobility formed the governing class in Ireland at the time of the Elizabethan expeditions.17

As a result, in order to justify mass expropriation and settlement by English colonists, the British invoked not the Norman practice vis-à-vis the native Irish but the Norman feudal doctrine of conquest of infidel lands. They did so by combining Christian and classical categories of status to argue that the Irish were both pagans and savages and thus were properly subject to extreme force. As with other Catholic communities, the Normans held that wars conducted in the interests of the Church were just—especially those such as the Crusades, which defended Christendom from Muslim infidels. Francis Jennings writes that in 1455, Pope Nicholas V expanded this doctrine of just war and “empowered Portugal’s king to enslave the persons and seize the lands and property of ‘all Saracens and pagans whatsoever, and all other enemies of Christ whatsoever placed.’ ”18 However, the Irish were difficult to categorize as heathens because, like the Old English, they practiced a form of Catholicism. Yet many of the English expansionists were extreme Protestants and considered the Irish mixture of Catholic liturgy and pre-Christian traditions to be both irreligious and clearly pagan. As Sir Henry Sidney, a key sponsor of colonization, wrote: “They are all Papists by their profession . . . but in the same so blindly and brutishly informed for the most part as that you would rather think them atheists or infidels.”19 Although on shaky ground, Sidney and others sought to categorize the Irish as non-Christians, religious enemies who could be killed or removed to make way for new settlers.

As George Fredrickson has noted, such feudally inspired arguments were buttressed by classical claims regarding civilization and savagery, which provided additional moral legitimacy for practices of conquest. As with many European communities, the English believed in a basic distinction between Christianity and civilization, namely, that peoples such as the ancient Romans or Arab Muslims could be civil or semicivil without
being Christians. However, all Christian peoples were also civilized. The Irish, much like the Native Indians of North and South America, appeared to be both heathen and savage. For the English, such savagery primarily meant that the native Irish retained political and social forms that the colonists found unfamiliar and practiced transhumance (the seasonal migration in search of better grazing land) rather than sedentary agriculture. According to the sixteenth-century Spanish jurist, Juan Ginés de Sepúlveda, savages were the “natural slaves” of civilized peoples who could compel them by force of arms to submit to civilization. English colonists such as Peter Carew employed this logic to argue that they had a moral duty, as well as a legal right, to raise the indigenous community to the condition of civilization and, if they resisted, to use violence to “suppress[] and reform[] . . . the loose, barbarous and most wicked life of that savage nation.”

By combining feudal and classical categories, the Crown and its colonists developed an elaborate justification for Irish dispossession premised on the belief that the “Wild Irish” could legitimately be excluded from the political society formed by English settlers and brutally suppressed when necessary. As Walter Devereux, the first earl of Essex, opined after driving many of the Ulster Irish into the woods at the beginning of winter, “how godly a deed it is to overthrow so wicked a race the world may judge: for my part I think there cannot be a greater sacrifice to God.” The ultimate result was that in 1609, after forty years of war, James I established a land settlement for Ulster in which “Four fifths of the six counties of Northern Ireland were set aside for the exclusive occupancy of English or Scottish settlers; the native Irish were either driven out of Ulster or concentrated in the residual one fifth—a series of small reservations which they were forbidden to leave on penalty of death.”

The similarities between the division of Ulster and the treatment of Indian tribes in North America are striking, both in terms of sheer brutality as well as the legal and moral rationales given. In a sense, Ireland constituted an early test case or “rehearsal” for colonial settlement, from which the Crown exported a theory of conquest and expropriation. This theory suggested that if indigenous communities failed to engage in proper land use or religious worship, they in essence lost the right to claim territorial sovereignty or to be governed by their own laws after conquest. For the American colonists, just as for their English counterparts in Ulster, native groups were depicted as permanent threats to the new social order and thus legitimately ruled by force or even eliminated.
Coke, Locke, and the Ideological Basis for American Conquest

These feudal and classical arguments regarding conquest and status were applied to North America and its peoples from the earliest efforts at sustained colonization. The 1606 Royal Charter establishing the Virginia Company provided a “Licence, to make Habitation, Plantation, and to deduce a colony of sundry of our People into that part of America commonly called Virginia, and other parts and Territories in America, either appertaining unto us, or which are not now actually possessed by any Christian Prince or People.” Under the charter, the purpose of colonization rested on the king’s duty, shared by all Christian princes, to convert heathens to Christianity. Through a crusade of conquest, the company’s founders hoped to add to “the glory of his divine Majesty” by “propagating [the] Christian Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and . . . in time bring the Inidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government.”

Among the likely drafters of the Royal Charter was Sir Edward Coke, the great seventeenth-century English jurist who two years later in his 1608 decision in *Calvin’s Case* further articulated the legal basis for imperial expansion. The case concerned Robert Calvin, a Scotsman (prior to the Union of Scotland and England), and his rights as an alien under English law. However, Coke took the opportunity to address the question of colonial conquest as well as the juridical distinction between friendly and enemy aliens. To begin with, Coke argued that all kingly dominions were either inherited or conquered—a distinction drawn from Roman law—and used the Irish example as a basis for detailing the legal status of conquered communities. He maintained that the conqueror enjoyed an absolute power of life and death over conquered populations, a power that included the ability to “alter and change the laws of that kingdom” in any way that the king saw fit and “at his pleasure.” This meant that Irish dispossession and harsh reservation policies were perfectly consistent with a conqueror’s authority over conquered subjects, since such groups legally could be killed or enslaved.

While not specifically mentioning the American colonies, Coke clearly viewed them as conquered dominions as well, an important claim that would become critical in the Revolutionary-era debates over the imperial status of North America. He also took care to articulate the relevant legal position of indigenous groups under royal dominion. He did so by
emphasizing how conquered subjects may well possess fewer legal rights than actual foreigners, due to the differences between friendly and enemy aliens. According to Coke, “Every man is either alienigena, an alien born, or subditus, a subject born. Every alien is either a friend that is in league, etc. or an enemy that is in open war, etc.” Coke described Germans, French, and Spanish, “all the Kings and princes in Christendom being now in league with our sovereign,” as friendly aliens who could acquire English goods, land, and housing and bring suits before English courts to defend those rights. As for enemy populations, they possessed no rights that the Crown and its courts needed to respect, and, further, infidel peoples were the permanent enemies of the English Crown: “All infidels are in law perpetui inimici, perpetual enemies (for the law presumes not that they will be converted, that being remota potentia, a remote possibility), for between them, as with devils, whose subjects they be, and the Christian, there is perpetual hostility, and can be no peace.” In essence, Coke argued that as infidels, indigenous peoples were outside the bounds of those legal or political protections afforded Christians. And once conquered, such subjects could be treated as one would “devils” or perpetual enemies—through harsh discipline or even extermination. Here Coke subtly transformed the meaning of the Virginia Royal Charter’s license, which originally emphasized the colonization of lands in order to convert Native Americans. While an enterprise of religious conversion remained just, if conversation failed it was also legitimate to engage in permanent war with Indian tribes.

Coke continued by making explicit precisely how absolute the king’s powers were with regard to such lands. “If a Christian King should conquer a kingdom of an infidel, and bring them under his subjection, there ipso facto the laws of the infidel are abrogated, for that they be not only against Christianity, but against the law of God and of nature, contained in the decalogue.” In other words, Coke established the applicability of the feudal law of conquest for all non-Christian peoples—including Native Americans—regardless of whether they had in fact threatened the Crown. While holding on to the ancient categories of inherited and conquered dominions, he nonetheless rejected the pre-Christian Roman view that conquered peoples could maintain their own laws and that no distinction should be made on the basis of worship. Rather, Coke concluded that, while in conquered Christian lands previous laws remained valid until the king chose to alter them, in infidel lands the king immediately ruled through his absolute discretionary power: “The King by himself,
and such judges as he shall appoint, shall judge them and their causes according to natural equity, in such sort as Kings in ancient time did with their kingdoms, before any certain municipal laws were given.” As articulated by Coke, the feudal discourse of the Crusades provided both the legal backbone of European colonization and underscored the unlimited nature of imperial authority over indigenous subjects.31

In many ways, Coke’s approach to native peoples mirrored not only the Elizabethan conquest of Ireland but also changes that were taking place in Virginia and other colonies. While the 1606 Royal Charter for the Virginia Company emphasized conquest as a method of religious conversion, the new charter launched in 1609 along with the James River colony deemphasized conversion and focused instead on subjugating Indian tribes through military control. Under Governor Thomas Gates’s new laws for the colony, the clear focus became compelling allegiance from native communities through force. As conquered subjects of the Crown, Indian tribes were to pay tribute to the colony, and any chiefs who refused would be taken prisoner. Yet, despite owing obedience to the same king as Anglo settlers, indigenous groups were by no means supposed to intermingle with the Jamestown colony. According to Gates’s laws, when Indians visited Jamestown, they were to be placed under guard, and no colonists were allowed to speak with them without the governor’s approval. Moreover, settler attempts to leave the colony and live among Indian tribes became crimes punishable by death. Thus the notion that Indians were subjects of the Crown carried with it little by way of protection and rights. It simply meant that native communities were compelled to pledge allegiance to a discretionary and absolute royal authority or face continual warfare, with the latter an increasingly ruthless and persistent element of early colonial life.32

During the seventeenth century, the moral justifications for such indigenous expropriation and treatment were not solely premised on the Christian-heathen distinction. As with the Irish conquest, these arguments utilized views about savagery and civilization. These views defined civilization in large measure according to land use and also served to reinforce narratives about the lawlessness of Indians and the legitimacy of discretionary power toward them. Some seventy years after Calvin’s Case, John Locke in chapter V of his Second Treatise of Government, titled “Of Property,” crystallized the higher natural law legitimacy for both English colonization and settler control of indigenous land.33 Locke’s personal connections to efforts at American colonization were long-standing and
lasted until nearly the end of his life. Between 1669 and 1675 Locke was secretary to the proprietors of the colony of Carolina; from October 1673 to December 1674 he also served as secretary and treasurer to the English Council for Trade and Foreign Plantations; and from 1696 to 1700 he was secretary to that council’s successor, the Board of Trade. In a remarkable piece of detective work, David Armitage has provided extensive evidence that in the summer of 1682, when Locke was most likely writing chapter V of the *Second Treatise*, he was also revising the *Fundamental Constitutions of Carolina*. This finding supports the so-called colonial interpretation of chapter V and helps to explain the frequency of examples drawn from North America.\(^{34}\)

In chapter V, Locke justified colonial conquest on agriculturalist grounds, which separated savage Indians, who left America a “wild woods and uncultivated waste,” from civilized settlers who through industry and labor transformed nature into valuable property. Locke’s argument proceeded initially from a labor theory of private property, which took as given both that “God gave the World to Men in Common” and that all individuals possessed a right to self-preservation. Due to this right, Locke argued that “it cannot be supposed he [God] meant it should always remain common and uncultivated,” and Locke thus viewed private acquisition as necessary for human subsistence. However, such acquisition would be legitimate only if it were the product of individual labor, because

> Every man has a *property* in his own *person*: this no body has any right to but himself. The *labour* of his body, and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby makes it his *property*.

Critically, Locke rejected the notion that consent by others was necessary for individuals to enclose lands, so long as there was “enough, and as good left in common. If such consent was necessary, man would have starved, despite God’s plenty given him.”\(^{35}\)

For Locke, North America embodied the pristine state of nature. Here land remained uncultivated, plentiful, and open to property claims from whoever mixed their labor with nature. Hidden in his famous phrase, “in the beginning all the world was *America,*” were a series of interrelated conclusions. To begin with, because such land had not been appropriated
and was communally owned, native peoples had no land rights that England or its settlers were bound to respect. Since God gave property “to the use of the Industrious and Rational, (and Labour was to be his Title to it),” validating the idle native’s claim to tenure contradicted both common sense and the higher law of nature. The implication of this point clearly mapped Coke’s view that all infidel laws were ipso facto abrogated. As Armitage writes, “Only after land had been appropriated in this way could it be apportioned ‘by compact and Agreement’ in those parts of the world where a monetary economy has been introduced and land has become scarce.” In other words, since America existed in a state of nature prior to both private property and civil government, native peoples were viewed as necessarily lawless. Mirroring arguments made by Coke, Locke concluded that indigenous law (a contradiction in terms) did not bind England and that Indian tribes could not be party to any valid contract. By allowing “great tracts of ground” to lie in waste, “the inhabitants [of America] thereof [had not] joined with the rest of mankind, in the consent of the use of their common money,” the basis for all legitimate land sales. As David Armitage notes, this view closely followed the Fundamental Constitutions, which “expressly banned settlers in Carolina from holding or claiming any land by ‘purchase or gift’ from the natives, a clear sign that contracts there could only hold among Anglo-Americans.” In essence, Locke’s invocation of the civilized-savage dichotomy and its emphasis on sedentary agriculture as a basis for political recognition buttressed the feudal discourse of conquest. While employing a separate moral language, Locke provided a concurrent justification for settler expansion and indigenous dispossession.36

We see this even more clearly in his distinction between industry and idleness, what Locke considered the basis for separating the settler from the native and thus the civilized from the savage. According to him, settlers’ claims to American land were not just acceptable but rose to the level of a moral necessity compelled by higher natural law:

To which let me add, that he who appropriates land to himself by his labour, does not lessen but increase the common stock of mankind. For the provisions serving to support human life, produced by one acre of inclosed and cultivated land, are (to speak much within compasse) ten times more, than those, which are yielded by an acre of land, of an equal richness, lying in waste in common. And therefore he, that incloses land and has a greater plenty of the
conveniences of life from ten acres, thus he could have from a hundred left to nature, may truly said to give ninety acres to mankind. For this labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common.\textsuperscript{37}

Thus, in the same way that the project of heathen conversion required English conquest, the goal of collective improvement also necessitated Anglo settlement of uncultivated lands. Each account transformed the externally violent character of settler society into a moral requirement. Just as heathens unwilling to convert to Christianity should be defeated by force, the savage incapable of productive agriculture must be removed to make way for industrious and rational colonists.

Of course, one should note that Locke's arguments took place against a North American backdrop in which settler property claims with respect to indigenous inhabitants were in reality far more complicated. As Stuart Banner demonstrates, throughout the colonial era, alongside direct seizure, private purchase or gifts from native communities emerged as common modes of acquisition. Banner comments that while seventeenth-century settlers repeatedly asserted that their land claims did not depend on indigenous consent, the overwhelming tendency was to acquire property through legal processes rather than through outright conquest. He writes that even the Virginia Company followed this norm, as "for all the Company's theorizing about its right to take the land, in the end the Company purchased it from the Indians." Exigent circumstances made the reasons for purchase fairly straightforward. Colonial administrators sought to limit warfare with still powerful native groups. In fact, the initial need to punish settler desertion by death in Jamestown suggested the relative prosperity of local tribes by comparison with the struggling colony. Perhaps more important over the long term, practices of purchase helped to ensure that settler land titles were valid and peaceably distributed.\textsuperscript{38}

Despite the fact that acquisition proceeded largely through legal forms, English theories of prerogative right should not be dismissed. For settlers, the project of land ownership was understood in moral terms, as required by reason and as necessary to ensure that property was made to serve the goals of industry and progress. Thus, while Locke's call to void all contracts with native groups may have been challenged on the ground, his underlying rationale articulated a critical basis for indigenous dispossession. In essence, Anglo assumptions about the linkage between
property and progress inevitably cast settler-native arrangements as inherently temporary. Such arrangements could be revised or even rescinded when they came into conflict with the moral or material goals of settler society.

Royal Discretion over Settlers in Early Colonization

As the seventeenth century progressed, both the London metropole and its local colonists largely could agree that Indians were conquered and infidel subjects, without a sovereign claim over the land they occupied. But what remained uncertain was the precise legal and political status of the settlers themselves. Were they, too, conquered subjects as a consequence of living on newly seized territory, or did they enjoy a fundamentally different position by virtue of English background and Protestant religion?

The earliest English response to the dilemma might be surprising to readers today. Initially, colonial authorities in London and in North America imposed a vision of royal power that situated settlers on a continuum of feudal subjectship alongside native groups and even African slaves. Early Anglo settlers did not necessarily enjoy a unique plethora of ancestral rights and privileges; rather, they were often treated legally and politically as no different than any other conquered population, confronted by martial law and coercive forms of labor discipline. Over time, however, settlers reshaped these arrangements by drawing intellectually on the revival of republican ideas in England and by asserting a new social framework of Anglo supremacy vis-à-vis other subject groups. Yet, despite its replacement by new practices on the ground, this initial history of colonization (and its legal presumptions) never entirely disappeared. During the Revolutionary period, it provided the context for conflicts between London and the settler colonies over the appropriateness of employing discretionary royal power to control unruly Anglo subjects.

Calvin’s Case Revisited: Stratified Subjectship and the Continuum between Settlers and Natives

At the beginning of North American colonization, the idea of royal subjectship did not carry with it a presumption of elevated legal or political status. Even less did it imply notions of liberty and participation that we today connect to terms like “citizenship.” Instead, subjectship simply entailed
being under the dominion of the king and thus subject to his royal power. For the first settlers, there was no fundamental divide separating many Anglo colonists from non-Anglo groups. In practice, one’s position as a property owner—and thus one’s social class—meant far more than ethnicity in determining rights and privileges. Perhaps the best way to draw out these realities is by returning once more to Coke’s landmark decision in Calvin’s Case. Along with justifying indigenous conquest, this case articulated the Crown’s vision of the ties between monarchical authority and political membership.

At the heart of Coke’s decision was an effort to clarify the meaning of English subjectship and the relation between the various distinct communities under the king’s power—settler and native alike. In doing so, Coke emphasized the natural and feudal hierarchies that existed among all individuals. These hierarchies established relationships of inferiority and superiority, in which the stronger provided protection for the weaker in return for obedience. For Coke, the tie between parent and child best exemplified the natural and immutable character of these bonds of reciprocal obligation. Similar to a child’s fealty toward a parent, a subject owed obedience to that sovereign king who protected the individual at the time of his birth. According to Coke, “This ligeance and obedience is an incident inseparable to every subject: for as soon as he is born he oweth by birth-right ligeance and obedience to his Sovereign.” Of critical importance, while this tie between sovereign and subject was reciprocal, it was by no means the product of a political contract nor did it depend on the continued effective exercise of protection by a king. For Coke, “ligeance” was perpetual and pre-political; it embodied a personal bond that attached to the king himself rather than to his constitutional status as ruler of a particular kingdom, and it therefore lasted from birth until death.

Today we often see the foundational right of membership in a political community as the right to vote. Yet, in the seventeenth century, the primary benefit of pre-political and perpetual subjectship involved the protection of land or real property. The persistence of feudal allegiances meant that property ownership provided the basis for political sovereignty, with landed elites often determining the rights and activity of local inhabitants. In fact, other privileges (including the franchise and political office) usually had extensive property qualifications and thus were at root grounded in landholding. In England, as in much of early modern Europe, as a general policy only sovereign subjects could enjoy
the benefits of inheritance and therefore properly possess land. For the
king’s subjects, the common law—which served as England’s land law—
provided the primary means for safeguarding one’s legal right to prop-
erty. In other words, it embodied the essence of those meaningful protec-
tions offered by the Crown in return for obedience.

Still, status as a royal subject by no means necessitated that one en-
joyed the privileges conferred by the common law. This was because
just as natural inequalities justified a noncontractual and immutable alle-
giance to the Crown, these inequalities also stratified social membership
across a variety of political and legal dimensions. In the emerging empire,
the distinct constitutional status accorded different dominions under the
king’s rule provided a key illustration of such stratified subjectship.
Under Coke’s vision, much like a large family marked by common patern-
ity, the Crown’s community of allegiance consisted of aggregating all
the individual relationships of obedience joining specific subjects to their
king. Yet the actual rights accorded each subject depended not on this
natural community of allegiance but rather on the constitutional frame-
work constructed for each particular kingdom and its inhabitants. A
central implication according to Daniel Hulsebosch was that the com-
mon law, rather than being a jurisprudential structure that extended
abroad with the king’s rule, was a set of institutions (including the West-
minster courts and common-law bar) that were jurisdictionally limited
to England.

As a result, Coke argued that subjects in other dominions did not in-
herently enjoy English liberties like trial by jury and common-law prop-
erty rights. The Crown’s mandatory and remedial writs were present
only in England and could not “by any means extend into any other king-
dom, country, or nation, though that it be under the King’s actual ligeance
and obedience.” In other words, if a subject were born in a royal territ-
ory, although he could hold land in England and sue in English courts,
the common-law framework did not automatically extend to legal prac-
tices abroad. Moreover, if a subject became naturalized in a dominion
outside of England, his rights in that dominion did not necessarily trans-
fer to other parts of the empire.

As one among many groups of stratified subjects, the consequences
for Anglo colonists in North America were clear. If indigenous subjects
faced a discretionary royal prerogative, early settlers did not themselves
necessarily enjoy expansive protections or treatment equal to Englishmen
at home. If anything, during the beginning stage of colonial expansion, the
treatment of settlers on conquered land was often ruthless, and they were controlled as if they too were conquered peoples. The same laws established by Governor Gates to subjugate Indian tribes also set forth deeply coercive forms of authority over settlers. The new colony, which quickly exceeded the initial settlement in Jamestown, was organized into what John Smith called a series of “forts” or “hundreds.” These forts were at root military camps largely ruled by martial law under the absolute discretion of the appointed governor. In order to discipline the settler work force, Anglo subjects were divided into work gangs, which carried out assigned tasks with rest intervals strictly set by the beating of a military drum. The laws established the death penalty for a wide range of infractions, including blasphemy, theft, and lying, and were enforced with striking brutality. Edmund Morgan tells us, “For stealing two or three pints of oatmeal a man had a needle thrust through his tongue and was then chained to a tree until he starved.” Although the use of martial law in England had become a political and legal scandal during this period, it was seen as both legitimate and necessary in North America. Without harsh military authority, the new colony, which already teetered on the edge of collapse, would be unable to feed itself, fend off Indian raids, or avoid massive desertion.

In essence, Coke’s vision of subjectship viewed Indians and settlers as fundamentally alike in key ways. Each group owed a pre-political and noncontractual obedience to the king, which could not be dissolved. Moreover, the idea that different dominions enjoyed distinct constitutional frameworks meant that the Crown was well within its rights to employ coercive and arbitrary power against both conquered populations and Anglo colonists. Under this vision of stratified subjectship, all social members were dependents of a kingly and paternal authority, and for those on conquered territory this discretion could be quite extensive indeed.

**Degrees of Unfreedom: Indentured Servitude and the Rise of African Slavery**

Along with conquered subjects and those settlers living under martial law, this vision of stratified subjectship also constructed modes of discretionary authority over the poor generally—with the propertyless often under coercive regimes of economic and political discipline. It emphasized the continuities in legal status and social experience between those facing bondage in both North America and England, regardless of Anglo
descent, religion, or ethnicity. In other words, in the earliest stages of North American colonization, Anglo settlers—simply by virtue of being settlers—were not clearly demarcated as a qualitatively separate group. For the most part, they existed along the same spectrum of often harsh control as other nonprivileged subjects of the Crown.

While the landed gentry in England may have enjoyed the protections of the common law, for the many landless poor, everyday life was riddled with compulsion. Wealthy property owners viewed the propertyless as roving masses untied to any community and a threat to the social fabric. Not unlike their colonial counterparts in Virginia, such owners sought to strengthen labor discipline and to transform poor peasants into productive workers. As a result, throughout the sixteenth and seventeenth centuries a variety of proposals advocating forced labor were seriously considered or adopted. In particular, workhouses and prisons, or “houses of correction,” the first established under Elizabeth I in 1576, were created to teach the impoverished and unemployed not only the habits of work but greater efficiency. As Sir Mathew Hale wrote, workhouses would compel the poor “and their children after them into a Regular, Orderly and Industrious course of life, which will be as natural to them as now Idleness, and Begging, and Theeving is.”

Advocates of forced labor believed that poor children in particular should be put to work, at the very early age of four, according to Sir William Temple, or at three according to none other than John Locke. Such routine developed discipline and helped to minimize the likelihood that poor laborers would revolt or threaten economic production. Many economists went so far as to argue that these children should not be taught to read or write at all, since it might lead to idleness or even sedition. According to one pamphlet, “for few that have once learnt to Write and Read, but either their Parents, or themselves, are apt to think, that they are fit for some Preferments, and in order to it, despise all Labouring Imployments and live Idle, rather than disparage themselves by Work.”

Besides workhouses and prisons, the period also saw the creation of measures providing mining monopolies the right to conscript workers as well as comprehensive proposals for the introduction of slavery. Andrew Fletcher, the Scottish Enlightenment philosopher, argued in 1698 that the 200,000 unemployed in Scotland should be made slaves to property holders in order to reduce crime, begging, and drunkenness. The emphasis on “idleness” and the fear of social disorder made poverty a mark of profound inferiority, such that the poor were excluded and
segregated from social life in ways similar to indigenous groups or, later, African slaves. In fact, in 1697 Parliament went so far as to require recipients of poor relief to wear the letter P prominently on the right-hand shoulder.

A primary way England coped with this danger was by literally shipping the poor to the American colonies, particularly Virginia and Maryland. Such a policy had also been pursued in the Elizabethan settlement in Ireland, and a basic tenet of English expansion was the belief that colonies aided the metropole by taking excess population from the mother country. In 1683 some 12,000 indentured Anglo servants lived in Virginia, one-sixth of the total population, which also included numerous poor laborers who had finished their time as servants. Of these servants and ex-servants, many were once beggars and starving children in England who had simply been kidnapped and shipped to North America in bondage. The forms of indentured servitude that developed in the colonies were often even more severe than the practice of forced labor at home. As Fredrickson writes:

The usual term for English servants was one year, and they were paid wages; whereas the indentured worker was in effect a debt bondsman serving several years without pay to cancel the obligation owed to the master for assuming the costs of passage. Where English service was usually based on voluntary contract enforced by civil action, criminal penalties were prescribed for the indentured servant who ran away or otherwise reneged on the term of contract. . . . Unlike most English servants, American bondsmen could be bought and sold. Sometimes their masters even used them as gambling stakes. In practice, as well as in law, they appeared to have been subjected to an even crueler and more degrading regime than members of the dependent classes in England.

These widespread practices of forced labor, made even more stringent in the colonies, underscored the compatibility between status as a natural-born Anglo subject and an extensive system of economic and social control. It also set the stage for the colonial use of African slavery, by emphasizing the appropriateness of bondage as a method of creating disciplined work forces as well as the continuity between various degrees of involuntary servitude.

By the mid-seventeenth century, problems of social unrest and labor discipline had become endemic in the middle and southern colonies.
number of indentured servants had created a propertyless class of poor and unemployed workers akin to those found in England. In the earliest days of colonial settlement, the problem of landless poverty had not been a serious difficulty due to the combination of high mortality rates and the availability of cheap land. Freed servants who survived the rigors of colonization could purchase such land and eventually become planters and yeoman farmers in their own right. In fact, Fredrickson points out that the diffusion of property ownership led to the remarkable practice of universal freeman suffrage in Virginia’s earliest colonial assembly. This right was restricted only in 1670 as reduced mortality rates and temporary land scarcity led to a large class of landless poor. As a result of these forces, African slavery became a successful means of maintaining an adequate labor supply while reducing the possible threats posed by landless settlers—threats made evident in political disturbances such as Bacon’s Rebellion of 1676. Propertied elites hoped to replace a dangerous class of dispossessed settlers, clamoring for land and political control, with a potentially more docile slave population. Slavery was also consistent with changing metropolitan views regarding emigration. Political leaders in England increasingly argued that the overpopulation crisis had subsided, and if anything England suffered from underpopulation and needed to keep its own poor to work in the emerging industrial economy.63

In this context, the widespread English application of forced labor, at home and in the colonies, created philosophical and practical space for the development of the large-scale importation of African slaves. The basic legal justification drew from Coke’s arguments about the absolute power of life and death that conquerors held over conquered populations. In chapter IV of the Second Treatise, titled “Of Slavery,” Locke famously drew out the implications of Coke’s position. He maintained that slavery was a condition of the state of nature that persisted after the creation of the social contract and remained unaffected by the rights and obligations arising between parties to that contract. Besides drawing from Coke, Locke’s claims followed the established European legal doctrine regarding slavery, namely, that it was an absolute state of unfreedom produced by crime or captivity in war. As such, rather than being killed outright, the captor deferred the slave’s death in favor of bondage.64 According to Locke, “This is the perfect condition of slavery, which is nothing else, but the state of war continued, between a lawful conqueror and a captive.”65 Although slavery was applied on a large scale only to
Africans, it should be noted that the basic justifications for slavery combined prisoner-of-war arguments with the prevailing discourse of conquest. As heathens, African slaves were seen as conquered infidels whose laws were ipso facto void and whose lives were subject entirely to the dictates of the conqueror. The fact that slavery was not initially justified on strictly racial lines is underscored by the seventeenth-century small-scale enslavement of Native Americans, on grounds of conquest, captivity, and heathenism, as well as by proposals for the enslavement of poor whites back home.

If anything, relations in the seventeenth century between Africans and Anglo settlers were remarkably fluid. They underscored how the initial development of slavery owed more to questions of labor discipline than to race status. For instance, during the earliest period of African bondage in the colonies, slaves were often regarded as similar to Anglo indentured servants and thus were freed after a definite term of service. This along with private practices of manumission led to the growth of a sizeable free black community, which in the mid- to late seventeenth century likely comprised a larger portion of the African population in Virginia and other southern slave colonies than at any other time before 1860s emancipation. In places like Massachusetts, mid-seventeenth-century free blacks were generally accorded the same rights as settler subjects and did not appear to face systematic forms of legal and economic discrimination. In Virginia, free blacks were able to acquire property, vote, hold minor office, take legal action against Anglo settlers, and even own their own white indentured servants. During this era, a small number became wealthy landholders with slaves of their own. Thus, although black servitude no doubt precipitated the development of racial distinctions, at the time free blacks were by and large integrated into settler life and generally enjoyed a status similar to that of emancipated white servants.

In fact, the very earliest miscegenation laws seemed more concerned with maintaining a clear labor supply than with rigidly demarcating racial lines. In 1664 Maryland’s first miscegenation law punished the marriage between African slaves and free Anglo women but pointedly did not affect the marriage of such women to free blacks. Moreover, the purpose of the law was not to eliminate these unions. Masters were worried that the children of slaves would gain the free status of their mothers and thus undermine a consistent labor force. As a result, the law stipulated that free Anglo servants who married African slaves would themselves become slaves. The law highlighted the fact that interracial marriages were
relatively common, at least common enough to warrant regulation. In fact, after its passage masters often encouraged these marriages in order to extend their workforce. If anything, the law further reinforced how social distinctions in early colonial life placed greater relative weight on one’s status as a property holder than it did on the race of bonded or free servants.69

Thus, at the beginning of North American colonization, England exported abroad a vision of royal subjectship that was stratified across a variety of hierarchies and which created a patchwork constitutional structure. Under this account, while everyone in the king’s various dominions was the natural and permanent subject of the Crown, only extensive property owners in England could be guaranteed meaningful political authority or fully benefit from the legal rights established by the common law. For many colonial subjects, whether propertyless Anglo settlers, African slaves, or Indian tribes, subjectship in practice meant the application of discretionary and coercive forms of royal prerogative. It also meant that settlers existed on a social continuum alongside other non-Anglo subjects. While they no doubt enjoyed some greater privileges due to their role in extending imperial territory and power, they were not treated as qualitatively distinct from other communities. Fundamentally, settlers—like indigenous groups—were “children” of a royal father and, depending on their class position or which dominion they inhabited, may well have found themselves facing coercive modes of authority.

Settler Supremacy and the Rise of Republican Freedom

Settlers during the earliest stages of North American expansion may have been one group among many stratified subjects. But as time passed, conditions in the colonies and political developments in England gradually worked to restructure imperial relationships and, in the process, to entrench settlers’ social and political supremacy over non-Anglo populations. I argue that, as a consequence, settler life diverged dramatically from Coke’s paternal framework and over time produced a local account of membership that marked a fundamental divide between free Anglo subjects and mere imperial subjects. While the account of pre-political allegiance to a discretionary royal authority may have been appropriate for conquered peoples, Anglo settlers increasingly saw their colonial societies as experiments in collective freedom. This belief drew heavily from the writings of English republicans and critics of Stuart absolutism,
such as James Harrington, Algernon Sydney, and—for all his continuities with Coke—John Locke himself. For such thinkers, economic and political independence were the touchstones of liberty.

In the colonies, indigenous threats as well as the emerging experience of diffuse land ownership radicalized these arguments and underscored the centrality of self-rule—not only in politics but also at work and in church—for any meaningful vision of freedom. In this section, I outline how English republicanism was transferred and extended in the colonial setting. I also contend that republican liberty became intertwined with two increasingly prominent features of settler society. The first was the belief that freedom was part and parcel of a millennial Protestant faith, which sought to establish the kingdom of heaven on earth. Equally important was the sense that not only did internal liberty require external domination but that freedom was under permanent siege by menacing forces—be they French Catholics, Native Americans, or African slaves.

Colonial Social Mobility and the Emergence of the Free Anglo Subject

The first crack in the early English framework developed out of dicta in Calvin’s Case itself. There Coke had argued that although the common law was jurisdictionally limited, some English rights did in fact attach to natural subjects who emigrated to newly conquered Christian lands. On these lands, whenever Englishmen moved to non-English dominions, the king still had to respect core liberties and protections—what Coke described as “the like privileges and benefits . . . as they may have in England.”70 These core liberties were essentially twofold. First, Anglo colonists should enjoy property rights, which allowed them to hold land under English tenure rules. Second, they were worthy of some degree of political consent, and therefore local authority should be organized at least in part through parliamentary government.71 In laying out this argument, Coke made clear not to include conquered infidel territory, perhaps due to his involvement with the Virginia colony and concerns about the need for harsh rule in order to maintain order in the New World.

Eventually, however, Coke’s dicta came to apply in practice to all conquered dominions, often for reasons of basic imperial self-interest. In the 1620s, the Virginia colony moved to replace cooperative tenancy, which provided dividends to farmers, with an individual property regime that mimicked the common-law approach. Such changes were instituted in large measure to reassure prospective settlers, who may have been wary
of emigrating to lands without these basic legal rules. In essence, colonists in North America began to develop a two-track approach to property rights and consent. In place of martial law, Anglo settlers enjoyed core liberties and common-law protections, while indigenous subjects were governed by whatever means the Crown viewed as necessary for maintaining authority and gaining native tribute.

These divisions between Anglo settlers and conquered populations hardened against a backdrop in which colonists increasingly gained far more economic and political independence than even their English brethren at home. While the terms for indentured servitude were indeed harsher in the colonies, they also offered servants a better chance of one day becoming actual property owners. Those who survived the difficulties of forced or voluntary migration and won land in America could claim a hard-fought freedom and independence both from the landed elites and the dangers of living on the edge of starvation. Despite the greater intensity of the work regime, the availability of land made social mobility a lived reality for many settlers. As a consequence, colonial life slowly entrenched a vision of the virtuous yeoman farmer, who through industry and the cultivation of wild land could find self-worth and social standing after the poverty and exclusion of England.

Facilitating this development was the large-scale use of African slavery, which played a central role in improving the economic and political position of Anglo settlers. While before the 1680s white indentured servitude provided most of Virginia’s labor, the colony soon became dependent almost entirely on slave production, particularly for its menial work. As African slaves replaced indentured English servants on the plantations, newly freed whites began to enjoy greater prosperity, access to land, and social standing vis-à-vis landed elites. In order to protect this Anglo prosperity and to maintain control over slaves, colonies also began to institute systematic forms of racial discrimination. Perhaps the very first such law was passed in 1670 and denied free blacks in Virginia the right to own white indentured servants. By the early eighteenth century, in various colonies, intermarriage had been outlawed, restrictions placed on private manumission, and free blacks deprived of basic rights (including the franchise). In fact, free blacks were generally reduced from an element within settler society to a segregated and separate caste denied most legal protections. A primary justification was one that would recur over the next century and a half and that gained particular prominence in the years immediately preceding the American Revolution. Settlers
feared that a sizeable and empowered black community would promote slave insurrections, through both their actions and mere example.\textsuperscript{75}

The hardening of this division between free settlers on the one hand and native or black subjects on the other hand should not be understood as coincidental. Rather, the conquest of native territory and the extension of African slavery were conditions by which Anglo settlers sought to strengthen their egalitarian internal relationships. While conquest opened new land for Anglo farmers, slavery freed settlers from harsh labor discipline and economic bondage. Both developments entrenched diffuse land ownership and emphasized the position of Anglo settlers as privileged subjects of the Crown, enjoying special status and protection. Thus this elevation of the Anglo position undermined the framework of stratified membership, in which settlers were placed alongside blacks and natives on the same hierarchical continuum. Instead, based on ethnicity and Protestant faith, settlers saw themselves alone as free Englishmen, a position more akin to our ideas of citizenship or civic membership. By contrast, non-Anglo communities were best understood as imperial subjects facing a legitimately coercive royal prerogative. In other words, these nonsettler groups, precisely because of their outsider status, were distinctively under the power of a paternal king, who imposed differential and discretionary regimes of rule depending on the necessities of colonization and empire.

This separation between free settlers and stratified imperial subjects was further reinforced by the British use of private and largely decentralized colonial settlements to extend the Crown’s authority. Such a method of imperial rule meant that settlers steadily asserted greater practical autonomy from metropolitan London, since they were the ones often making decisions about the structure of local institutions and the future of colonial expansion. Most ironically, this autonomy and political decentralization reversed Coke’s classic hierarchy between English subjects on the island and in conquered dominions. Rather than being at the bottom of the continuum, on a day-to-day basis a Massachusetts or Virginia settler was more likely than an Englishman in London to control the conditions of his own economic and political life.

As one consequence, by the mid-eighteenth century, in the chartered colonies of New England the Crown possessed virtually no direct power, as the governor and the executive council were both elected. Even in royal colonies like Virginia, where these positions were Crown appointments, the colonies eventually instituted representative legislative bodies
with the plenary power to make colonial law so long as it coincided with imperial statutes and received metropolitan consent. The colonies also organized local government, with settlers providing the justices of peace and even establishing municipalities with powers analogous to English chartered boroughs. Moreover, settlers came to take as given that common-law protection was the birthright of all Anglo subjects, no matter where they were born or now resided. Along with property rights, this entailed the provision of trial by jury and habeas corpus as basic privileges guaranteed to all English colonists and their descendants.\(^76\)

Eventually colonists began to argue that their relative freedom from metropolitan oversight was a matter of legal right rather than simply de facto circumstances. They did so by drawing directly from arguments made by Locke about property holding in North America. These arguments questioned whether the colonies were indeed conquered at all and presented Anglo plantations instead as “settled” land. This category of royal dominion had its basis in the legal principle of *res nullius*, or the notion that “a thing with no owner belongs to the first finder.”\(^77\) For the Crown and its administrators in London, as with other imperial officials in Europe, *res nullius* had generally been ignored as a justification for empire, because it contradicted the evident reality of indigenous presence and conquest. Yet Locke’s notion of unttled land as an “uncultivated waste” suggested that territory could be both inhabited and still empty for moral and political purposes. For colonists, despite metropolitan doubts, viewing North America as settled land had important legal implications. Unlike conquered territory, settled land enjoyed the same basic status as provinces in England—particularly with regard to property protections and the common law generally.

Just as critically, the legal notion of settled land further undermined the position of Indian tribes—in a way that even outstripped arguments derived from feudal conquest. Imagining North America as “settled” did not merely reject indigenous property claims; it presupposed a fundamental erasure of Indian presence. It justified colonial acquisition as morally necessary, because only settlers transformed the North American wilderness into a site for social utility. By contrast, the Indian failure to do so meant that as a moral fact they did not exist on the land. In essence, the settlers were the real “natives”—who discovered a pristine and untouched new world—and thus North America was equivalent to an English province. Again one should note that this idea of erasure would become a constant theme both in the independent United States and with
other settler societies, as colonists expunged the initial act of conquest and came to see their presence as both natural and permanent.

For those very real indigenous groups on the ground, such erasure highlighted the basic divide in colonial life between free Anglo subjects and stratified imperial ones. One the one hand, Anglo colonists viewed English membership as built on the protection of property rights and, increasingly, the provision of political consent. Yet, on the other hand, for Indians, who supposedly had never left the state of nature, to the extent that they faced colonial administrative authority it was akin to feudal paternalism. Like African slaves, the power asserted over Indians amounted to a continuation of the state of nature under civil society. It therefore embodied a fundamentally distinct form of political authority from that operating within settler life. As is explored more in the next section, it was not surprising that Locke’s claims were employed both to defend Anglo privilege and to impose discretionary prerogatives over non-Anglo groups. Despite his complementarity with feudal discourses, Locke captured the development of a new ideological current in England, the revival of republican ideas of economic independence and political self-rule. He did so in a way that spoke to the emerging dynamics of settler society—internal egalitarianism and external domination.

**Settler Society as an Experiment in Republican Freedom**

In many ways, the legal and political structures imposed by colonial administrators in the earliest decades of English expansion in North America best approximated those taking root in the Spanish colonies. Like colonization efforts pursued by absolutist Spain, “New Britain”—as imperial promoters called the Virginia colony—combined royal discretion over all subjects with military discipline, violent Indian suppression, and relative racial fluidity. Yet, just 100 years later, the North American colonies diverged dramatically from their Spanish counterparts, emphasizing settler social supremacy as well as internal self-government and decentralized administrative control.

This shift was not simply due to the conditions of colonization in North America; it also resulted from events at home. In particular, both the English Civil War and the Glorious Revolution emphasized an account of liberty that challenged monarchical authority and checked the rise of absolutism. With its focus on consent, economic independence, and land ownership, this account became especially attractive in the North American context. There Indian expropriation and African slavery made
these goals both attainable and more radical in scope. Thus, in the years leading up to the American Revolution, ideas of economic and political autonomy shaped the nature of internal settler society and helped to define who was properly within and outside the social contract. I argue that, as a result, this developing account of liberty—what I will call republicanism—was necessarily tied in North America to the social supremacy of the English colonist. When colonial administrators eventually began undermining such supremacy in the 1760s, settlers believed not only that their political hegemony was at stake but also that the very future of collective freedom had come under attack.

In describing the seventeenth-century English revival and transformation of classical views regarding liberty, the state, and the individual, Quentin Skinner assesses a set of themes that became central for Anglo settlers and for their vision of social life. He emphasizes how English pamphleteers and political critics came to view the meaning of freedom as comprehensible only when contrasted with the condition of servitude or slavery. On first glance, a slave may be viewed as unfree because he or she is compelled by threat or physical coercion to act in specific ways. Yet Skinner argues that in Roman discussions of slavery, the experience of actual coercion was not seen as the essential marker of servitude. The essence of slavery lay not in actual force but rather in living permanently under the cloud of possible compulsion and subjection to the arbitrary will of another. Skinner writes:

While such slaves may as a matter of fact be able to act at will, they remain at all times in potestate domini, within the power of their masters. They accordingly remain subject or liable to death or violence at any time, as even the figure of Tranio is obliged to recognise. The essence of what it means to be a slave, and hence to lack personal liberty, is thus to be in potestate, within the power of someone else.

Therefore, liberty was not simply the absence of coercion but in fact required independence from the very possibility of external control.

Inspired by Roman literature, English critics of Stuart absolutism took up this argument, exploring the meaning of slavery and its incompatibility with freedom. As Algernon Sydney wrote in his Discourses Concerning Government, although “a master’s cruelty . . . may make one servitude more miserable than another: . . . he is a slave who serves the best and gentlest man in the world as well as he who serves the worst.” This
view pointedly rejected the legitimacy of any political authority—royal or otherwise—that was noncontractual and perpetual, as Coke had imagined. Such authority left the individual under the permanent whim of a despot, regardless of whether that despot acted benevolently. As Locke argued, no matter how wise the dictator, no individual would choose to live under a political regime in which his rights were dependent on the will of an unchecked, external power. To believe otherwise would be “to think, that men are so foolish, that they take care to avoid what mischiefs may be done them by pole-cats, or foxes; but are content, nay think it safety, to be devoured by lions.”

According to Philip Pettit, this account of liberty was distinct from that of noninterference, which would later mark classical liberal thought from William Paley and Jeremy Bentham to John Stuart Mill. Freedom lay in more than merely the unfettered exercise of one’s immediate will; it required actually experiencing a condition of independence from the social control of those more powerful. In the words of Sydney, “For as liberty solely consists in an independency upon the will of another, and by the name of slave we understand a man, who can neither dispose of his person nor his goods, but enjoys all at the will of his masters.”

Freedom, therefore, included a political component and, crucially, an economic one as well. It entailed living in a community based on consent and free from public servitude, as well as the individual’s ability to control the use of his labor. These economic implications, and the centrality of property to any sense of political belonging, made such arguments especially resonant for American settlers. Even if the state was ostensibly free from tyranny, an individual could still be a slave if bound by economic necessity to assign his person or goods to the will of another. According to James Harrington, if freedom required economic as well as political independence, then it was possible only if one enjoyed the material resources to be self-sufficient. For him, this meant that land ownership was critical to eliminating the risk of reverting to social and political dependence. As he wrote in A System of Politics, “The man that cannot live upon his own must be a servant; but he that can live upon his own may be a freeman.”

This focus on property, not unsurprising given its fundamental role in early modern England, is what set the Anglo republican revival apart from its classical and Machiavellian predecessors. For Machiavelli, military participation provided the ethical foundation for social membership, as it gave citizen-soldiers a stake in the welfare of the polity and infused
public life with manly virtues. Yet, writing in the context of the Thirty Years War, Harrington found himself reaching radically different conclusions. He was deeply troubled by the emergence of new standing armies, which left states bankrupted and the rural countryside devastated by roving troops in search of food and bounty. In his view, a militarized public life actually undermined republican ideals. In place of the experience of soldiering, land ownership provided a far better ethical basis for membership. It gave individual proprietors a stake in collective life and through farming taught them such virtues as industry, rationality, and self-discipline. Harrington hoped to transform Europe’s marauding warriors into landholders tied to political communities and invested in the common good. In the process, he imagined that economic and political independence would become mutually reinforcing. In a society organized as a democracy of landholders, in which most individuals held a relatively equal distribution of property, political authority and decision making could be dispersed widely. The result would be a balanced polity, one that was internally stable and in theory could last forever as an “immortal commonwealth”—free of the disruptions and tyranny marking both political absolutism and feudal land regimes. But without an appropriate division of property, such a polity would fail. Harrington argued that “where there is inequality of estates, there must be inequality of power, and where there is inequality of power, there can be no commonwealth.”

Yet, if Harrington presented an egalitarian vision of land distribution, this vision ultimately rested on a belief that only some forms of work were liberating and virtuous. In particular, for republican thinkers, the life of a servant or a wage earner was fundamentally incompatible with freedom because his service depended on following the dictates of a master or employer. Unlike the industrious and independent landholder, who worked his own property, the employee performed merely as the tool of another. Philip Pettit quotes Sydney to illustrate the incompatibility between liberty and the life of the wage earner or servant: “He must serve me in my own way, or be gone if I think fit, tho he serve me never so well; and I do him no wrong in putting him away, if either I intend to keep no servant, or find that another will please me better.” Critically, such dependence meant that servants, wage earners, and the propertyless generally could not be included in any account of full political membership. In essence, civil government resulted from a compact between property owners, who alone had a stable commitment to the well-being of society.
At stake in such exclusion was more than just a desire to protect social order. It also expressed the belief that the propertyless did not have the moral character to participate in political life, because their economic dependence would always make them subject to the dictates of others. Rather than acting according to the common good, the landless would either follow the will of their masters or, more dangerously, comply with whoever offered material resources or sought to manipulate their condition of servitude. By contrast, the productive control wrought by land ownership taught independence and self-reliance; this ensured that when property owners joined together in political life, their collective efforts would express virtuous and autonomous reflection. Michael Sandel points out the centrality of such economic independence to public life and thus political membership, writing that it embodied “labor carried out under conditions likely to cultivate the qualities of character that suit citizens to self-government.”88 Without a basis in productive control, dependent laborers were incapable of enjoying the benefits of political self-government and persisted as a continual threat to social stability.

For Skinner, this account of freedom is best described as neo-roman, while for Pettit it expresses a commitment to nondomination. However, neither term adequately captures the particular meaning such arguments developed in the colonies. For my purposes, these arguments are properly conceived of as republican and present a view of liberty as self-rule, one that extended over all the basic institutions of collective life. Skinner employs the term “neo-roman” because, during the seventeenth and most of the eighteenth centuries, monarchy was not viewed in England or the colonies as necessarily incompatible with liberty. Although accurate, this argument ignores that the essence of republican freedom was not a particular political or legal form but a commitment to institutions that rejected any application of arbitrary power—as exercised by either an individual or a group. Moreover, by referring to these views as republican, we can better appreciate the remarkable persistence of this ideal, long past when settlers and their descendants were self-consciously connecting to a Roman or classical image of politics. As for Pettit’s emphasis on nondomination, although this was clearly important, such a description neglects the participatory aspects of republicanism as it emerged in the colonies. Freedom was not simply the lack of an arbitrary external will but entailed the active assertion of control over economic, political, and religious life. This account of liberty was remarkably robust and required
investing agricultural labor and social institutions with meaningful self-rule.

**Combining Republican Liberty with Protestant Millennialism**

For American settlers, the republican linkage between land and liberty was further reinforced by a strong set of religious commitments. As David Hackett Fischer explains, the first three great migrations of English settlers to North America all involved devout Protestants emigrating in large part due to religious persecution. Such settler origins created a cultural atmosphere in which many colonists viewed North America as a “holy experiment,” a religious haven free from oppressive interference. The Puritans of Massachusetts, for instance, proclaimed their desire to create a “Bible Commonwealth,” which would serve as an example of religious virtue to people everywhere. As John Winthrop famously declared, “wee shall be as a Citty upon a Hill, the eies of all people are uppon us.” In melding with republican liberty, such Protestantism underscored the exclusiveness of the settler ideal and the view of colonial society as a historically unique project.

This exclusiveness was most evident among Puritan settlers, who especially saw themselves as a chosen people, sent by God on “an errand into the wilderness,” to serve as a model of Christian piety and to help precipitate the coming of heaven on earth. As Sacvan Bercovitch writes, “Theirs was a peculiar mission, they explained, for they were a ‘peculiar people,’ a company of Christians not only called but chosen, and chosen not only for heaven but as instruments of a sacred historical design. Their church-state was to be at once a model to the world of Reformed Christianity and a prefiguration of New Jerusalem to come.” From the very beginning of emigration, this commitment to millennialism—the belief that God would one day rule on earth and create a permanent condition of peace and virtue—motivated the New England colonists. According to Bercovitch, John Cotton’s sermons on the ship Arbella repeatedly depicted the settlers as Israelites and America as a new Israel whose political founding would eventually result in a millennial utopia. In Bercovitch’s words,

Cotton chose for his text the seventh chapter of the Second Book of Samuel: “I will appoint a place for my people Israel, and will plant it, that they may dwel in a place of their owne, and move no-more” (7:10)—a passage which, as his listeners well knew, included
the promise of the millennium: “And thine house shall be established and thy kingdom for ever before thee, even they throne shall be established for ever” (7:16). America, Cotton explained, was the new promised land, reserved by God for His new chosen people as the site for a new heaven and a new earth.92

The idea of America as a virgin wilderness was central to this millennial hypothesis. As Samuel Danforth argued in his sermon, *Brief Recognition of New England’s Errand into the Wilderness*, which he gave in 1670 exactly forty years after the landing of the Arbella, the uncultivated woods existed as the perfect site for a New Jerusalem. For the same reasons that John the Baptist preached in the wilderness, the New England settlers would also be free from luxuries such as “silken and soft raiment” and thus better able to hear the word of God and to prepare for His arrival. Just as important, the wilderness provided an ideal terrain to pursue one’s worldly calling and thereby display one’s status as elect. By transforming wasted land into productive and socially useful property, land ownership and free labor would express both religious devotion and one’s commitment to the “city upon a hill.” For the errand to be complete, Danforth told his audience, daily life must embody “the values of piety, frugality, and diligence in one’s worldly calling.”93

In essence, Danforth reiterated the moral standing of Locke’s industrious and rational individuals by arguing that economic independence indicated a life lived in conformity with the will of God. If property was a precondition for republican freedom, land ownership was an even deeper moral and spiritual necessity for radical Protestants. In North America, by claiming land and harnessing raw nature to serve human industry, settlers paved the way for the millennium and displayed their own religious fervor. In other words, ideas of productive labor and liberty became inextricably intertwined with practices of worship. This had clearly been the case in England as well, where Puritan republicans like John Milton saw themselves as fighting for the creation of a religiously pure political community and therefore understood free life as bound to Christian piety. However, in North America, the settler confrontation with a harsh and unforgiving landscape made religious and economic independence all the more connected, and thus the act of overcoming the wilderness was as much a spiritual as an economic obligation.

For Puritan settlers, this millennial commitment to freedom as self-rule also underscored the link between the political defeat of Stuart absolutism
and the religious defeat of Catholicism. In making these connections, Puritans expressed a view that had become increasingly commonplace not simply in Massachusetts but throughout the various colonies. For Protestants in England and even more so in North America (since the North American settlers often emigrated for explicitly religious reasons and so tended to be the most radical), Catholicism and political absolutism were seen as inevitably joined. Just as the Catholic religion compelled adherents to slavishly follow the dictates of a hierarchical church rather than one’s own conscience, the unchecked monarch ruled arbitrarily and commanded complete obedience. Both conditions embodied forms of servitude—one religious, the other political—that undermined the republican vision of independence. The idea that true liberty and the Catholic faith were mutually incompatible meant that just as natives and slaves were seen as outside the social contract that bound together free English subjects, so too were Catholics. Philip Lawson writes of eighteenth-century Britain: “Catholicism in . . . Britain was, to official eyes, not simply a spiritual matter. Confessed religion determined what role a citizen played in the political, social, and, often through these, economic life of the nation.”94 In 1673 fear of a popish plot led to the enactment of the Test Act, which systematically excluded Catholics from office by forcing members of Parliament, officeholders, and later peers to take an oath against transubstantiation.

More crucially, the settlement of 1689 very clearly tied the end of the Stuart monarchy and new constitutional limitations to the permanence of Protestant rule. Lawson continues: “The theoretical supremacy of the Protestant constitutional world was completed with the revolutionary settlement of 1689. In the Bill of Rights an innovatory clause, clearly born out of the anti-popery sentiments of the time, restricted succession to the British Crown to Protestant heirs.”95 Following such practices in England, eighteenth-century Catholics were barred from voting in numerous American colonies, including Virginia, New York, Maryland, Rhode Island, and South Carolina. Maryland, which had the largest Catholic population, repealed voting rights so that Catholics did not “tend to the Discouragement and Disturbance of his Lordship’s Protestant Government,” a ban that remained in effect through the Revolution.96 The argument against Catholic political inclusion was very similar to that presented against the landless. In the same way that the poor were dependent on the whim of others and so incapable of the independence necessary for autonomous reflection, Catholics too were dependent on the will of the
pope. As such, each group in its own way constituted a permanent threat to the free political existence of Protestant believers.

Connecting these political, economic, and religious dimensions, accounts of republicanism provided the foundation for social standing and political belonging in late seventeenth- and eighteenth-century settler society. The lived experience of colonization further reinforced each basic conceptual strand and made liberty as self-rule far more accessible to Anglo settlers than it had been in England. While relative isolation emphasized the political independence of the colonies, access to uncultivated land provided the poor with the prospect of economic self-sufficiency. Moreover, the Protestant faith grounded this approach to land and liberty and helped transform various settler communities into Protestant experiments in collective life. In each respect—political, economic, and religious—the settler commitment to liberty as self-rule also marked out those that were necessarily excluded due to faith, ethnicity, or economic dependence. From its American inception, this ideal of freedom contrasted liberty not merely with hypothetical servitude but also with the very real and lived experience of those outside the social contract—slaves, natives, the landless, and Catholics.

**Insularity and Immigration in Settler Ideology**

By the mid-eighteenth century, the British project of decentralized imperial expansion produced a remarkable state of affairs in the North American colonies: land ownership was widely dispersed and the colonists enjoyed extensive political and legal rights. Even more so than the Crown intended, its settlers created uniquely self-governing polities in which—for those included as free subjects—republican liberty was a tangible experience. Crucially, Anglo colonists increasingly viewed their own expansive practice of freedom as the product of British ancestry, a cultural tradition of self-rule that extended back to the ancient Saxons. This combination of extensive autonomy and cultural pride in Anglo heritage made settlers particularly wary of threats to liberty. Surrounded by French imperialists, Catholic settlers, African slaves, and Indian tribes, it also bred a sense of continual crisis that sowed the seeds for revolt.

The political autonomy that developed went hand in hand with deep insularity within settler society. Despite the religious and cultural differences between the various colonies, settlers in general saw their ancestry as foundational for their status as privileged subjects. They viewed this
ancestry as grounding specific and cherished liberties, as emblazoned in the Magna Carta.98 For many settlers, this specific cultural history of liberty made them exceptionally suited for free political life. Thus, while a native could become civilized and Christian through sedentary agriculture and religious conversion, the absence of any link to Britain’s ancestral past would always make his complete inclusion impossible. The capacity for liberty, developed over generations, made settlers—as opposed to subjugated communities—distinctively qualified for political, economic, and social power. As a result, and in a manner similar to numerous other settler societies, political self-government in the colonies was premised on an organic notion of belonging that linked ancestry and land to membership.

Yet Anglo settlers nonetheless confronted a basic predicament that cut against the most intense forms of insularity. For English colonies to be economically sustainable and militarily secure from indigenous threat—let alone to expand—they required a larger population. As discussed earlier, industrialization and changes in economic production in England led metropolitan officials to be deeply ambivalent toward increasing Anglo emigration; these officials sought instead to maintain a sizeable workforce for factories on the island. Since England alone could not supply the necessary numbers, settlers promoted emigration by other European communities, efforts that led to a substantial non-English population by the mid-eighteenth century.

In order to attract these newcomers, colonists developed practices for easy naturalization, which were far more open and simplified than those at home. James Kettner writes that “neither the royal charters, nor parliamentary statutes, nor common law principles explicitly conferred upon colonial authorities the right to adopt aliens as subjects.”99 Nonetheless, almost immediately colonies aggressively asserted their local colonial authority to naturalize European foreigners, regardless of whether these powers were recognized in London. Settlers employed a variety of tools to aid quick naturalization. The most common method was the passage of special naturalization acts by local assemblies to incorporate new European subjects. Other means included the use of enrollment procedures and group naturalizations. In New York, settlers naturalized all resident foreigners “professing Christianity” who pledged an oath of allegiance by November 1, 1683.100 Under Locke’s Fundamental Constitutions of Carolina, foreigners simply had to appear at any precinct register, and if they pledged on a copy of the Constitutions that they would “bear
faith and true allegiance” to the king and “to the Palatine and Lords Proprietors,” they would be immediately naturalized.101

Along with creating lax naturalization policies, settlers also expanded the provision of rights traditionally offered naturalized European subjects. While in England the established policy was to exclude these subjects from holding high political office, in North America practices were more flexible. In Pennsylvania, a 1706 election law permitted naturalized subjects to vote as well as to stand for elected positions. Even more distinctively, settlers began extending rights to European foreigners, in ways that contradicted the classic divide between subjects and aliens. In 1704 the South Carolina legislature passed a suffrage law providing voting rights to new immigrants as long as they met residency and property requirements. The law simply formalized practices occurring on the ground, as widespread alien voting had taken place in the colony’s 1701 election, particularly by French Huguenots. In 1761 Georgia, too, enacted an equivalent measure allowing for alien voting. And in Pennsylvania, even without such laws on the books, by the 1740s it had become commonplace for German Protestants to vote and hold office, with or without the benefit of naturalization.102

Crucially, these practices were fundamentally grounded in ethnic and religious judgments about cultural similarity. While goals of expansion may have pressed Anglo settlers to open the colonies to heightened immigration, only specific foreigners were welcome. In particular, settlers came to view colonial inclusion as appropriate for European Protestants, whose religious practices made them particularly suitable for republican values and English liberties. For instance, groups such as the French Huguenots, who faced suppression under Louis XIV, were treated as co-participants in the project of settlement and found a ready welcome in the colonies. While Catholics or Indian tribes were depicted as culturally dissimilar and ill equipped for freedom, Western European Protestants were seen as having their own parallel history with free institutions and thus assimilable within the settler project.

This cultural approach to who properly counted as a worthy immigrant was further reinforced when the English Parliament finally moved in 1740 to standardize naturalization procedures in the colonies. For nearly half a century, settlers had argued for the Crown to provide legal certainty to practices emerging on the ground. The 1740 law did so by creating an inexpensive and clear administrative process for incorporating new subjects. Yet, along with a seven-year residency provision, the
bill also required foreigners to profess their Christian faith and to submit a certificate swearing to have taken the sacrament in a Protestant church in the previous three months.\textsuperscript{103} While exemptions were provided for groups such as the Quakers,\textsuperscript{104} these rules pointedly disqualified Catholics from membership. In essence, easy naturalization for co-ethnic and co-religious foreigners went hand in hand with the continuing exclusion of outsiders deemed too culturally heterodox.

In this way, colonial practices created a pattern that would later shape immigration policies for an independent America. Immigration became a critical means of replenishing and sustaining settler commitments to land conquest and republican self-rule. This meant the development of lax naturalization rules and the extension of rights (including suffrage) to aliens in ways that differed dramatically from metropolitan practices. Unlike colonized or imperial subjects, new Protestants were often viewed as worthy of full membership and therefore deserving of swift economic and political inclusion. Of course, these immigration policies were not applied everywhere, either during the colonial period or following the Revolution. In the seventeenth and eighteenth centuries, Rogers Smith notes that New England tended to be “the most exclusionary” with Massachusetts and New Hampshire limiting freeman status to Englishmen alone.\textsuperscript{105} Still, the basic thrust of colonial practices was strikingly distinct from that throughout Europe; such practices underscored the emerging centrality of immigration to settler life.

This centrality also was driven by the prevailing sense of threat. Settlers viewed outsiders, like French Catholics and indigenous tribes, not simply as foreigners but as enemies that could be checked only by a burgeoning population and consistent expansion. Surrounded by communities seeking to destroy their ancestral and religious liberties, settlers saw other Protestants as potential allies in a shared colonial enterprise. In this way, the perception of danger and the role of immigration reinforced the hardening divisions in settler life and in particular united a powerful and expansive vision of republican freedom with a restricted account of who was entitled to such freedom. For colonists, English republican precedents, Protestant faith, and the rigors of settlement emphasized how liberty was necessarily an active project of self-rule, one that included political, spiritual, and economic dimensions. Yet these factors, while permitting some European immigrants to become co-participants, also intensified the implications of exclusion and cast outsider groups as permanent threats that had to be pacified for internal domestic order. In the
1760s and 1770s, as the colonies and Whitehall found themselves bitterly at odds, it was this settler defense of an exclusive and robust freedom that increasingly seemed puzzling to colonial administrators and fundamentally incompatible with imperial aims.

The Settler Revolt over Empire and Subjectship

In the wake of the French and Indian War, the English metropole embarked on a project of imperial reorganization in keeping with its new and historically unprecedented global reach. These changes were experienced as a fundamental assault on the basic tenets of settler life. Settlers increasingly viewed administrators in London as questioning their political autonomy, religious values, land rights, and social supremacy vis-à-vis subordinated groups. For colonists deeply proud of their ancestral heritage, conception of liberty, and economic and political independence, metropolitan actions subjected free communities to the yoke of tyranny—comparable to Norman and Stuart absolutism. What English administrators saw as a necessary attempt to centralize imperial rule and move away from an outdated conception of empire based on colonial settlement, American settlers experienced as an attack on their birthright as privileged British subjects. In the end, this conflict over the nature of British imperium led directly to revolt and transformed the ideological foundations of settler colonies into a uniquely American account of republicanism and empire.

In this section, I begin by describing settler expectations for political, economic, and religious life following war with France and the sheer extent to which these expectations were thwarted by metropolitan policies. I then go on to assess the primary sources of disagreement between administrators and colonists over the future of the British Empire. In particular, I focus on London’s attempts through judicial decisions and administrative actions to develop more inclusive forms of imperial rule and to expand the rights afforded Native Americans, Catholics, and, to a lesser extent, slaves. For colonists, each effort suggested the willingness by Whitehall to treat Anglo settlers as indistinct from their cultural inferiors and to make all subjects victims of a uniform political tyranny. Ultimately, I argue that these efforts highlighted underlying and profound disagreements between the Crown and its colonies over the very meaning of freedom and its role in economic and political life.
American settler enthusiasm regarding the British victory against France was overwhelming, and colonists were among the loudest voices in favor of imperial conquest and Canadian acquisition. Settlers considered the victory not just as one for the metropole but also as furthering their own independent political and religious projects, and they were eager to take advantage of the French collapse. Therefore, victory brought with it a series of settler expectations, which ranged from even greater political autonomy to massive financial windfalls for land speculators to the coming of the Protestant millennium for Puritans. The enormity of these expectations and the very different imperial path pursued by metropolitan London dramatized the confrontations awaiting Britain and its American colonies.

For a sense of what meaning settlers attributed to the victory, one need only turn to Benjamin Franklin’s 1760 pamphlet, *The Interest of Great Britain Considered with Regard to Her Colonies and the Acquisitions of Canada and Guadaloupe*, which presented a powerful vision of colonial expansion and was perhaps the most famous of all those written during the peace. Franklin argued that the acquisition of Canada would solve a series of key strategic and land problems and provide great economic rewards to the metropole and its settlers. Such security benefits included eliminating the threat to American settlers presented by French proximity and resolving friction and conflict with Indian tribes. Acquisition would also eradicate the barrier checking the geographic and demographic growth of the American colonies as well as the advance of English traditions and liberties. Clearly at stake for Franklin and many other colonial elites were the profits to be made from speculation in new land opened to American settlers. Expansion meant the extensive increase of colonial territory and thus greater access to property for wealthy landowners and poor farmers alike.

Yet Franklin also viewed expansion as marking the spread of English liberty to uncultivated woods and previously oppressed lands—even if such freedom extended only to Anglo settlers moving north and west. For Franklin, victory over France meant the growth, spiritual and territorial, of the settler political project. Therefore, his arguments also reinforced the prevailing North American view of the British Empire as
principally an effort of settler colonization and, in particular, the idea that new colonies were politically free and largely autonomous. As “settled” land, such colonies may have given allegiance to the Crown, but they also shared the same basic rights and privileges accorded to Englishmen living in the metropole. Each colony was organized around principles of political self-government and did not exist as a dependent entity useful solely for economic extraction. In order to emphasize the value of this imperial vision, Franklin eloquently employed the example of Roman expansion:

The Romans well understood that policy which teaches the security arising to the chief government from separate states among the governed, when they restored the liberties of the states of Greece . . . by an edict that every state should live under its own laws. They did not even name a governor. Independence of each other, and separate interests, tho’ among a people united by common manners, language, and I may say religion, inferior neither in wisdom, bravery, nor their love of liberty, to the Romans themselves, was all the security the sovereigns wished for their sovereignty. It is true, they did not call themselves sovereigns; they set no value on the title; they were contented with possessing the thing; and possess it they did, even without a standing army. What can be stronger proof of their possession? And yet by a policy similar to this throughout, was the Roman world subdued and held.107

In the eyes of Franklin, empire was a collective undertaking between metropole and colony, in which settlers—due to British ancestry and traditions—were free English subjects, equal in status to those on the island.

The sense that British conquest embodied the victory of this approach to empire was even more strongly expressed by Puritan clergy, who often depicted colonial expansion as a world-historical event in the service of God and the coming of millennial utopia. As Nathan Hatch writes, “In sermon after sermon ministers celebrated the removal of the last and greatest obstruction to the coming kingdom.” Samuel Langdon saw the moment as anticipating the “final ruin of that spiritual tyranny and mystery of iniquity” and declared, “Babylon the great is fallen, is fallen!” Jonathan Mayhew believed that God would initiate “a most signal revolution in the civil and religious state of things in this world; and all the kingdoms
thereof are to become kingdoms of our Lord.” Solomon Williams placed French defeat and colonial expansion on the same plane as the Reformation and the Glorious Revolution, arguing that the victory was “of more Importance than has ever been made by the English, since England was a Nation.”

Similar sermons had been made during earlier military and political victories over France, such as following the Treaty of Utrecht in 1713, which included provisions recognizing English territorial control in Newfoundland, Acadia, and elsewhere. Nonetheless what made the current moment distinct was that for Puritan clergy, British success marked perhaps the final defeat of Catholicism and political absolutism—two forces necessarily connected. This was because France’s North American presence had been almost entirely eliminated, with Britain’s imperial rival now only governing the tiny islands of Saint Pierre and Miquelon north of the Caribbean. It meant that the errand into the wilderness could continue with the greatest threat—French popery—removed, and that the example of settler religious and political liberty could finally precipitate millennial utopia. The British victory in North America gave sustenance to the settlers’ republican and millennial views and raised the promise of an expanding and decentralized imperial power guided by Anglo colonists.

The Challenge of Native Land Rights in a Globalizing Empire

The settler communities’ political and religious perspectives took for granted the permanence of existing imperial practices on the ground, especially decentralization and settler control over territorial expansion. In fact, colonists believed that these realities were more than de facto circumstances; they were the legal and legitimate status quo. As such, settlers assumed that their own political and social customs would simply extend into new lands as they saw fit, expanding Anglo-Protestant rule and with it the domain of liberty. The first great attack on this settler vision of land acquisition and imperial purpose came in the form of the Royal Proclamation of 1763 and metropolitan plans for the proclamation’s implementation. The persistence of over 100,000 Native Americans in territory now claimed by the Crown meant that Britain found itself in the precarious position of having to navigate between indigenous and settler interests, in a context in which the Crown had no desire to sink yet more resources and military personnel into removing such a substantial Indian population. For colonists, however, the British Empire’s willingness to
balance settler-native objectives fundamentally threatened the social standing of Anglo settlers. These developments belied colonial expectations of imperial continuity and settler power and, as a result, colonists responded with defiance—reiterating their unique status as the true British subjects.

Victory in the French and Indian War proved to be a mixed blessing for the British Empire. The war had been costly and Britain had relied on Indian alliances for its success. Now faced with an indigenous rebellion spearheaded by the Ottawa chief Pontiac, London believed that lasting security on the western frontier would require limiting settler access to land. In large measure, this was because the Crown remained more focused on its various quarrels in Europe, and London administrators were unenthused about pursuing a prolonged conflict with their erstwhile allies, the Indian tribes. As an added benefit of avoiding a new war at the edges of the empire, administrators believed that ensuring indigenous land rights would safeguard the profitable fur trade and further link these tribes to the British trading base. In January 1763, even before news of Pontiac’s rebellion reached England, Secretary of State Egremont explained the government’s views to General Jeffrey Amherst, commander-in-chief of British forces in America. Egremont argued that the ministry was attempting “to conciliate . . . the Indian Nations, by every Act of strict Justice, and by affording them . . . Protection from any Incroachments on the Lands they have reserved to themselves, for their hunting Grounds.”

Crucially, such conciliation in practice meant compromising the extensive autonomy enjoyed by colonial settlers. In particular, the Crown and its London ministry would have to assert much greater control over the use and disposal of imperial territory. This centralization went hand in hand with altering basic assumptions about the treatment of Indian tribes. While Native Americans under the king’s domain still faced an imperial and discretionary prerogative, the Crown indicated that these subjects nonetheless enjoyed basic privileges, including royal protection in possessing land—regardless of how indigenous groups organized tenure. In closing the old Northwest frontier to Anglo settlers, the language used by the Royal Proclamation made these beliefs explicit:

And whereas it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our
protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds; we do therefore, with the advice of our Privy Council, declare it to be our Royal will and Pleasure, that no Governor or commander-in-chief in any of our colonies of Quebec . . . [or] our other colonies or plantations in America do presume . . . to grant warrants of survey, or pass patents for . . . any lands whatever, which, not having been ceded to or purchased by us as aforesaid, are reserved to the said Indians, or any of them.

According to the Proclamation, all lands west of the eastern mountain ranges would remain in indigenous control unless Anglo settlers first received a special royal license, and those who had claimed this land without prior approval were commanded “forthwith to remove themselves from such settlements.”

To further ensure that indigenous rights were respected, no private individual was authorized to bargain with Native American tribes over land, and only colonial administrators acting in the name of the king could claim purchase. The Proclamation concluded that in order to prevent fraud and abuse, as previously had been common, “if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians.” In order to defend the Proclamation line, London realized that it could not rely on colonial militias, which had proven difficult to organize and direct during the war with France. A successful defense would require a regular standing army supplied and controlled by Britain. To provide for the upkeep and support of this force, Whitehall also decided to impose a stamp act and later a series of taxes on the colonies, so that American settlers would pay for the land policies. Such decisions were seen as necessary requirements of maintaining peace in the territories and binding settlers more closely to imperial supervision; this closer connection would ensure that the settlers’ actions did not conflict with the material and strategic goals of the metropole.

However, for American colonists, metropolitan policies were at root incompatible with the premises of settler colonization and, in particular, with the moral rationale behind territorial expansion. This shift, expressed by the Royal Proclamation of 1763 and the related military and
taxation policies, ran contrary to the long prevailing imperial status quo. It especially challenged the belief that indigenous communities, as conquered subjects and heathen savages, should not be allowed to perpetuate customs that conflicted with settler goals of independence and land ownership. For Anglo colonists, empire had been grounded in a vision of republican freedom, which held that only through settler possession would an uncultivated wilderness be made productive for the collective good. By entrenching respect for indigenous laws and property arrangements, colonial administrators allowed the practices of native savagery to trump those of English civilization and its industrious and rational settlers. In the past, colonists had no doubt purchased land and accommodated native customs in order to minimize the likelihood of warfare and to ensure an orderly transfer of property. Yet now, administrators were suggesting that regardless of settler expectations and goals, native practices had to be incorporated into a permanent imperial framework.\textsuperscript{112} This ignored the fact that for many colonists, native dispossession was more than a matter of simple material self-interest; it was the precondition for meaningful and expansive self-rule.

For settlers pushed west to stake out new territory, the prospective loss of land compromised the very possibility of economic freedom and with it the basic elements of republican life. The period between 1763 and 1776 saw a massive influx of new settlers (Protestants largely from Ulster and the lowlands of Scotland), as over 150,000 people made the journey to the colonies.\textsuperscript{113} For the Irish Calvinists, especially, such colonization amounted to a double history of settlement and indigenous confrontation. Most of these colonists, descendents of the Elizabethan conquerors of Ireland, were deeply religious and also relatively impoverished as compared with earlier waves of migrants. Such settlers emigrated primarily in search of land and economic opportunity, and coastal demographics forced them toward the Proclamation line in the old Northwest frontier, or what was more commonly called “the backcountry.” They also brought with them forms of agriculture that were particularly land intensive. Fischer writes, “By one estimate, each head of range cattle in the southern backcountry required fifteen acres of piney woods—a total of 1,500 acres for a herd of cattle.”\textsuperscript{114} These new colonists were thus the frontline of colonial expansion and saw indigenous land as essential to economic betterment. Without the prospect of such land, new settlers would be unable to break the cycle of poverty and dependence and thus could not lay claim to genuine freedom. At stake for them were both...
their basic economic survival and their political and social standing within settler society.

On the issue of colonial expansion into Native American land, the interest of propertyless settlers and wealthy colonists coincided. Large-scale emigration had presented elites with the prospect of making huge fortunes in land speculation. Such individuals hoped to claim indigenous property—often through fraud—and then profitably sell this property to land-hungry settlers. Even after the Proclamation, speculators like George Washington believed that metropolitan policies were temporary and saw “hunting out good land” as economic common sense. Washington wrote to William Crawford, his land surveyor:

For I can never look upon that proclamation in any other light (but this I say between ourselves), than as a temporary expedient to quiet the minds of the Indians, and must fall, of course, in a few years . . . any person, therefore, who neglects the present opportunity of hunting out good land, and in some measure marking and distinguishing them for his own (in order to keep others from settling them), will never regain it.\(^{115}\)

Nonetheless, in the period following 1763, Washington, Franklin, and others were repeatedly thwarted by Whitehall in attempts to acquire and sell indigenous land.\(^{116}\) For both frontier settlers and colonial elites, metropolitan policies were an immediate and substantial threat to financial gain.

To make matters worse, the military and taxation policies pursued by Whitehall combined the danger to economic independence with one to political autonomy. For settlers the primary threat to the ideal of liberty as self-rule was no longer French popery but the absolutism of the British Parliament. In the minds of settlers, such absolutism was analogous to the “Norman Yoke” under which free Anglo-Saxons had labored.\(^{117}\) Robert Williams summarizes the settler account of such tyranny:

[It] boiled down to the opinion that before 1066, the Anglo-Saxons of England lived as free and equal citizens under a form of representative government that was inspired by divine principles of natural law and the common rights of all individuals. The Norman conquest, however, had destroyed this Saxon model of government. But not even the Norman Yoke could destroy the Saxon Constitution’s divinely inspired universal appeal to the minds of
free English everywhere. . . . Thus historical events such as the Magna Carta and the English Revolution’s overthrow of the “excruciable race of Stuarts” were part of the continual struggle of the English to reestablish their revered and ancient Saxon rights and liberties.118

Making precisely this point, James Otis, the Boston lawyer and influential pamphleteer, wrote in his 1764 tract, The Rights of the British Colonies Asserted and Proved, that English liberty preceded the Magna Carta and was the settler’s ancestral inheritance from Anglo-Saxon forefathers. According to Otis, freedom “was better understood and more fully enjoyed by our ancestors, before the coming in of the first Norman Tyrants than ever after, ’till it was found necessary, for the salvation of the kingdom, to combat the arbitrary and wicked proceedings of the Stuarts.”119 Among the essential liberties enjoyed by Anglo-Saxons was the right to property, and by imposing taxes without any settler representation, Parliament in one fell swoop threatened both economic and political freedom. Not only were the Crown’s ends unjust, undermining the natural and legitimate acquisition of land by settlers; its means compromised basic principles of self-rule. In fact, to the extent that political society resulted from a Lockean social compact between individuals for the mutual protection of their property, Whitehall’s actions contravened the very premises of government itself.

These arguments from the “Norman Yoke” were inherently tied to the settler belief, mentioned previously, that free Anglo subjectship derived from ancestry and cultural history and that diminishing these rights in order to protect Indian tribes was anathema to liberty. As Otis explained, those who settled North America did so “not as the common people of England foolishly imagine, with a compound mongrel mixture of English, Indian and Negro, but with freeborn British white subjects.”120 What settlers shared with the home country was a clear blood tie, which both inculcated a love of liberty and united metropole and colony into a single imperial project. By trumping the rights of settlers—the king’s privileged subjects—with the supposed rights of natives, Parliament and its colonial administrators imposed the worst type of tyranny. They used absolute power to usurp the legitimate political order, one derived from a higher natural law, and thus reduced Anglo-Saxons to a condition of servitude. Like conquered subjects, colonists too were now
slavishly dependent on the whim of an external will. Just as upsetting for settlers, the Royal Proclamation of 1763 and the policies that followed indicated that for fellow Englishmen at home, shared ancestry was no longer relevant and colonists could be treated as akin to heathen savages.

Especially given the settler vitriol, it is worthwhile to understand precisely why London became committed to reorganizing the empire in line with greater respect for non-English subjects. At the beginning of this chapter, I noted that London struggled with how to govern its increasingly global imperium. As a result, Whitehall ultimately determined that in order to administer the empire efficiently it would be necessary to restructure colonial relations. A helpful way to tease out this rationale is by exploring Lord Mansfield’s 1774 decision for the Court of King’s Bench in Campbell v. Hall. The case itself was not a central cause of fomenting settler unrest, but it did articulate the metropolitan consensus on settler-native affairs that had developed over the previous decade. And it served as one of many reasons why Mansfield was deeply unpopular in the colonies. The issue at hand concerned the Crown’s right of taxation in Grenada, a Caribbean island acquired during the war with France. At the time of conquest, the island was mostly composed of French plantation owners, and, in keeping with Coke’s ruling in Calvin’s Case, the British articles of surrender asserted that the island’s previous laws would continue until the king chose otherwise. As a Christian country, Grenada’s laws were not ipso facto void on conquest and thus could be legitimately enforced. These laws were finally altered by the Proclamation of 1763, which protected local land rights and established a new government for Grenada in keeping with the English practice of representative government. However, following the establishment of a representative assembly, the Crown issued by royal prerogative a new 4.5 percent tax on all sugar produced in Grenada. Campbell, an English plantation owner who had recently purchased land on the island, brought suit to challenge the king’s right to impose this tax unilaterally.121

On the direct question of the case, Mansfield sided with Campbell and argued that while the Crown enjoyed prerogative powers to introduce whichever laws it saw fit in conquered lands, once such laws were introduced the king “divested himself of that authority” and could not simply trump established rights.122 For this taxation scheme to be lawful, it would either have to be enacted by Grenada’s own assembly or by the English Parliament. By striking down the tax on sugar, Mansfield followed
the basic Whig principles of the Glorious Revolution. For him the defeat of Stuart absolutism meant the victory of parliamentary sovereignty over unchecked monarchical power.

In unifying the defense of both parliamentary supremacy and the rights of non-English subjects, Mansfield also presented London’s emerging vision for the British Empire. In dicta, Mansfield explicitly rejected Lord Coke’s basic proposition in *Calvin’s Case*, that following conquest only Christian laws were worthy of imperial respect. Mansfield argued that the feudal distinction between infidel and Christian had no bearing on the status of conquered peoples. He maintained instead that this status derived from Roman law and thus existed prior to the rise of Christianity: “The laws of a conquered country continue in force until they are altered by the conqueror; the absurd exception as to pagans, mentioned in Calvin’s case, shews the universality and antiquity of the maxim. For that distinction could not exist before the Christian era; and in all probability arose from the mad enthusiasm of the *Croisades*.”\(^{123}\) By employing the French spelling for crusade, Mansfield made clear that Coke’s distinction was the product of Norman Catholicism.\(^{124}\) After the defeat of Stuart absolutism, such a distinction should not hold in a society premised on Protestant liberty.

Even more important, Mansfield’s dicta gave legal validity to imperial practices that were commonplace and unavoidable. To declare necessarily null and void all “infidel” laws would run contrary to policies emerging out of Whitehall. For instance, metropolitan London was slowly and fitfully developing a form of administration that eventually would be termed indirect rule and become associated with late nineteenth-century colonial frameworks in Asia and Africa. Such frameworks employed indigenous elites as the bottom rung of imperial administration, with these elites given extensive discretion to govern according to their judgments of what constituted indigenous law.\(^{125}\) In the 1760s, over a century before the systematic implementation of indirect rule, Bengal in particular became an early site for experimentation with new modes of British control—if for no other reason than that sheer demographics required the English use of local authorities and practices.

In essence, Mansfield’s decision simply acknowledged these circumstances on the ground as well as the larger conditions necessary for ruling a massive and culturally diverse empire. By limiting the Crown and emphasizing instead the power of Parliament, he sought on the one hand to centralize an inefficient and largely decentralized colonial ad-
ministration within the hands of the legislature. At the same time, by
striking down Lord Coke’s dicta and giving legal backbone to incipient
ideas of indirect rule, Mansfield made explicit the basic realities of a
global empire. Only by recognizing indigenous laws and increasing the
privileges associated with native subjectship—regardless of local religion
or custom—could an imperial project of this size and scope succeed. De-
centralization and settler supremacy may have been prerequisites of re-
publican freedom in the colonies, but from the perspective of London
these practices served only to overwhelm an overstretched empire. They
promised internal instability or even outright rebellion. Thus officials
in London and colonists in North America found themselves at logger-
heads, since settler liberty and imperial order seemingly ran in different
directions.

The Quebec Act, Indirect Rule, and the Catholic Threat
For many American colonists, the Quebec Act of 1774 confirmed that
Whitehall had turned its back on historic and established principles of
settler colonization and transformed the imperial project into an exten-
sion of Norman or Stuart tyranny. Especially disconcerting for radical
Protestants in the colonies, Parliament’s new measures for governing
Canada seemed to ignore the entire basis for war with France—namely,
the religious goal of ending the threat posed by French popery. In the
minds of colonial administrators in London, the Quebec Act was a neces-
sary means for ensuring the allegiance of French Catholic subjects. None-
theless, it once again forced Parliament to come to grips with the basic
tenets of English expansion. In further revising the de facto imperial sta-
tus quo, the Quebec Act underlined the growing belief among American
colonists that settler liberty and metropolitan rule were incompatible.

The act itself resulted from an intractable bind facing colonial admin-
istrators after Canadian annexation, one foreseen by the critics of expan-
sion and defenders of “little England.” In the excitement over the French
defeat, hardly any thought had been given to the difficulties of effectively
governing 75,000 French Catholics. The Royal Proclamation of 1763
sought to solve this problem by simply imposing English law on the popu-
lation and with it the drastic curtailment of Catholic rights. The hope
was that enough Anglo-Protestant settlers would move to Canada to
shift the ethnic composition of the colony and that in time French Catho-
lics would appreciate the cultural and political superiority of Britain’s
legal and religious customs. When this rosy scenario failed to materialize,
administrators were faced with a very difficult set of options. In the words of Philip Lawson, “They ranged from expulsion of those refusing to swear allegiance to George III and the Anglican creed, which could run into thousands of people, to the immediate conversion and Anglicization of Quebec’s spiritual and civil existence—a policy that . . . would prove quite inapplicable to the well-established French Catholic society.”

Instead, Whitehall pursued a course of action in keeping with its general desire to reshape imperial policy along lines that recognized the cultural diversity of the empire. The Quebec Act eliminated the need for a religious test in order to hold any public office. It placed legislative power—although subject to royal approval and exclusive of matters of taxation—in a Canadian council nominated by the British government and which included both Catholic and Protestant members. The act provided Roman Catholics with complete religious freedom, even allowing priests to collect tithes from parishioners. While enforcing British criminal law, it also omitted habeas corpus and retained French civil and property laws. Finally, the Quebec Act sought to address continuing and illegal efforts by American colonists to claim and settle indigenous lands. Since the closure of the old Northwest frontier had failed to end Anglo settlement or land speculation, Whitehall decided to turn over control of the territory to Canada by extending the Canadian border south along the Ohio River and behind the Allegheny Mountains. The ultimate goal was to protect indigenous land access and control, since colonial administrators reasoned that Anglo settlers would avoid being subject to French Catholic law and governance.

As Lawson has underscored, the Quebec Act embodied a complete reversal of the English policies of Catholic persecution and gave French Catholics in Canada greater political and religious rights than those enjoyed by their fellow congregants anywhere in the empire. Once again much of the impetus behind this reversal sprang from the basic dictates of maintaining stability. In a territory marked by tens of thousands of French inhabitants and only 400 Anglo-Protestant settlers, unilaterally imposing Protestantism and English law would lay the seeds for revolt. Thus, although Anglo settlers repeatedly argued for the creation of a representative assembly, administrators in London as well as Governor Murray in Quebec recognized that, due to the Test Act’s exclusion of Catholics from all public offices, having a few hundred Protestants represent the entire colony would be deeply problematic. As for legal customs like habeas corpus and the jury system, which many in England and the
colonies viewed as basic and inviolable liberties, they too ran contrary to effective governance. Untrained in English law and deeply entrenched in French practice, the Catholic population generally opposed the introduction of a new legal framework. Such opposition was strengthened by the fact that when the jury system was employed in Quebec, the Test Act kept French Catholics from serving. Given these practical realities, as far as colonial administrators were concerned, only a policy premised on Catholic toleration would be compatible with peace and security. In a 1772 report on Quebec’s future government, Alexander Wedderburn, the Crown’s solicitor general, maintained that

The safety of the state can be the only just motive for imposing any restraint upon men on account of their religious tenets. The principle is just but it has seldom been justly applied; for experience demonstrates that the public safety has been often endangered by these restraints, and there is no instance of any state that has been overturned by toleration. True policy dictates then that inhabitants of Canada should be permitted freely to profess the worship of religion.129

Moreover, for those in Whitehall, toleration was seen as part of the Crown’s responsibility of ruling its new subjects with justice. Knox, by then the undersecretary for the American Department, argued in his pamphlet defending the Quebec Act that above all “benevolence and humanity recommend[ed]” the plan. In his view, the Quebec Act was part of a larger effort to avoid repeating the mistakes and inequities produced by the Irish experience, in which a small number of Anglo Protestants denied the majority Catholic population virtually any cognizable rights—with the result that two centuries later the island still remained wracked by strife and “malignant hatred.” Yet, for all their tolerance, metropolitan officials were also unwilling to allow a truly representative assembly, given its inevitable Catholic composition and likely role in fostering French Catholic assertiveness. As Wedderburn also noted in his report, such an assembly would be “an inexhaustible source of dissension” and “a dangerous experiment with new subjects, who should be taught to obey as well as love this country, and if possible, to cherish their dependence upon it.” Thus, for officials in London, the ultimate goal was to create a stable imperial order rather than to provide real self-rule to conquered subjects.130

In the end, the Quebec Act reinforced the importance of administrative centralization and indirect rule in a culturally diverse empire. In the
same year that Lord Mansfield—himself a strong proponent of Catholic
toleration in Canada—decided \textit{Campbell v. Hall}, the Quebec Act sought
both to strengthen parliamentary authority over the new colony, through
control of taxation and the purse, and to protect the customs and laws of
the local population. Such toleration necessarily required limiting the au-
tonomy and power of Anglo settlers. It also meant undermining the basic
social hierarchy that had governed colonial life and thus attempting to
place French Catholics and Anglo Protestants—both ultimately royal
subjects—on a more equal footing.

South of Canada, however, the settler response to the Quebec Act was
immediate and overwhelming. As discussed previously, for many Ang-
lo Protestants Catholic faith was at root incompatible with republican
liberty. It amounted to a servile religion useful solely for training in-
dividuals in a life of civil and spiritual tyranny. As John Adams wrote in
his 1765 pamphlet, \textit{A Dissertation on the Canon and Feudal Law}, the
link between political absolutism and Catholicism embodied a “wicked
confederacy” aimed at imposing a permanent condition of oppression
throughout the world: “[This confederacy] seems to have been even
stipulated between them, that the temporal grandees should contribute
everything in their power to maintain the ascendancy of the priesthood,
and that the spiritual grandees in their turn, should employ their ascen-
dancy over the consciences of the people, in impressing on their minds a
blind, implicit obedience to civil magistracy.” The decision, therefore,
to extend religious toleration to Canadian Catholics was taken as proof
of the metropole’s basic rejection of the principles of English freedom. In
striking this note, Arthur Lee wrote to his brother Richard Henry, “what
hurts me most is the ministerial plan openly avowed, to make use of the
Canadians to enslave all America”; he further argued, “every tie of alle-
giance is broken by the Quebec Act, which is absolutely a dissolution of
this Government, the compact between the king and the people is totally
done away with.”

For many Anglo settlers, the freedoms enshrined by the Glorious
Revolution were directly linked to Protestant ascendancy. Self-rule in
politics required both economic self-sufficiency and the independence of
mind produced by Protestant faith. By tolerating Catholicism, not only
did Parliament ignore the purpose of war with France, but it also under-
minded the political and religious consensus established a century earlier
to ensure the protection of English liberty. As Arthur Lee claimed, it dis-
solved the social contract between settlers and the British government
and made civil war “inevitable.” In the minds of Anglo settlers, the bill left them surrounded by an enemy population, which Parliament at any moment could employ to strip colonists of their basic rights. Echoing such sentiment, Philip Livingston, a prominent New York merchant and member of the Continental Congress, described French Catholics as a “multitude of slaves” who whenever London desired could assault settler freedom:

But I leave it to any man . . . to determine; whether a country has no great reason to fear the loss of its liberties, when surrounded by a multitude of slaves; especially when those slaves are imbued with principles inimical to it, and united in one common interest, profession and faith, under one common head, and supported by all the weight of a large empire.

For members of the Puritan clergy, the Quebec Act was an especially disturbing turn of events. In his Thanksgiving sermon of 1774, William Gordon depicted the bill as a dangerous step toward parliamentary absolutism and as fundamentally overturning centuries of English tradition. He declared, “If the British Legislature is the constitution, or superior to the constitution, Magna Charta, the Bill of Rights, and the Protestant Succession, these boasts of Britons are toys to please the vulgar, and not solid securities.” Gordon continued by claiming that Catholic toleration amounted to “the reestablishment of arbitrary power and a despotic government in a most extensive and purposely enlarged country . . . with the base, diabolical design of procuring their assistance, if required, in quelling the spirit of freedom among the natural and loyal subjects of Great Britain.” Yet, for the clergy, the act was more than a threat to political liberty; it did nothing less than strengthen the forces of the Antichrist and diminish the possibility of millennial utopia. In a letter to Richard Price, Ezra Stiles, who only a decade earlier had extolled the British conquest of Quebec as a millennial sign, wrote, “in voting for the Quebec Bill for establishing the Romish Idolatry over two Thirds of the Territories of the British Empire,” Parliament had “excit[ed] a Jubilee in Hell and throughout [the] Pontificate.” To the extent that the British Anglican Church approved of this policy, the Episcopate had “joyned with an apostate Church and taken part with the Mother of Harlots and Abominations in the Earth,” all with the clear intent of defeating the spiritual efforts of Puritans in America.

Due to the general fear of Catholic power, the bill was thus able to unite the religious and political fervor of Protestants across the colonies
regardless of sectarian difference,\textsuperscript{138} and it became a central grievance of the colonists against British imperial rule. The Continental Congress resolved unanimously to approve the Suffolk County Resolutions, which stipulated in Article X that the Quebec Act was “dangerous in an extreme degree to the Protestant religion and to the civil rights and liberties of all America; and, therefore, as men and Protestant Christians, we are indispensably obliged to take all proper measure for our security.”\textsuperscript{139} Again, by unanimous vote, the Congress also approved including the bill along with the Intolerable Acts as part of its list of colonial grievances.

Moreover, the addresses written by the Congress in October 1774 in order to explain opposition to British imperial policies repeatedly emphasized the destructive links between Catholic toleration and settler freedom. This fact is particularly telling as these documents were produced before the rebellion; they thus offer unique insight into the key grievances of colonists at a time when many were still open to reconciliation. In the \textit{Address to the People of Great Britain}, written by John Jay, with Philip Livingston and Richard Henry Lee on the drafting committee, the Continental Congress discusses the Quebec Act and the issue of Catholicism at length, accusing the bill of reducing Anglo settlers in Canada to the condition of servitude. According to its authors, Protestants there were “now the subjects of an arbitrary government, deprived of trial by jury, and when imprisoned, cannot claim the benefit of the \textit{Habeas Corpus Act}, that great bulwark and palladium of English liberty.” The Congress also saw the bill as transforming Canada into a powerful enemy of colonial freedom, which

so extended, modeled, and governed, as that by being disunited from us, detached from our interests by civil as well as religious prejudices, that by their numbers daily swelling with Catholic emigrants from Europe, and by their devotion to an administration so friendly to their religion, they might become formidable to us, and, on occasion, be fit instruments in the hands of power to reduce the ancient, free, Protestant colonies to the same state of slavery with themselves.

The \textit{Address} further declared, “Nor can we suppress our astonishment that a British Parliament should ever consent to the establishment in that country a religion that has deluged your island in blood, and dispersed impiety, bigotry, persecution, murder, and rebellion through every part of the world.”\textsuperscript{140}
The territorial clauses of the Quebec Act clearly enhanced antipathy to the bill. Yet it would be a mistake to view religious arguments as simply a mask for settler land interests. Rather, for colonists freedom linked religious belief, land ownership, and political self-government in ways that reinforced the perceived threats posed by an enlarged Canada. In the minds of American colonists, the bill affirmed Parliament’s willingness to unilaterally deny industrious and rational settlers the land essential for their economic independence. In one stroke, Parliament seemingly strengthened and unified the enemies of settler freedom—both native and Catholic—while undermining the political autonomy and economic self-sufficiency of its proper and ancestral subjects. For settlers, the Quebec Act’s religious and territorial clauses worked in tandem and again illustrated the inevitable confederacy that linked civil tyranny and Catholic worship, just as it had done under Stuart and Norman rule. In fact, the newly established Canadian laws were a perfect example of how Catholic toleration and political absolutism were intertwined, since respect for Catholic worship had resulted in both an arbitrary government in Quebec and the denial of basic English rights to Anglo settlers.

Ultimately, the dispute between settlers and the metropole over Quebec policy underscored the larger disagreement regarding the purpose and future of the British Empire. For Anglo Protestants in the colonies, ancestry, religion, and land use justified political and economic supremacy. It also required that colonization be premised on local autonomy for settlers and thus the general decentralization of administrative control. However, for the metropole, settler expectations regarding social standing and administrative freedom were inconsistent with the essential need for imperial stability. Moreover, while decentralization might aid Anglo-Protestant authority and independence, it inherently compromised the rights of marginalized communities. In an increasingly global empire, extending meaningful protection owed by the Crown to new and culturally diverse subjects necessarily entailed moving political and economic power away from Anglo settlers. Therefore, what colonists viewed as the return of the “Norman Yoke” and the rise of arbitrary government, the metropole understood as a basic corollary to protecting the social position and orderliness of non-Anglo subjects.

_African Slavery and the Danger to Settler Liberty_

This unavoidable tie between granting rights to non-Anglo subjects and the centralization of imperial authority is most powerfully illustrated by
the English debates over slavery in the years preceding settler revolt. For metropolitan administrators, slaves were seen as on a continuum of subjectship and worthy of at least minimal British protections. Such views and their implications for colonial life were brought to a head in the Somersett ruling, Lord Mansfield’s famed decision on the status of slavery in England. In it he argued that chattel slavery was inherently incompatible with English traditions and that its practice in North America was permissible only because the colonies were conquered lands—legally indistinct from French Canada or Indian Bengal. For colonists, Mansfield appeared to challenge in one fell swoop both the future of slavery as a social institution and the vision of settlers as culturally superior to non-Anglo subjects. In a sense, the question of slavery marked yet another decisive breach in settler-metropolitan relations and made clear the impossibility of sustaining the settler vision of internal freedom under British imperial rule.

As part of the general de facto status quo that prevailed in the British Empire during the mid-eighteenth century, settler political autonomy brought with it nearly unimpeded authority over the practice of slavery. Parliament and the English courts refrained from establishing slave codes or altering those created by colonial assemblies. As Christopher Brown writes:

Metropolitan officials proceeded as if the local customs of slavery established a private right upon which they agreed not to intrude. And this tradition of near-purposeful neglect instilled an unspoken belief among American slaveholders that imperial administrators could not interfere in the possession and management of slaves in the British colonies. Paradoxically, then, colonial slavery, with the almost feudal autonomy it granted British settlers, resided sub silentio. It lay outside imperial oversight while still, in principle, within the realm of imperial authority.

Such imperial silence was affirmed in two holdings from the first half of the eighteenth century. Although they differed dramatically on the territorial status of the colonies, they never questioned the legality of chattel slavery in North America. At the turn of the century, Chief Justice Holt declared that “as soon as a Negro comes into England, he becomes free; one may be a villein in England, but not a slave.” Crucially, however, in Virginia this rule did not apply because, as Holt continued, “the laws of England do not extend to Virginia, being a conquered country their law
is what the King pleases; and we cannot take notice of it but as set forth.” Fifty years later, in 1749, Lord Chancellor Hardwicke argued by contrast that common law did not in fact limit or undermine slaveholding rights in England, as Holt’s decision “was determined on want of proper description.” According to Hardwicke, Holt’s ruling resulted from the failure of the case description to read “Negro slave” rather than simply “Negro,” since not all Africans were necessarily slaves. Hardwicke further rejected Holt’s description of Virginia as conquered land, subject entirely to the dictates of the king. Agreeing with colonial voices, he declared that English colonies were settled lands, which carried with them all the privileges of the home country:

That the moment a slave sets foot in England he becomes free, has no weight with it, nor can any reason be found, why they should not be equally so when they set foot in Jamaica, or any other English plantation. All our colonies are subject to the laws of England, although to some purposes they have their own laws.

Therefore, just as chattel slavery was legally acceptable in England, it was also acceptable in colonies settled by English subjects. In essence, the court debate at the time assumed the full legality of chattel slavery in the colonies and concerned only whether such legality extended to England itself. These decisions did not put the autonomy of colonial slaveholders in doubt, and the judicial disagreement affected only the extent to which metropolitan administrators actually possessed the sub silentio right of oversight.¹⁴²

Yet, just as the realities of cultural diversity in the empire led administrators to rethink the position of Anglo settlers, it also led to a reevaluation of colonial autonomy with regard to slaves. Administrators were largely uninterested in ending the practice of human bondage, which due to the slave trade and agricultural production from the southern colonies provided London with substantial economic gains. Still, the changing nature of the empire led some administrators, chief among them William Knox, to look again at the treatment of slaves. In 1768, at the exact moment when he was defending indirect rule for imperial subjects in Bengal, Knox also asserted that slaves—just as other conquered populations—deserved greater royal protections. Despite their condition of servitude, they nonetheless were subjects who should enjoy “an impartial dispensation of the laws,” one that prevented such daily cruelties as being “lacerated by whips [and] racked by every species of torture the most wanton
tyranny can invent.” For Knox, guaranteeing more humane practices required entrenching parliamentary sovereignty and explicitly reclaiming imperial oversight. According to him, since settler slaveholding rights were purely local and had no basis in English common law, the king’s Privy Council should examine and, if need be, overturn “all laws of the several colonies respecting” slavery that did not conform to justice. Only by centralizing administrative authority and reaffirming the nature of American colonies as conquered rather than settled lands would slaves be dealt with fairly. As long as settlers enjoyed unchallenged autonomy, the status quo of mistreatment would persist. Thus improving the conditions of slaves was part and parcel of a general reorganization of the British Empire, which claimed back authority from Anglo colonists and created more just systems of control for conquered and non-English subjects.

These questions regarding slaveholding and colonial autonomy reached a turning point in 1772, with Lord Mansfield’s decision in *Somerset v. Stewart.* In October 1771, James Somerset escaped his Virginia slave master, Charles Steuart, while both were stationed in London. A month later, Steuart’s agents seized Somerset and locked him in chains aboard a ship bound for Jamaica, where Somerset was to be sold. Before the ship sailed, Lord Mansfield granted a writ of habeas corpus to settle the lawfulness of Steuart’s seizure. In deciding the case, Mansfield reaffirmed the anti-slavery import of Holt’s earlier ruling and stated that classic chattel slavery did not have a legal basis in English common law. Mansfield concluded: “The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political; but only positive law, which preserves its force long after the reasons, occasion, and time itself from whence it was created, is erased from memory: it’s odious, that nothing can be suffered to support it, but positive.” Yet, despite this sweeping language about the “odious” nature of slavery, Mansfield’s decision was in fact quite narrow. He had pointedly not emancipated all African slaves in England. Mansfield viewed such an act as rash and unwise, because it would retrospectively subject English masters to property loss as well as extensive litigation over back wages and other tort claims.

Instead, the ruling hewed closely to the question at hand and held that once on English soil slaves could not be forcibly transported out of England against their will. Mansfield took for granted that other forms of servitude, such as villenage, had a long-standing basis in English positive law. However, he did not believe that these laws justified so “high an
act of dominion” as to allow masters to exercise private force to compel the detention and deportation of servants. In other words, while slaves in England were not emancipated, they enjoyed limited rights that extended beyond the condition of chattel slaves and more closely approximated that of other indentured servants—a condition that George Van Cleve refers to as “near slavery.” Thus foreign slaveholders who brought slaves to England did so at their own peril, because the law did not protect their capacity to use private force. In 1779 Mansfield reiterated this point, arguing that by discharging James Somerset, “There had been no determination that they [slaves] were free, the judgment went no further than to determine the Master had no right to compel the slave to go into a foreign country.” As such, so long as Parliament had enacted no positive law for the specific introduction of chattel slavery, slaveholding rights in England would be checked by existing positive law.

Although Mansfield’s legal holding avoided a simple declaration of slavery’s illegality in England, the significance for the colonies was obvious. In oral arguments with Somerset’s attorney, Francis Hargrave, Mansfield indicated that chattel slavery remained legal in Virginia, but only because the colonies amounted to a foreign nation with a separate set of positive laws. In pressing his case against the applicability of colonial practices in England, Hargrave commented: “In England, where freedom is the grand object of the laws, and dispensed to the meanest individual, shall the laws of an infant colony, Virginia, or of a barbarous nation, Africa, prevail? From the submission of the negro to the laws of England, he is liable to all their penalties, and consequently has the right to their protection.” Mansfield answered by stating, “Rightly: for the laws of one country have not whereby to condemn offences supposed to be committed against those of another.” In so responding, he indicated that he too saw the case as in part a conflict of laws question, weighing the applicability of colonial law on English soil. According to Mansfield, “The question now is, Whether any dominion, authority or coercion can be exercised in this country, on a slave according to the American laws? The difficulty of adopting the relation, without adopting it in all its consequences, is indeed extreme; and yet, many of those consequences are absolutely contrary to the municipal law of England.”

The problem, however, was that the colonies were not simply foreign nations; they were integral components of the British Empire. Thus the question persisted: on what basis could the colonies develop local customs that contravened not only English municipal law but also the common
law itself? In constructing his opinion, Mansfield struggled to avoid directly addressing this issue, as it would emphasize the growing political tensions between England and her North American territories. Nonetheless, the issue could not be avoided, and the status of the colonies as conquered or as settled territory (no different than any province in England) hung heavy over the case.

Just as Holt had done, Mansfield implicitly maintained that colonies such as Virginia were conquered and enjoyed local slaveholding rights only as a grant from the king. These distinct “countries” were not settled lands that carried with them all the basic privileges of English soil. In fact, if they had been settled lands, Hardwicke’s ironic claim that chattel slavery would be nullified in “Jamaica, or any other English plantation” would likely have held after Mansfield’s decision. If travelling to Virginia were no different than going from London to Manchester, the local colony could not on its own authority enact statutes—so contradictory to the spirit of English law—that denied hundreds of thousands of servants any legal protections. Recall that for Mansfield, as his later ruling in *Campbell v. Hall* would make explicit, even the king could not simply overturn basic liberties once granted to imperial possessions. Only Parliament, under the theory of parliamentary sovereignty, enjoyed such remarkable power to introduce practices so fundamentally “odious” to English customs.

In essence, Mansfield mimicked jurist William Blackstone’s well-known position on the relationship between slavery and conquered land. Writing in the 1760s, Blackstone countered that American plantations had been acquired “either by the right of conquest and driving out of natives . . . or by treaties.” As a consequence, colonial slaveholding rights constituted a legal system parallel to English positive and common law, legitimate only because it was established as a result of imperial conquest. Therefore, the import of Mansfield’s *Somerset* decision was yet again to emphasize metropolitan authority over the colonies. To the extent that slaveholding rights were acceptable at all, this was due to the fact that American colonies did not benefit from the same status as English provinces and depended on the will of the king for their purely local privileges. In a sense, Mansfield’s opinion suggested a remarkable turn of events. Anglo settlers—the historic engines and directors of imperial expansion—were transformed into a foreign people, who like French Catholics or Bengalis enjoyed indirect rule and the protection of local customs through royal prerogative.
Reinforcing this idea that slaveholding settlers were a foreign group, engaged in fundamentally un-British practices, was the fact that the decision became widely misinterpreted by the public. Despite Mansfield’s attempts to parse legal language and thus maintain space for slaveholding in England, many observers believed that he had emancipated all slaves on English soil. The case itself received extensive attention throughout North America, with a common interpretation claiming the full emancipation of slaves in England. According to Patricia Bradley, virtually every colonial newspaper covered either the oral arguments or provided an account of Mansfield’s ruling, with multiple papers extending over 2,000 words to the case and one nearly 4,000. For many American settlers, the idea that slavery was not culturally English struck them as the height of hypocrisy. Benjamin Franklin described as truly suspect “the hypocrisy of this country which encourages such a detestable commerce by laws for promoting the Guinea trade; while it piqued itself on its virtue, love of liberty, and the equity of its courts, in setting free a single negro.” However, for slaveholders—particularly in the southern colonies—who unlike Franklin viewed slavery as either a necessary evil or a legitimate social practice, Mansfield’s decision was more than simple hypocrisy. It underscored the ideological and practical threats facing colonial life.

To begin with, it suggested that England no longer took seriously the ethnic basis of English liberty and thus was content to jettison Anglo-social supremacy. In elevating the rights of African slaves, London political and legal elites seemed willing to corrupt republican liberty by undermining key racial hierarchies. One English newspaper report, widely reprinted throughout the colonies, emphasized how a victory for *Somerset* not only harmed slaveholding interests but also suggested the possibility and horror of a racially mixed English polity. In the words of the British “correspondent,” “This cause seems pregnant with consequences, extremely detrimental to those gentlemen whose estates chiefly consist in slaves . . . if it should be determined in favour of the negroes, we are apprehensive their black Gentry will visit us in too great an abundance, inter-marry with our women and thus we shall become a nation of Mulattoes.” While no doubt hyperbolic, these concerns highlighted the worry that metropolitan elites seemed increasingly indifferent to the Anglo-Protestant foundation both of English liberty and indeed of any legitimate imperial order.

Moreover, slaveholders were profoundly worried that the decision would have a detrimental effect on their financial well-being. The case
emphasized the power of the English Parliament to intervene whenever it saw fit to shape colonial slaveholding or to ban it entirely. Of immediate concern, settlers viewed expansive popular and legal interpretations of the decision as saddling them with slave flight and massive freedom suits. One South Carolina pamphlet, anonymously authored by “A Back Settler,” referred to the decision as “ruin[ous]” and repeated the claim that the case resulted in “a general Manumission of Negroes” in England.\textsuperscript{159}

Like much of the public, many slaves believed that Mansfield had indeed ended the practice in England and thought that they would find freedom if they escaped abroad. In Virginia, news of the ruling led runaway slaves to attempt to board ships bound for Britain, with one slave master complaining that those escaping “imagine they will be free (a Notion now too prevalent among the Negroes, greatly to the Vexation and Prejudice of their Masters).”\textsuperscript{160} In Massachusetts, some slaves used the decision to sue their masters for manumission and for back wages—precisely what Mansfield had worried would occur if he did indeed issue a sweeping verdict in favor of emancipation.\textsuperscript{161} More in line with Mansfield’s logic, other slaves petitioned the colonial legislature in Boston for their freedom, arguing that without explicit positive law to the contrary, slaves enjoyed a natural right to liberty.\textsuperscript{162}

Maybe the greatest worry for slaveholders was the prospect of insurrection or even race war. For over a century, southern settlers had viewed the slave population warily, as a source of potential threat and instability. Whitehall had long stoked these concerns through its commitment to the slave trade, which by drastically increasing the number of slaves in the colonies transformed the African population in Virginia from a small minority of less than 10 percent in 1700 to approximately 40 percent by 1775.\textsuperscript{163} Troubled by the demographic implications of such a large subordinated class, months before the \textit{Somerset} decision the Virginia House of Burgesses placed a prohibitive duty on slave imports, which was immediately disallowed by the Crown. In the minds of Virginia’s slaveholders, especially the landed gentry, not only did the trade undermine attempts to transform southern colonies into “healthy mixed economies where farmers grew a variety of crops and purchased many of their manufactures from local artisans,” it also created the ever-present prospect of racial violence.\textsuperscript{164} The size of the slave population, often exaggerated by colonists, was widely perceived as a growing menace to settler authority and even basic survival. In 1764 Arthur Lee declared that “in the colony of Virginia the slaves exceed the freemen by more than a third
and that two or three thousand are yearly imported. Would not this be a fearful odds, should they ever be excited to rebellion?” Moreover, even more so than natives and Catholics, slaves were by definition a servile population, which England could easily employ as a weapon against settler liberty.

For southern slaveholders, Somerset added yet more fuel to these anxieties. In fact, 1774 witnessed an attempted slave revolt in Virginia, which the limited evidence suggests may have been motivated at least in part by the case. In a letter written that year to William Bradford Jr., a close friend in Pennsylvania, James Madison described how slaves participating in the revolt had believed that the British would come to their aid. The slaves expected that if the settlers finally rebelled against the British, the British would free those slaves who in turn attacked the colonists. At that time, the only basis for this faith would have been the recent Somerset decision. Madison himself was raised in a large slaveholding family, and like many in the southern gentry he found the threat of slave unrest deeply disturbing. Indeed, the fear that such rebellions could at any moment sweep across southern plantations was so great that Madison believed any news of the incident should be concealed. Writing to Bradford, he argued, “it is prudent such attempts should be concealed as well as suppressed.”

These worries about racial violence and slave rebellion further underscored the prevailing sense of uncertainty over the future of settler institutions and colonial autonomy. When Chief Justice Holt had reached a similar conclusion seventy years earlier, that chattel slavery did not have a basis in English common law, metropolitan and colonial interests seemed tightly entwined; both shared a singular vision of British expansion through settler colonization. Now, by contrast, those links had frayed, and the imperial affirmation of settlers as essentially foreign peoples, and slavery as a privilege dependent on royal prerogative, emphasized the precariousness of settler status. In essence, slaveholding settlers saw themselves as under the whim of an arbitrary power; Parliament at any moment could change its policies in ways that compromised or even destroyed their basic livelihood.

In the wake of Mansfield’s decision, colonists therefore viewed British abolitionists’ plans for emancipation, largely ignored in England, as part of a general project of imperial oppression. In reading a 1774 anti-slavery pamphlet published in London by William Draper, Arthur Lee saw his fears of a race war realized. He described Draper’s plan to his fellow
Virginians as “meet[ing] with approbation from ministerial People” and designed “for emancipating your Negroes by royal Proclamation and arming them against you.” Given that the colony had recently experienced a limited slave rebellion in which the participants seemingly hoped to receive British support, Lee’s concerns were not necessarily outlandish. For colonists, along with at least some of their own slaves, the assertion by English courts that Virginia was conquered land meant that whenever the Crown so chose, it could free African slaves and use them as a military force against recalcitrant settlers. These fears were given tangible life by Virginia governor Dunmore’s decision in 1775 to take just such an action. At the beginning of the American settler uprising, he granted freedom to all able-bodied slaves who joined with British forces against the colonists. Indeed, the slaves who took part in the small-scale revolt only one year earlier were not far off the mark.

Still, even before that fateful decision by Dunmore, the nature of royal prerogative spoke to the inevitable incompatibility for settlers between more centralized forms of English subjectship and local autonomy. In his famous 1774 pamphlet, A Summary View of the Rights of British America, Thomas Jefferson concluded with a plea for political compromise. Yet at the root of Jefferson’s argument was the belief that the colonies were settled lands and thus extensions of English soil—no different legally than any province on the island. He wrote of settlers and the project of colonization, “Their own blood was spilt in acquiring lands for their settlement, their own fortunes expended in making that settlement effectual; for themselves they fought, for themselves they conquered, and for themselves alone they have a right to hold.” However, if one considered the colonies as extensions of England and therefore beyond the dictates of royal prerogative, this inevitably placed the status of slaveholding in fundamental jeopardy. In a sense, settlers such as Jefferson sought to transform the colonies into English provinces while at the same time protecting the sanctity of those local customs not respected by the metropole. The only way to provide for both outcomes would be if settled lands were for all practical purposes independent. Only if colonies were entirely autonomous from British rule, and simply shared a common legal and political tradition, could these points be reconciled. The reality of slavery made evident the ideological impossibility of justifying local settler autonomy while also viewing the colonies as indistinct from provinces on the island. Thus the question of slavery’s place in the empire
indicated how easily a defense of colonial autonomy could devolve into a claim for complete independence.

Slavery and the Conflicting Accounts of Liberty in Britain and America

When American settlers finally revolted against imperial rule, they saw themselves as protecting republican liberty and the commitment to self-rule from an increasingly absolute and arbitrary power. For those in London, the idea that slave-owning colonists would decry the “slavery” wrought by a compulsion to pay taxes or to accept other imperial policies seemed absurd. Hidden in British incomprehension was an emerging divide between settler and metropolitan assumptions about the meaning of liberty. For colonists, although republican freedom required a series of exclusivities, for those socially included it provided a truly expansive vision of collective life—in which self-rule entailed actively asserting one’s authority over economic, political, and religious institutions. By contrast, for an industrializing British Empire extending its global power to reach new territories and peoples, such an account seemed to portend instability and disorder.

To appreciate this disconnect, one need only look at the use of slavery in settler rhetoric and the response it elicited in London. In defending the colonial revolt, Richard Price in 1776 presented a paradigmatic example of such language:

But a country that is subject to the legislature of another country in which it has no voice, and over which it has no control, cannot be said to be governed by its own will. Such a country, therefore, is in a state of slavery. And it deserves to be particularly considered that such slavery is worse, on several accounts, than any slavery of private men to one another, or of kingdoms to despots within themselves.¹⁷⁰

According to Price, settlers found themselves subject to the whim of an external authority, unable to enjoy the basic freedom of economic, religious, and political independence. Such an experience not only was the essence of servitude but was even more enervating than actual human bondage. For British administrators, this rhetoric seemed the height of hyperbole, and during the American Revolution, a common English observation was to note ironically that the cries of oppression were all the
more intense in slaveholding colonies. In the opinion of Whitehall, slave owners should be especially reticent to speak of the evils of servitude.

Edmund Burke, who was sympathetic to the colonists, sought to explain this phenomenon by reminding Parliament that wherever slavery exists, “those who are free are by far the most proud and jealous of their freedom.” He continued:

Freedom is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there that freedom, as in countries where it is a common blessing and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior of servitude, liberty looks amongst them like something that is more noble and liberal.

Burke rightly perceived that the proximity to human bondage and the constant threat of slave insurrection created a particularly fervent appreciation for economic and political independence among slaveholders. Yet more noteworthy was Burke’s implicit acknowledgment that settlers and British administrators operated from different ideological frameworks and held competing views of liberty. According to Burke, unlike English parliamentarians who enjoyed a “common blessing” of freedom, slaveholding settlers were unwilling to accept that liberty should have “the exterior of servitude.” In other words, while settlers sought to create internal conditions that eliminated all the vestiges of slavery, those in London accepted that no pure experience of freedom existed or could provide a meaningful basis for social life. 

For settlers, such arguments suggested that the home country had in fact abandoned the commitment to self-rule and republican freedom. This belief that the metropole no longer adhered to the basic principles of liberty led many Anglo colonists in the second half of the eighteenth century to decry English “corruption” and eventually to call for an independent American nation freed from the shackles of Old World moral and political decay. Yet the British move away from liberty as economic and political self-rule was not an embrace of decadence. Rather, it was the product of an alternative conception of freedom emerging from basic economic changes in England coupled with the realities of a global empire. As E. P. Thompson writes, the prominence of the factory helped create a new discourse of liberty and also arrested the move in England toward explicit labor coercion. The rise of the factory system entailed the arduous and slow effort to reshape peasants into efficient wage earners.

90
The ultimate result was an industrial mode of production that combined social discipline and economic profit in ways that far outstripped previous ones. Crucial to this system was a labor market that provided employers with sufficient numbers of wage earners such that compulsion, seen as less rational and profitable by late eighteenth-century economists, was no longer required.¹⁷³

This emergence of an industrial market, in which individuals out of economic necessity sold their labor to employers, contradicted republican freedom just as directly as actual slavery had. Dependence on an employer for one’s livelihood was as enervating and oppressive as dependence on any other economic or political master. Thus for English economists to view such sale as “free” and hence legitimate required altering the meaning of freedom itself. The need for this conceptual change dovetailed with the requirements of managing an extensive territorial empire. The attempt to maintain authority over so massive and diverse a set of peoples had meant recognizing the legitimacy of native laws and customs. In addition, it had led the metropole to centralize colonial authority while at the same time beginning to generate forms of indirect rule.

As with the rise of the factory, such a transformation in imperial policy could not be made consistent with republican liberty. Even if adequately protected, the emphasis on royal prerogative as the basis for local control meant that all subjects, Anglo settlers and indigenous groups alike, were dependent on the whim of the King-in-Parliament for their rights. Moreover, while imposing English law, religion, and political institutions on recalcitrant groups clearly would be oppressive, so too was empowering indigenous elites to frame traditional institutions as they saw fit. This latter choice only created what Mahmood Mamdani describes as “decentralized despotism,” with imperial overseers unleashing preferred local chiefs to entrench and enforce despotic modes of colonial control.¹⁷⁴ As far as robust republicanism was concerned, both options amounted to servitude. In other words, under the previous de facto status quo, the subjugation or removal of non-Anglo communities allowed colonial settlers to enjoy a high degree of political and economic independence. Now the administrative attempt to elevate the status of non-Anglo peoples, despite creating a more equitable division of power, made liberty as self-rule unachievable for all.

In 1785, two years after the Paris Treaty ended Britain’s war with the American colonies, the utilitarian thinker William Paley powerfully captured Burke’s basic sentiment that republican freedom was an impossible
ideal. For a large, industrializing empire, the notion that all subjects should enjoy the fruits of independence would inevitably cause social conflict and potential revolt. He wrote, “Those definitions of liberty ought to be rejected, which, by making that essential to civil freedom which is unattainable in experience, inflame expectations that can never be gratified, and disturb the public content with complaints, which no wisdom or benevolence of government can remove.” Instead, as Philip Pettit argues, for Paley and Jeremy Bentham freedom was better understood as noninterference, or the absence of coercion. A person was free to the extent that the state or other individuals did not directly interfere with his or her immediate ability to make choices. Therefore, regardless of the power of royal prerogative or the dependence created by the labor market, as long as subjects abroad and industrial wage earners at home did not face actual compulsion, they enjoyed freedom.

This fundamental incongruence between the settler ideal of economic and political self-rule and the imperial conception of noninterference is usefully illustrated by the 1778 case of *Knight v. Wedderburn*. The question concerned whether Joseph Knight, who had left his master John Wedderburn while both were in Scotland, could be compelled to return. The Court of Session, Scotland’s highest tribunal, extended the *Somerset* ruling and held that Knight must be set free as on Scottish soil slaveholders enjoyed no legal remedies. In arguing the case, Wedderburn’s advocates claimed that common law allowed for perpetual servitude because of the practice in Scotland of binding laborers to coal mines and salt works for life. Such workers did not have the right to change employment and were often sold along with the property. For slaveholders, not only did these examples indicate the prevalence of coerced labor in Scotland, but they also suggested the meaningless of the distinction between slavery and contract labor. Both amounted to forms of subordination, to which no truly independent individual would consent. Wage labor, like slavery, was at root coercive, and unless an individual enjoyed economic self-sufficiency, he or she could not claim to be free.

In response, anti-slavery advocates and defenders of a contract-based concept of freedom argued that Scottish workers were not physically compelled to accept such employment and were free as long as they received pay in exchange for work. As reconstructed in *Howell’s State Trials*, Joseph Knight’s lawyers maintained that “A coal brewer is a profession which is voluntarily embraced, and, like other professions, is regulated by particular laws, which are more or less strict, according as the interest
of the public is thought to require.” They then defended the reasonableness of binding workers for life given the difficulty of finding individuals willing to engage in such hazardous employment:

The art of working coal successfully requires long practice to attain, and is prejudicial to the health of those who are not early accustomed to it. It was, therefore, extremely natural, when coal works were begun to be set on foot, that the proprietors should, in return for the high wages they gave the workmen, take them bound to continue in their service for a long term of years, or for life.

As David Brion Davis writes, “For anti-slavery advocates . . . it was not slavery’s subordination or lack of mobility that ran contrary to nature. It was rather the lack of any token of exchange which would make the worker responsible, at least theoretically, for his own destiny.”

In the minds of American republicans, these arguments defending the supposed freedom of contract highlighted the metropole’s abandonment of liberty as self-rule. For the slaveholding settler, although it might require subjugating a slave population, his own freedom constituted more than merely earning a wage. It entailed genuine personal control over one’s economic, political, and religious life. Thus the failure of imperial policy to live up to this ideal meant that the British model of empire was incompatible with true freedom. It subjected both settlers and indigenous peoples to the dictates of an external power and was justified on an account of liberty that described as “free” deeply oppressive forms of social life.

Ultimately, British efforts to broaden the privileges of subjectship through policies of cultural and religious toleration entailed a reduction in the actual value of social inclusion. To use Burke’s suggestive phrase, it meant accepting that freedom brought with it “the exterior of servitude” and that liberty amounted only to noninterference with one’s immediate will. By contrast, for settlers a robust defense of republicanism presupposed fundamental hierarchies and took for granted both the permanence of dependent and degraded labor and the impossibility of including marginalized groups as full social members. It would take civil war for large numbers of Americans to begin imagining the possibility of universalizing membership. When they did so, political actors as diverse as the Radical Republicans, the Knights of Labor, and the agrarian social movement raised precisely this point: whether inclusion could mean extending to all the emancipatory promise of American freedom as self-rule rather than simply abandoning its substance.
Conclusion: Empire and Utopia in Settler Ideology

With the Declaration of Independence, American settlers finally and irrevocably committed themselves to the project of replacing English subjectship with republican citizenship. For these settlers, the metropole had come to represent the corrupt practices of the Old World, which overwhelmed political and economic self-rule in the drive for imperial conquest. Parliamentary monarchy was seen as built on vassalage and as reducing free citizens to wards of the state. Yet, if British imperialism was incompatible with republican liberty, this did not imply that empire as such should be rejected. Unlike the native or the slave, the settler was an embodiment of the imperial metropole and therefore unavoidably tied to the project of empire. As J. G. A. Pocock writes:

For Americans, however, there was an evident paradox in the discovery that imperial conquests, which had rendered them secure against foreign and aboriginal enemies, now faced them with the threat of corruption by their own government. In such circumstances the rhetoric of the republic and Caesar was appropriate and was used; yet were not Americans, even in their own eyes, a system of colonies extending an empire . . . ?179

For the settler, empire was in fact the servant of liberty; it provided the essential foundation for a new social experiment in collective freedom. By extending control over territory, settlers cleared land to be harnessed by human industry, which gave each citizen the opportunity to find economic and moral self-sufficiency. As Pocock notes, empire properly conceived could be emancipatory: “The Roman people had exercised imperium in the sense of power over other peoples, which they had built up as Machiavelli’s ‘commonwealth for expansion’ and by the exercise of Machiavellian virtu.”180 What differentiated this version of imperialism from that pursued by the British metropole was a specific relationship to territory. Whereas empire for the Crown amounted to a site of control and economic extraction, for the American colonist it was the basis for the republican citizen’s moral development. Expansion guaranteed a diffuse distribution of land, which promoted egalitarian settler communities built on independent proprietorship and shared political decision making.

The two failed attempts in 1775 and 1776 by the Continental Congress to invade Canada underscored the continuing importance of empire to
settler ideology. According to General Schuyler, the military officer in charge of the first invasion:

The only views of Congress were to restore to them those rights which every subject of the British Empire, of whatever religious sentiment he may be, is entitled to; and that in the execution of these truths he had received the most positive orders to cherish every Canadian, and every friend to the cause of liberty, and sacredly guard their property.\footnote{181}

Hidden in Schuyler’s complimentary words, as well as in the 1774 congressional *Appeal to the Inhabitants of Quebec*,\footnote{182} was a settler commitment to returning Britain’s North American empire to the de facto status quo that had long governed it. Restoring rights meant reintroducing English law and political institutions and thus ensuring the political supremacy of Anglo-Protestant settlers. Moreover, invasion was also seen as a crucial means of gaining access to indigenous land, denied by the Royal Proclamation of 1763 and then by Canadian enlargement. In a sense, what settlers rejected was not the need for expansion but the emerging metropolitan view that such expansion should not be directed primarily by Anglo colonists. Just as they had for over a century, settlers sought to defend their right to a decentralized and largely autonomous project of territorial conquest, one viewed by colonists as critical to economic and political independence. As Franklin contended in *The Interest of Great Britain Considered* and as Jefferson reiterated in *A Summary View of British America*, by expanding settlements across North America and allowing each new community freedom from centralized control over land and government, empire and liberty would go hand in hand.

Moreover, as during the seventeenth century, for many this settler vision of territorial expansion had a clear utopian dimension, with millennial elements infusing the moral project. Ernest Lee Tuveson and Nathan Hatch suggest that New England Puritans in particular came to view the revolutionary struggle as part of the sequence of victories beginning with the Reformation and leading inevitably to the rule of God on earth. Ezra Stiles, like Winthrop, Cotton, and Danforth before him, saw America as the new Israel and the revolution as marking the “triumph of LIBERTY on earth,” in which the “progress of society will be accelerated by centuries. . . . Light spreads from the day-spring in the west; and may it shine more and more until the perfect day.”\footnote{183}
As a consequence, radical Protestants in the colonies believed that metropolitan policies and Old World corruption were tied to the machinations of an Antichrist. As discussed earlier, John Adams famously railed against the evil confederacy of Catholicism and absolutism that engulfed most of Europe and asserted, “Thus as long as this confederacy lasted, and the people were held in ignorance, liberty, and with her, knowledge and virtue too, seem to have deserted the earth, and one age of darkness succeeded another, till God in his benign providence raised up the champions who began and conducted the Reformation.” Adams presented settler communities as the ground for a future utopia in which the political and religious promise of the Reformation would be realized and declared that this millennial effort was “the great struggle that peopled America.” According to such utopianism, the colonists were depicted as the final heir of the Reformation, and the American revolutionaries were a chosen people capable of creating a free republic of peace.184

Critically, radical Protestants saw their redemptive mission as requiring the complete pacification of violence, because only then would the community be liberated from internal and external threat. The sense of constant crisis that had marked settler society from its inception became especially heightened during the Revolutionary War. Colonists believed that they were surrounded by servile enemies—natives, slaves, and Catholics—who were united to destroy their freedom, a fact that even Jefferson noted in the Declaration of Independence. As one of the colonial grievances, the Declaration argues, “He [King George] has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.”185 The fear of slave rebellion and indigenous attack meant that to secure freedom and to ensure peace, such enemies had to be either eliminated or made completely subordinate. These needs emphasized the view that the very future of settler life, let alone millennial tranquility, was inconceivable without empire. Expansion not only provided colonists with land and the possibility of republican liberty; it also removed those foreign dangers that undermined domestic peace.

Ultimately, in the conflict with Britain, American colonists reaffirmed central aspects of colonial settler society and began to articulate an account of republican empire that would ground the American political and constitutional project for years to come. This project argued that territorial expansion could be made compatible with a government based
on consent and popular participation. At the same time, this republican settler empire viewed freedom as an exclusivist ideal, accessible only to Anglo-Saxons and select Europeans, whose heritage, land practices, and religion made them particularly suited to self-rule. Such exclusivism presupposed that settler security, as well as more grandiose dreams of utopian peace, required the subordination of internal and external enemies, who threatened Anglo social and political supremacy. Thus freedom and domination were bound together, generating within the newly independent colonies what might be called a politics of duality. Internally, settler communities were based on legal and political limits, while the external condition was that of conflict.

For all these reasons, the Anglo settler revolt from British rule raised critical questions about the compatibility of empire and freedom, questions that the American political project has since struggled to answer. At its most noble, the British vision of a global empire was premised on toleration and the belief that, regardless of ethnicity or religion, the king had a responsibility to protect the rights of each royal subject. Whether driven by basic security, the thirst for conquest, or notions of justice, this culturally inclusive ideal radically altered the framework of British imperium in the eighteenth century and therefore threatened the social and political hegemony of Anglo settlers. Yet this revised imperial ideal also compromised the autonomy of all; it undermined the view that freedom was not simply the elimination of direct coercion but a moral condition of economic, political, and spiritual independence. In rejecting British authority, American settlers sought to strengthen this higher ideal of freedom and believed that they could do so by reasserting a previous imperial status quo. They imagined that empire in the hands of republican settlers would make expansion and liberty synonymous, through decentralized control and local autonomy. They also assumed that such liberty must necessarily be exclusive. For settlers, the prevalence of forced labor in eighteenth-century agricultural production and the existence of an ever-present native threat emphasized the inherent limits of republican inclusion.

However, as the new settler empire emerged, it confronted the very questions that had plagued British imperium: Can an expanding empire actually be governed without centralized authority, and what does such authority imply for the possibility of self-rule? Can economic and political liberty be universalized to include a greater share of the population than only land-owning settlers? What happens to this ideal when faced
with the rise of industrial wage labor and the decline of agricultural production? Is settler colonization compatible with overseas conquest, and if not, are such conquests legitimate? More so than other political communities, American colonists and their descendents were forced to address the fate of republican freedom in the modern age, as well as whether liberty and empire can ever be made consistent. This effort produced an increasingly more expansive vision of republicanism and its emancipatory possibilities. But as Chapter 2 underscores, such possibilities were bound to a citizen-subject dichotomy that presumed the necessity of both settler supremacy and subordinated work.
General emigration can at best afford only temporary relief, for the colony will soon become an empire, and reproduce all the injustice and wretchedness of the mother country. Nor is general emigration necessary. England, if she would be just, could support a larger population than she now numbers. The evil is not from over population, but from the unequal repartition of the fruits of industry. She suffers from the over production . . . because her workmen produce not for themselves but for their employers.

—Orestes Brownson, *The Labouring Classes* (1840)

Central to the frontier myth and popular understandings of the American experience is the idea that settlers were virulently opposed to government power and were wary of any state intervention. As James Morone writes, all of U.S history can be read as an effort by American citizens to come to grips with their “dread” of government and to “master their anti-statist trepidations.”

Certainly, this is how the various local crises of the late eighteenth century are usually understood. Rugged and individualistic pioneers at the edges of American expansion, who were inherently anti-statist, courted anarchy and reinforced the centrifugal tendencies tearing apart the newly independent colonies. In response, the federal Constitution’s founders constructed a political compact able both to maintain social order and to give free expression to the egalitarian impulses dictating settler practice.

Yet the conventional narrative fails in two critical respects to make sense both of these particular historical episodes and of the larger collective project. To begin with, by exaggerating the individualism of settler life, it ignores the way in which small farmers and townspeople actually presented robust accounts of how energetic government could promote
republican freedom. As a consequence, the conventional narrative also fails to explain why these accounts remained largely submerged and the process by which ordinary citizens came to see government power as a form of external oppression rather than as an instrument for social fulfillment. In this chapter, I chart how this “dread” of state authority arose in the post-Revolutionary period and explore the consequences for nineteenth-century settlerism and its lasting implications for U.S. economic and political institutions.

This story, therefore, begins with those domestic crises immediately following the Revolution, which threatened social stability and which have commonly been misread as early examples of a persistent and congenital anti-statism. In late 1786, 9,000 New England farmers took up arms against the state of Massachusetts; nearly one-fourth of the adult males in the region’s rural countryside were in open revolt. The Shays’ Rebellion was a culmination of long-standing grievances by small farmers in western villages, who were concerned with the economic inequities between city and country and the general disregard by coastal elites for the harshness of frontier life. The postwar credit crisis only intensified these concerns, as rural farmers found themselves at the bottom rung of a destructive chain of debt. In 1784 British creditors, including five of London’s largest merchant houses, ended business with American traders and withdrew all outstanding loans. To repay British debts, New England’s wealthy merchants demanded hard currency from country retailers and shopkeepers, who in turn passed on the demand to rural farmers. Such farmers usually paid shopkeepers seasonally in goods or labor and had little to no hard currency. While New England’s wealthy merchants generally escaped financial difficulty, since traders had no legal duty to repay foreign creditors, poor farmers faced economic destitution. The court in particular came to embody the marginal status of the western yeoman, as legal actions enforcing debt collection and utilizing debtors’ jails tore families apart and reduced many to pauperism.2

For Shaysites and their sympathizers, the Revolutionary experience and its language of republican freedom provided a framework for articulating the oppressive nature of the credit crisis. Farmers found property seizures and the specter of tenancy to be especially distressing, viewing the loss of land as the loss of independence and the nullification of the natural right to labor. Rather than simply a philosophical problem, tenancy confronted farmers with the very real prospect of extreme poverty and immiseration. Trapped in permanent debt to landlords, tenants unable
to pay rent found themselves thrown off land they had spent years cultivating and were left without the means for basic subsistence. As the farmers of Conway, Massachusetts, noted in their petition published by the Massachusetts Gazette, “To be tenants to landlords, we know not who, and pay rents for lands, purchased with our money, and converted from howling wilderness, into fruitful fields, by the sweat of our brow, seems to carry with it in its nature truly shocking” results. For the yeomen, liberty as self-rule consisted of land ownership and control over the activity and produce of labor. According to Shaysites, the failure of courts and state legislatures to ensure such productive control meant subjecting free citizens to the yoke of slavery. George Brock, a farmer from Attleboro, Massachusetts, remarked that coastal elites intended to “drive out that hardy and independent spirit from among us” by imposing tenancy and wage labor “and forg[ing] chains for our liberties so strong, that the great exertions and convulsions will not break them.”

A decade later, with the western frontier now racked by the Whiskey Rebellion, small farmers and the rural poor again employed the language of republican liberty to voice their collective grievances. For settlers on the Appalachian frontier, life in the last decades of the eighteenth century was violent and brutal, with families living at bare subsistence and a majority of the population in Pennsylvania counties such as Fayette landless. Economic squalor, the threat of reprisals by Native Americans, and the lack of access to land created an unbearable situation, in which the excise tax on whiskey produced revolt. Just as with the Shaysites, these farmers saw the tax as making economic independence and freedom as self-rule impossible, as well as entrenching the political hegemony of mercantile elites. According to pamphleteer George Logan, coastal merchants and lawyers embodied “a dangerous aristocracy” who had introduced an oppressive economic and political order, “which, if not crushed in the bud, will destroy our liberties forever.”

In a sense, such small farmers on the western frontier, by invoking the republican idiom, were simply reaffirming the basic contours of settler empire. In describing the servitude caused by wage labor and tenancy, Shaysites in New England and Whiskey Rebels in Pennsylvania reproduced a foundational claim that had justified American independence. During the colonial and Revolutionary eras, most settlers, eastern and western, country and city, agreed that subjection to the political or economic sway of another necessarily undermined freedom. No less a champion of mercantile interests than Alexander Hamilton wrote in the
Federalist Papers, “a power over a man’s subsistence amounts to a power over his will.” Moreover, western farmers, like coastal elites, also defended the centrality of expansion to republican freedom. In fact, their experience of landlessness and their proximity to native communities emphasized the belief that economic independence rested on new territory for settlement. If anything, as the rebellions underscored, western farmers complained that coastal elites had not done nearly enough to reduce the threat of indigenous attacks or to expand the domain for settler agriculture.

However, the Shaysites and the Whiskey Rebels did more than merely claim the existing political language for their own purposes. They outlined their own distinctive formulation of republican liberty: what I will call a populist account of self-rule. Two basic arguments separated populism from the claims made by the colonial gentry and commercial elite. First, it presented an identity between the common good and the interests—properly understood—of the laboring community. As George Logan indicated, the rural poor came to believe that small farmers and artisans, as opposed to the “aristocracy” of merchants and lawyers, embodied the people writ large, because they alone were committed to entrenching productive control and to defending the economic independence of all settlers. Second, populists argued that for the laboring community to assert its goals, government should be structured as local producerist democracies, in which legislatures responsive to ordinary settlers wielded supreme power. This account of majoritarianism necessarily embraced a vision of energetic state authority. It expanded on the long tradition within republican thought, emphasized by thinkers like Jean-Jacques Rousseau, that to be free polities had to be small and organized in a way that refused to divide sovereignty across various institutions. Thus, rather than rejecting government power, laborers imagined legislatures actively promoting economic liberty through policies as diverse as debt relief and territorial conquest.

In the remainder of this chapter, I explore what happened to this populist account of empire and freedom in the early American republic—and why it slipped into the xenophobia and anti-governmentalism often associated with rural America. The populist vision of liberty articulated a radical promise for the collective possibilities inherent in settler life. Yet, from its very inception in the Revolutionary period, this vision faced an unavoidable difficulty that both shaped and constricted its development. While revolt gave American settlers juridical independence from the British
Empire, the former colonies continued to be bound within a mercantilist system that limited substantive independence. Just as with more recent postcolonial societies, the emerging polity found itself embedded in a world of competing European states, in which it played a relatively marginal and dependent role. Such postcolonial dependence placed a basic strain on the populist vision, because this vision’s conception of liberty appeared to conflict directly with the achievement of substantive independence from British intrusion and European power politics. In other words, it seemed that one could have local, decentralized democracies committed to popular rule in the interests of the many or a political state capable of successfully navigating threats in the global arena—but perhaps not both.

This American postcolonial predicament helped justify an elite subversion of populist freedom, again foreshadowing developments in later polities of Latin America, Asia, and Africa. In the early United States, this worked through the constitutional creation of a federal government constructed on grounds of institutional balance and political insulation from democratic rule. By rejecting populist forms of authority, coastal elites fundamentally altered the political path of populism. In particular, they disconnected the hope of a democratic society of small producers from a belief in an energetic government in the service of the many. Since the institutional form of the new polity departed from the populist hope for locally centered majoritarianism, the new government’s activities likely would be incompatible with laboring interests. Thus the flipside of populist faith in locally controlled politics and government intervention was a suspicion of state power when such power was organized inappropriately. Populism increasingly took on a negative form, primarily committed to policing state activity, as political developments largely nullified populism’s own positive vision—one of local democracies pursuing a vigorous and unified collective will. Wary of government capture by “monopoly” interests, populist sentiment came to see a self-regulating commercial society as a better prospect for economic independence. In short, I argue that American anti-statism became historically preeminent in large part because of the demise of an alternative ideal that combined energetic government with the direct assertion of popular authority.

More critically, as this alternative ideal receded, populism linked the very act of an energetic federal government to the external project of empire building, a project that presupposed an unlimited imperial power.
deriving from British royal prerogative. Aggressive federal activity thus became synonymous with the internal application of a coercive authority properly applied only to those outside the bounds of social inclusion, such as natives and blacks. Under these circumstances, any internal appearance of the dreaded imperial prerogative was viewed as a dangerous threat to liberty and an attempt to reduce free settlers to the condition of heathens or savages—by treating free citizens as if they were colonial subjects. In other words, despite its constitutional defeat, populism persisted as a galvanizing articulation of freedom, only now in a deeply reduced form. Particularly xenophobic, this truncated populism upheld the necessity of empire and simultaneously remained ever vigilant about the possibility of imperial power seeping into settler society. Ultimately, it would take civil war and a tumultuous reordering of social life for the Revolutionary promise of populist freedom to reemerge in full form.

In this chapter, I lay out the above argument in greater detail, focusing on how populism was nullified as a positive political principle. To set the stage for a discussion of settler contestation over the meaning of republican freedom, I first outline the imperial framework that the overwhelming majority of Americans embraced. I illustrate how settlers in the late eighteenth and early nineteenth centuries reaffirmed the previous colonial status quo and constitutionalized the British imperial prerogative—now housed in the federal Congress. This initial discussion pays particular attention to Chief Justice John Marshall’s efforts to justify territorial expansion and Anglo supremacy vis-à-vis Native Americans. It also describes how colonial distinctions between privileged European immigrants and stratified imperial subjects defined early American politics, for instance by distinguishing between subordinated groups formally designated as U.S. citizens and insiders enjoying actual free citizenship. In the second section, I draw out the populist arguments made by Thomas Paine and William Manning, describing the vision of producerist democracy that artisans and small farmers hoped to intertwine with empire. I then highlight how the postcolonial predicament and the concern with global weakness undermined both the institutions of local majoritarianism and the popular power of ordinary laborers. This discussion pays particular attention to the debates over the federal Constitution and to how territorial expansion, to the disappointment of western farmers, ultimately reinforced the decline of robust populism.

In the final sections of the chapter, I detail how government power became synonymous with imperial prerogative. As a result of this shift,
settler life found itself structured around a constitutional politics of duality, with government enjoying two separate forms of sovereign power. While external colonial conquest was predicated on an unchecked imperial right that saw all boundaries as provisional, internal state authority was constrained by a vision of freedom as self-rule. The inherent tension in this inescapable duality, present before independence, served as the defining feature of postcolonial society and provided the structure for an independent settler empire and—eventually—a straitjacket for populism. During the early decades of the republic, social critics and reformers did exist, especially at the edges of the workingmen’s parties of the 1820s and 1830s, who questioned the utility and moral legitimacy of this political and constitutional framework. Thinkers such as Thomas Skidmore called for a producerist politics unshackled from imperial pretensions and ethnic exclusions. These critics, however, were largely voices in the wilderness, out of step with the commitments and culture of the times.

Constitutionalizing Empire and the Politics of Duality

In order to appreciate the context within which newly independent settlers argued over the substance of republican freedom and the role of government, we need to begin by describing those imperial frameworks that provided the foundation for these debates. While some scholars suggest that empire is an inappropriate constitutional characterization of the early American republic, I argue in this section that settlerism was consciously and legally constructed as an enterprise in empire building, though admittedly one of a particular character. The revolt by the thirteen colonies was an attempt to defend a lost imperial status quo, in which local settlers directed the project of territorial expansion on the premise that indigenous communities did not possess real legal sovereignty over the land they occupied. Control of such land was believed necessary for republican and utopian visions of empire, because expansion would create a permanent condition of peace as well as the moral and economic basis for freedom. Most early Americans viewed the independent colonies as the proper successor to British imperial power and held that settlers enjoyed an imperial right unchecked by native interests to expand whenever the public good dictated. Moreover, just as with metropolitan London, settlers believed that this imperial right granted them prerogative authority over nonsettler subjects, such as Indians, blacks, and later Mexicans, who were legitimately ruled by whichever methods best
promoted pacification and order. Meaningful political disagreement thus did not center on empire per se. Rather, it concerned the role of this imperial prerogative power within settler society—among presumptively free citizens—and the question of how to structure a collective project based on the dichotomy between privileged insiders and subordinated outsiders.

The New Republic and the Old Imperial Prerogative

The manner in which the independent colonies claimed the imperial mantle of the British crown is usefully illustrated by an early nineteenth-century Supreme Court opinion by Chief Justice John Marshall. Johnson v. M’Intosh (1823) explicitly revisited the legal rights of land speculators—a central dispute between colonial settlers and the British metropole in the years preceding revolt. The case concerned whether American courts should respect the validity of Revolutionary-era land purchases made between the Illinois-Wabash Company and native tribes. In speaking for a unanimous Court and holding such sales invalid, Marshall argued that private citizens could not buy land directly from Native Americans. Rather, the United States, in the form of the federal Congress, enjoyed ultimate title to such land and alone could extinguish Indian occupancy. In doing so, Marshall articulated the legal scope of the settler claim to British imperium and highlighted the extent to which the United States was premised on an inherent right of colonial conquest.

Marshall grounded these assertions by recasting Coke’s feudal discourse of conquest regarding infidel lands as a “Doctrine of Discovery.” Long recognized as part of the law of nations, European states in the New World possessed an “exclusive right to extinguish the Indian title of occupancy, either by purchase or conquest.” This customary imperial right meant that indigenous groups did not possess legally recognizable sovereignty, akin to European states, over their own land. “[Native] rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to those who made it.”

For Marshall, this right of discovery was principally about establishing which European “discoverers” could assert sole possession over specific indigenous land and thus “exclu[de] . . . all other Europeans.” In a sense, he depicted the New World as a colonial scramble, in which the only meaningful checks were conflicting claims made by European states.
According to him, the British Crown had staked its right to North American territories “as far west as the river Mississippi,” and with independence complete title to all these lands passed exclusively to American power. Through the Treaty of Paris that ended the Revolutionary War, Great Britain gave over its imperial “rights to the soil,” and “It has never been doubted, that either the United States, or the several States had a clear title to all the lands within the boundary lines described in the treaty, subject only to the Indian right of occupying, and that exclusive power to extinguish that right, was vested in that government which might constitutionally exercise it.”

Crucially, Marshall was wary of directly defending as a matter of law the actual feudal justifications for conquest, grounded in the “superior genius” of Europeans and the “character and religion” of native peoples. Instead, Marshall took the history of conquest as a fact on the ground, which could not be legally avoided, writing, “We will not enter into the controversy, whether agriculturists, merchants, and manufacturers, have a right, on abstract principles, to expel hunters from territory they possess, or to contract their limits. Conquest gives a title which the Courts of the conqueror cannot deny.” Still, even in evincing skepticism about the rationales for dispossession, Marshall nonetheless accepted the inevitability and indeed the necessity of colonial conquest. On the one hand, he admitted that a right of discovery with respect to competing European claims may not on its face validate dispossession of native inhabitants, because it would appear only to determine which Europeans could bargain over territory with local peoples. But at the same time, he argued that in historical practice, discovery had been legally “converted” into a right of conquest that presumed that local peoples could be removed at will. In his view, Indian tribes were “fierce savages, whose occupation was war,” and “to leave them in possession of their country, was to leave the country a wilderness.” Given their violent character, the only solution for rational and industrious settlers, committed to productively employing the land, was to enforce their rights of discovery “by the sword.”

As such, the “Doctrine of Discovery” necessarily carried with it an imperial and discretionary prerogative over colonized groups and their territory. The link between the two embodied a “principle” that had “been asserted in the first instance, and afterwards sustained” such that “it [became] the law of the land, and cannot be questioned.” In essence, the settler project was grounded not only on a right of discovery vis-à-vis other European powers but also on one of imperial conquest over Indian tribes. This latter
right was “indispensable to that system under which the country had been settled” and thus remained in effect even after independence. As a consequence, Marshall indicated that with the Treaty of Paris, the Crown passed over not only title to specific Indian lands but also those imperial prerogatives that were “indispensable” for maintaining territorial control and that provided the legal basis for future acts of indigenous expropriation. In Marshall’s view, such authority constituted a central fact of settler society. And despite his own moral qualms regarding the treatment of native communities, he was unwilling to question whether the new polity enjoyed these inherent rights of conquest and Indian control as a matter of law. Marshall’s arguments suggested that few Americans—even those who found settler violence on the frontier deeply distasteful—were willing to challenge the imperial underpinnings of the expanding republic.11

In his 1833 Commentaries on the Constitution of the United States, Justice Joseph Story spelled out the implications of this tie between discovery and conquest and the extent to which the Supreme Court had constitutionalized imperial colonization. In the process, he went further than Marshall and bluntly stated the ideological rationales, derived from Coke and Locke two centuries earlier. Story wrote:

The title of the Indians was not treated as a right of property and dominion, but as a mere right of occupancy. As infidels, heathens, and savages, they were not allowed to possess the prerogatives belonging to absolute, sovereign, and independent nations. The territory over which they wandered, and which they used for this temporary and fugitive purposes [sic], was, in respect to Christians, deemed as if it were inhabited only by brute animals.12

In essence, Supreme Court jurisprudence made the colonial politics of duality a central constitutional pillar. The United States asserted two respective forms of sovereign power. Internally, settler society sought to eliminate all vestiges of royal prerogative in the name of casting off a “Norman Yoke” and establishing political and economic independence. Externally, the new polity imagined the west as vacant land and Congress as possessing a right of colonial conquest still derived from this royal prerogative. Such a duality meant that the new republic legally rejected the permanence of its borders and imagined settler society as maintaining a basic right of territorial expansion, in fulfillment of its colonial mandate. Rather than casting off imperial pretension, settlers saw independence as reclaiming
empire from British corruption and reestablishing the link between colonization and republican liberty.

The importance of reclaiming a lost imperial status quo is further illustrated by the way in which the Northwest Ordinance of 1787 imagined settler governance in the west. The ordinance, passed by the Continental Congress, provided the framework for how territory recently ceded from Virginia would be administered. Besides asserting the royal imperial prerogative, the law made clear that expansion would be a project of Anglo settlement, in which American institutions necessarily followed the flag. Although it applied only to Virginia’s Northwest Territory, the ordinance envisioned a process for newly acquired lands that eventually became the basic principle of all territorial acquisition and governance. Congress would rule these lands directly through appointed officials until circumstances were such that the territories could draft their own constitution and apply for admission as a state. As a consequence, all settlers regardless of place in the empire would eventually enjoy equal rights, with political self-rule the ultimate basis for government and anything short of it only a temporary arrangement.\textsuperscript{13}

This basic philosophical rejection of empire as a site for dependent political possessions has led various scholars to conclude that while expansionist, the United States should not be thought of as a true empire.\textsuperscript{14} What such arguments fail to recognize is that the constitutional equality of various territorial possessions was a centerpiece of the previous de facto colonial status quo, which settlers sought to reaffirm through revolution. Just as colonists had argued before independence for a British Empire premised on local and autonomous settler expansionism—without the interference of a hegemonic London metropole—they now sought to ensure that conquest and settlement always went hand in hand. In other words, there would be no need for permanent dependent status, because indigenous removal and the growth of an Anglo population would ensure that free laws and customs would take root in the new territory. Therefore, the failure to recognize this project as imperial results from a perspective that views American settlerism solely through the lens of its internal institutions. The spread of these institutions presupposed the continuance of an imperial prerogative that took all boundaries as temporary and rejected native sovereignty over the land that settlers occupied. Peter Onuf, for example, explains how the internal principle of settler freedom and the external condition of colonization were intimately linked: “Implicitly, any recognition of Indian rights under treaties also
was understood to be provisional, subject to future negotiations that would guarantee the land’s highest use and the ultimate establishment of republican government, the most civilized form of rule.”

Thus, to speak of the new republic as a settler empire is ultimately to recognize the way in which conquest was constitutionalized as an essential feature of American politics, and how such conquest was explicitly constructed along the lines of a lost imperial status quo. Like their colonial predecessors, early Americans viewed the west as a natural settler inheritance, whose purpose was to ensure the internal freedom and permanent peace of the new polity. William Henry Harrison, territorial governor, military commander, and future president of the United States, conveyed exactly these sentiments when in 1809 he asked the members of Indiana’s territorial legislature: “Is one of the fairest portions of the globe to remain in a state of nature, the haunt of a few wretched savages, when it seems destined by the Creator to give support to a large population, and to be the seat of civilization, of science and true religion?”

This does not mean that every act of expansion was mutually agreed upon within settler society; in fact, often violent internal disagreements existed among politicians and settlers over the proper course of empire. For instance, Alexander Hamilton was strongly opposed to the Louisiana Purchase (which approximately doubled the size of the polity), viewing the dispersion of settlers across a vast frontier as inimical to order and necessarily corrosive of effective government—themes that would be asserted repeatedly by Federalist Party and later Whig politicians. In fact, Marshall’s own hesitancy to defend the justness of conquest can be read in these terms. A Federalist Party stalwart, Marshall, like Hamilton and others during the Washington and Adams administrations, was also wary of the increased political control exerted by western farmers and saw frontier encroachments on native land as threatening federal authority. Even if the new republic enjoyed imperial prerogatives as a constitutional matter, this did not make all acts of colonization either morally valid or politically worthwhile.

Similarly, the eventual interjection of slavery into the question of expansion created great sectional antipathy to acts of empire seen as enhancing the “slave power.” From the Mexican-American War through the southern efforts at forming a Caribbean imperial basin, heated contests over the route of expansion presaged the South’s secession. Yet, crucially, disagreements regarding the wisdom of conquest were fundamentally pragmatic rather than principled. As Robert May writes of the
1850s, “Northerners and southerners could still agree on the feasibility of new territory, but they could not agree as to which foreign countries were acceptable or as to what institutions would be permitted in the new acquisitions.” Few questioned the legal and constitutional theory derived from colonial settlement and articulated by Justices Marshall and Story. The settler community, as an established fact, possessed an imperial prerogative power that made both indigenous sovereignty and existing borders provisional—dependent exclusively on internal social needs.

As a consequence, the critique of empire concerned the judiciousness of a particular act, given questions of order, slavery, or the political elevation of poor frontier farmers. As May writes, opponents often rejected expansion on the grounds that the time was not appropriate or that the United States should wait until islands such as Cuba became “ripe fruit” and could fall into American hands. This, of course, is no different from the experience of European imperial states, which often faced extensive internal dissent over whether specific instances of colonization were appropriate. As in these European states, pragmatic disagreement did not alter the basic nature of the political community. By making the decision to colonize native lands or to expand into previously European domains, such as the Louisiana Territory, dependent on a sovereign prerogative derived from the British Crown, Americans ensured that empire was a basic tenet of collective life.

Indigenous Groups and Indirect Rule

The existence of an internal project of settler freedom deeply intertwined with an external imperial prerogative is often obscured by the very brutality of American expansion. The belief—especially connected to populist versions of republican freedom—that native removal was the precondition for settler independence promoted a form of conquest committed in large measure to erasing the native presence. Such systematic elimination left in its wake a politics critical of the internal use of prerogative power; this hostility to domestic governmental prerogative thus concealed the basic duality of settler life. In a sense, this concealment was most explicitly unmasked during those moments when Americans seriously contemplated what to do with native inhabitants when they could not be simply ignored or eliminated. Under these circumstances, settlers constructed a form of indirect rule virtually equivalent to how metropolitan London structured discretionary and imperial subjectship for conquered peoples.
One can see this development in two cases from the early 1830s concerning indigenous rights, *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832). These two Marshall decisions are often viewed as internally inconsistent, with one noted commentator concluding that while “*Cherokee Nation* emphasized the view of Indians as dependent subjects, . . . *Worcester* stressed their independent status as separate sovereigns.” Certainly the latter case, which concerned Georgia’s right to prosecute missionaries on Cherokee territory, was considered at the time to be a defense—however partial—of indigenous rights, one that frontier settlers and officials found suspect and unacceptable. Despite Marshall’s ruling against Georgia’s right to prosecute, the state refused to release the missionaries, and President Andrew Jackson, himself opposed to the outcome, made clear that since the decision was not directed at the federal government it would play no role in enforcing it. The standoff was resolved only when the governor of Georgia decided to pardon the prisoners.

Yet, in order to understand fully the meaning of the decisions, it is important to abstract oneself from the immediate political context and appreciate the way in which Marshall’s opinions suggested an answer for how best to organize colonial relationships—one that paralleled incipient British approaches in Bengal and Canada. In the two cases, Marshall confronted the problem of how to conceive of the ties binding settler society to a native population, particularly when that native population was committed to Protestantism and agricultural land use. Unlike other indigenous groups, the Cherokee nation, a member of the so-called Five Civilized Tribes, could not comfortably be situated within the European conceptual framework of heathen savagery. This fact, along with the sense that unless indigenous groups were entirely eradicated the United States would have no choice but to develop political structures for the native population within national territory, provided the backdrop to Marshall’s solution.

In *Cherokee Nation*, Marshall held that Native Americans did not enjoy the independent sovereignty to sue as a foreign state in U.S. courts. In line with earlier rulings, Marshall maintained that natives possessed only a right of temporary occupancy within “a territory to which we assert a title independent of their will.” As such, native communities were “domestic dependent nations” whose status with respect to the United States resembled that of “a ward to his guardian.” Given this status, any attempt by European powers to interfere with settler-native relations or
“to acquire their lands . . . would be considered by all as an invasion of our territory, and an act of hostility.” Thus the only remedy available for the Cherokee was “to look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the president as their great father.”²⁴ But, if indigenous groups were the imperial subjects of the United States, what responsibilities bound the two communities? To an important degree, the new republic found itself facing a predicament akin to that of the British after 1763: what should be the framework linking imperial authority to non-Anglo subjects?

Marshall’s response, found in *Worcester*, was to declare that indigenous groups enjoyed a quasi-sovereign status, solely limited by the greater sovereignty of U.S. federal, rather than state, power. According to the Court, “The Indian nations had always been considered as distinct, independent political communities [who were] undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by [an] irresistible power [such that they could only interact with] the first discoverer of the coast of the particular region claimed.”²⁵ By on the one hand allowing natives a diminished sovereignty while on the other hand declaring them wards of the state, Marshall struck a balance familiar in colonial history. He imagined a structure that could maintain effective settler control over indigenous land while denying natives the rights attaching to settler membership. This solution was simply indirect rule by another name and exposed the dark side of such colonial practices. By claiming that native groups enjoyed a sovereign capacity to organize their own institutions, Marshall dissolved the bonds of responsibility linking settler action to internal native life. However, by at the same time viewing indigenous groups as ultimately subject to U.S. federal authority, he ensured that these communities were always confronted by an unlimited coercive power in the imperial state, which at any moment could engage in removal. At first glance, it might appear odd that settlers who so rejected such developments by the British metropole would produce analogous institutions. Yet one should recall that Anglo colonists did not dislike the concept of indirect rule per se; rather, they objected to its seemingly equal application to all subjects, Anglo or otherwise, under Britain’s increasingly global empire. For the Revolutionary settlers, such forms of “decentralized despotism,”²⁶ were solely appropriate for those nonsettler groups excluded from social membership.
In the end, Marshall’s solution for the Cherokee would not be immediately implemented, as antipathy to the very presence of native communities led to Jackson’s Trail of Tears, in which the federal government forcibly removed 15,000 people to land west of the Mississippi, with an estimated 4,000 dying along the way.27 Still, this did not mark the end of indirect rule; it would reappear whenever native removal became a less feasible or desirable option. As a result, what Marshall established was a constitutional principle for how settlers should control subject populations. This principle, emphasizing both cultural separation and imperial discretion, foreshadowed practices that eventually would become widespread in Africa and Asia—embodied most starkly by the Bantustans of Afrikaner society. In doing so, Marshall’s two opinions on the status of the Cherokee, which are properly conceived as a unified whole, provide a moment in which the structural duality of American political and constitutional life stands in sharp relief. On the one hand, the act of native dispossession may have been the most absolute form in which the new republic exercised its imperial prerogative. On the other, that very act—by expanding settler society and its internal institutions into indigenous land—eventually erased the evidence of a raw assertion of sovereignty. By eliminating the untidy reality of everyday imperial rule, the growing settler society could imagine itself as an “empire of liberty.”28

Free Immigrants and the Legal Stratification of Imperial Subjects

Thus, alongside the logic of colonial erasure, the basic rubric that governed relations between settlers and excluded groups and underscored the essential legal continuity between British imperium and the independent settler empire. This rubric presented nonsettler populations as conquered and imperial subjects, appropriately ruled through pre-political and immutable forms of authority. Moreover, just as with Coke’s patchwork imperial framework, such authority stratified nonsettlers according to a series of overlapping hierarchies. These hierarchies provided each community distinct structures of governance and levels of rights, depending on internal economic needs and the dictates of political order. This meant that free blacks or Mexicans in the Southwest could even be granted formal citizenship while at the same time being denied those meaningful privileges associated with full inclusion.

Perhaps surprisingly, these privileges were often accorded to new European immigrants regardless of their formal nationality. As with old colonial practices, stratified subjectship for excluded populations existed
alongside a system of swift incorporation—one developed for European arrivals who were by contrast viewed as assimilable. This divide in treatment highlights the imperial and discretionary forms of power imposed on outsiders as well as the emancipatory implications of social membership for groups incorporated as settlers. The United States not only maintained earlier practices of encouraging immigration; it extended these practices to create a remarkably inclusive community for new Europeans. As Hiroshi Motomura has demonstrated through his arguments about “intending citizenship,” immigrants, even before becoming formal citizens, were integrated into the republican projects of self-rule and expansion in ways that were unimaginable on the Continent. Recalling that under the European model of statecraft the legal distinction between aliens and subjects was of central importance. According to Coke, in order to protect monarchical authority one had to impose strict limits on the rights of foreigners. Extensive rights for aliens would subvert the king’s dominion and allow other sovereigns to infiltrate the polity. In the United States, however, the European monarchical distinction between aliens and subjects became far less important than whether one possessed the right ethnic and cultural background to be assimilated into settler society.

As a result, whether an individual was a formal citizen did not necessarily correlate with real social membership, or what I have called free citizenship. Free citizens enjoyed all the prerequisites for republican liberty, including complete rights to land ownership and political participation (such as through suffrage). As the nineteenth century unfolded, a European “alien” could often live as a free citizen in the United States even before naturalization, while subject groups such as nonslave blacks may have been formally defined as citizens but were legally denied the basic conditions for self-rule. In essence, free citizenship was extended on the basis of ethnicity to co-participants in a settler project of expansion, while colonized groups—regardless of their legal status as “citizens”—were organized through long-standing modes of imperial subjectship.

Immigrant inclusiveness was most evident in the simplicity and ease of the United States’ new naturalization process. Under the 1802 Naturalization Act, which remained in force for most of the nineteenth century, to gain formal citizenship foreigners merely had to reside in the country for five years, declare their intent to be naturalized at least three years before admission to citizenship (but at any point after residence), pledge an oath of allegiance to the federal Constitution, and give minimal proof
of good character. Critically, this process was available only to “free white persons,” a stipulation established by the very first naturalization law in 1790 and which remained in effect until after the Civil War.30 But prior to formal admission, many immigrants who were still aliens enjoyed political and economic privileges that emphasized their full standing within settler society. For instance, European aliens who had declared their intent to become naturalized were eligible for western land grants, such as those under the 1850 Oregon Donation Land Act, aimed at settling the Oregon Territory, and the more encompassing 1862 Homestead Act.31

Throughout the nineteenth century, European noncitizens possessed the right to vote in numerous states, particularly on the frontier. In the years after independence, Congress explicitly included European aliens as voting members in the Northwest Territories.32 Vermont’s first constitution provided for the naturalization and enfranchisement of aliens, and Virginia enacted similar policies through statute. Formalizing its colonial practices, Pennsylvania also followed suit, although it added a two-year residency requirement.33 These efforts ebbed in the early decades of the nineteenth century but quickly multiplied with a new phase of western expansion during the 1840s and 1850s. In 1840, the Illinois Supreme Court asserted that the state’s constitution provided “the right of suffrage to those who, having by habitation and residence, identified their interests and feelings with the citizenry . . . although they may be neither native nor adopted citizens.”34 In 1848, Wisconsin passed a suffrage law granting the vote to immigrants who under the naturalization process had declared their intent to become citizens. Remarkably, the right persisted regardless of whether immigrants ever actually completed the naturalization process. Over the next ten years, Kansas, Minnesota, Oregon, and Michigan all adopted similar alien suffrage laws, and after the Civil War more than a dozen additional states in the south and west followed the same path.35 Especially on the frontier, alien voting, which had first emerged during the colonial era, became routine.

The rationale driving this openness to European immigration was the same as had long operated in the colonies. If the republican goals of economic independence and freedom as self-rule necessitated territorial expansion, they also required enough people to work the land and to participate in projects of conquest. Again, for an ethnically defined settler society, not all immigrants were uniformly welcome, only those seen as culturally assimilable and thus prospective co-participants in activities of
settlement. But, over the long term, the driving focus on the needs of territorial and economic growth increasingly relaxed the idea of who counted as a potential free settler citizen—a fact underscored by the consistent provision of naturalization to all “free white persons.”

Most strikingly, these demographic and material interests meant that even Catholics came to be seen as capable of privileged membership, although after an appropriate period of tutelage in Anglo-Protestant institutions and liberty. This development was dictated in part by the simple facts of which communities were emigrating from Europe to the United States. Between 1846 and 1855, over 70 percent of new arrivals to the country (2,265,018 out of 3,031,339 persons) were either Irish or German, a large percentage of whom were not Protestant. As will be discussed later in this chapter, Catholic immigrants (and the Irish in particular) confronted various modes of informal and formal discrimination, especially at the workplace. In fact, the far greater tendency of frontier states to allow for alien voting was due both to their specific population needs and to the fact that the vast majority of immigrants out west were Germans—whom English settlers viewed as Teutons, the very ancestors of the Anglo-Saxons. By contrast, Irish immigrants tended to congregate in already densely populated cities back east, where they become the focal point for Anglo fears about the cultural dissolution of settler society and with it republican freedom. Particularly during economic downturns, these fears produced backlashes against Catholic groups and generated more exclusive definitions of settler identity. Still, as the century wore on, the overarching need for new immigrants meant that one’s status as white became more significant for free citizenship than whether immigrants were English or even Protestant.36

This background thus produced an extraordinary state of affairs, in which the American shore was more a port of entry than a closed border for Europeans coming from abroad. While laws existed (primarily at the state level) for the exclusion of immigrants, these were primarily due to public health concerns with contagious disease or to prevent paupers from landing—the latter as part of general measures drawn from English poor laws to restrict the movement of indigent persons. As a result, states established regulations, in keeping with republican concerns about the dependent poor, under which foreign ships were required to pay taxes for their passengers or to provide a bond ensuring that they would not become public charges. And some states and local authorities engaged in out-of-county or out-of-state removal of “paupers,” immigrant or otherwise, who
were deemed economically undesirable. But no federal deportations from the United States of any immigrants took place during the entire antebellum period and for the first two decades after the Civil War. Even at the state level, Gerald Neuman tells us that in many locales removal provisions were left unenforced, and where occasional enforcement took place during the early nineteenth century, like in New York or in Massachusetts (long a center of anti-immigrant sentiment), the tendency over time was to replace removal with workhouses for the indigent. Therefore, while the myth of a legally open border may never have fully existed, for European immigrants the reality very nearly approximated the myth—given strong presumptions in favor of entry and the fact that one’s post-entry ability to remain in the United States and participate in its political life was by and large unquestioned.37

Although the desire to encourage immigration west may have expanded who counted as a republican settler and generated a de facto open border for Europeans, it went hand in hand with the entrenchment of imperial prerogative power over nonsettlers. If most European immigrants, who were steadily incorporated into settler life, were free from deportation and enjoyed complete freedom of movement, imperial subjects benefited from no similar privilege. As described earlier, Indian tribes, such as the Cherokee, faced wholesale removal and expulsion. Fugitive slave laws, passed by Congress in 1793 and again in 1850, created administrative proceedings (with minimal judicial oversight) to forcibly return slaves to their owners.38 As for nonslave or free blacks, despite being formal citizens they too faced extensive restrictions on their movement. Slave states generally barred the admission of free blacks who were not already residents.39 As for newly opened land out west, Indiana, Illinois, Iowa, and Oregon prohibited altogether the entrance of the black population into their territory.40

Under the emerging framework, newly arrived immigrants (even prior to naturalization) had greater privileges than communities with long histories in the United States. Not only were free blacks denied entrance to some frontier states; they were explicitly barred from claiming property through western land grants. If the frontier was considered a national reserve for the benefit of all social members, including noncitizen Europeans, federal law denied blacks access to the public domain and thus to economic independence and republican standing. In other words, formal citizens who had been on American soil for generations had fewer practical rights than alien immigrants who may have only recently arrived in
the country. The treatment of Mexicans out west after the Mexican-American War powerfully underscored this feature of settler society. With the annexation of wide swaths of land through the Treaty of Guadalupe-Hidalgo, 80,000 Mexicans now found themselves subjects of American congressional power. Under the treaty, those who chose to remain on their land were accorded formal status as citizens as well as property rights and suffrage. Yet, as Richard Griswold del Castillo writes, although Mexican proponents of the treaty assumed that the rights of these new U.S. citizens would be respected, “They were wrong: American local, state, and national courts later ruled that the provisions of the treaty could be superseded by local laws.” California’s very first state constitution denied voting rights for most Mexicans, stipulating that only white Mexicans were entitled to suffrage.

Moreover, Congress’s 1851 California Land Settlement Act forced Mexicans to prove their land title in court. Since many had no formal titles or did not have the financial means for long-term litigation, they were either stripped of their property or forced to sell. The result was the nullification of most Mexican landholding and the transfer of property to white settlers, immigrant and native born. Akin to the importation of Africans to the New World, such transfer also strengthened internal settler egalitarianism by expanding property ownership among whites and by providing a dependent workforce of nonwhite tenant farmers. Thus formal citizenship for Mexicans, just as for free blacks, did not entail republican inclusion. And as with Indian tribes, it made them legal, political, and economic outsiders on land they had long possessed while at the same time providing extensive rights and opportunities to new immigrants with no ties to that land and only limited ties to the United States.

In essence, slaves, Indians, free blacks, and Mexicans all persisted as subjects of a royally derived and discretionary prerogative power, one considered inappropriate for free settlers—immigrant or native born. This prerogative power reduced each subordinated group to the status of an imperial subject, whose rights were carefully correlated and stratified based on settler economic interests and the necessities of maintaining control. For slaves, these requirements entailed the denial of any meaningful protections. As for free blacks and nonwhite Mexicans, such groups enjoyed formal citizenship but were excluded from the political and economic conditions essential for republican liberty. And with respect to Indian tribes, indirect rule limited federal responsibility for their welfare.
while ensuring that settlers possessed an overriding authority to claim indigenous land or to reconstruct tribal institutions if necessary.

Along with illustrating this basic structural divide between free citizens and stratified subjects, the place of newly arrived Europeans in collective life also helps explain the essential linkage between two foundational identities in the American experience: the United States as a nation of settlers and as a nation of immigrants. These are not opposing categories, and the settler period in American history was the heyday of both open immigration and extensive immigrant rights. In fact, the growth and development of settler society rested fundamentally on a continual supply of Europeans coming from abroad. As I will return to in future chapters, the move toward the restriction of immigration—and with it modern immigration policies—emerged only with the closing of the frontier and end of settler empire. Before these developments, republican interests in economic independence intertwined settler and immigrant identities and created a distinctive political community, one holding out both the promise of free citizenship and the specter of imperial control.

**Revolutionary Politics and the Populist Alternative**

If the new republic was committed to reaffirming a past colonial status quo, the questions persisted of whose interests it would serve and which form of republican freedom would characterize the political community. The immediate consequence of the Revolution was a process by which the hierarchical character of colonial life faced intense pressure from below. The need to protect the social status of Anglo-Protestant settlers from the dangers of a centralizing British Empire made merchants and landed gentry militarily and politically dependent on small farmers. In this context, Robert Wiebe writes that the 1770s and 1780s were marked by the diffusion of political control and the creation of “a multitude of small political units, governmental and quasi-governmental, [which] rushed to fill the vacuum of British authority, [and] resisted the pulls from patriot capitals almost as stubbornly as they resisted the British.” Such decentralization, coupled with the social emergence of previously marginalized settlers, meant that politics during the 1780s was characterized by an impressive degree of popular participation and responsiveness—through elections, petitions, protests, and outright rebellion.45

In the wake of settler revolt, small farmers, artisans, and western yeomen found themselves emboldened by the discourse of republicanism
and the liberating potential of popular politics. They imagined a new set of internal institutions that, when tied to territorial expansion, would elevate the social status of laborers and promote participatory democracy. This populist account of freedom contradicted basic tenets of republicanism as understood by colonial elites, particularly its emphasis on governmental balance and on virtuous leadership. As articulated by agrarian pamphleteers like William Manning, liberty as self-rule instead rested on promoting the shared interest of the laboring community and on ensuring that ordinary settlers could assert a continuous and energetic public power. While this vision ultimately failed to achieve lasting institutional form, it nonetheless provided a basic framework of collective possibility that structured the political struggles of the nineteenth century.

The Rise of Popular Power and Undivided Sovereignty

This popular penetration of politics did more than simply produce greater settler inclusiveness. It altered the very content of politics and shaped the forms of government considered to be legitimate replacements for colonial rule. State legislatures were remarkably sympathetic to the interests of rural farmers (and the poor more generally) and often trumped the property rights of creditors in the name of debtor relief. For instance, early legislatures tended to finance the Revolutionary War through loans repayable in paper rather than hard currency and even preferred depreciating the value of paper money to raising taxes in order to pay outstanding debts. This was alongside broader debt relief measures that confiscated and redistributed Loyalist property, limited creditor claims, or reduced litigation costs. Such practices underscored the popular belief that government had a responsibility to help citizens in economic distress.46

Perhaps just as crucially, these practices were also part of an emerging view that legislative action was not simply a regrettable necessity but that the community’s energetic employment of government was itself a constitutive element of liberty. In order for all to enjoy republican freedom, ordinary settlers had to possess a public power that could continually enact popular laws—laws that ensured land ownership and economic sufficiency. This idea found expression in the variety of state constitutions framed during the Revolutionary period. These constitutions established governments that were heavily majoritarian, in which assemblies formed by equal representation gained institutional supremacy. Such supremacy derived from a belief that government was principally a site for the
collective exercise of public power and that there existed a unity between the popular will and the enacted laws of the legislature. As Robert Palmer writes of Pennsylvania’s constitution, artisans and small farmers viewed the key intellectual content of the Revolution as the belief that economic independence and “a republican form of government” required an undivided sovereign power, with local and majoritarian institutions “structured so as to retain an identity between the people and their representatives in assembly.”

These constitutions followed the intellectual lead of numerous state declarations of rights, which argued for an inherent and collective capacity of citizens to direct government in the provision of communal necessity. Pennsylvania, Maryland, North Carolina, and Georgia all used formulations analogous to Delaware’s Declaration of Rights, which held “that the people of this State have the sole exclusive and inherent Right of governing and regulating the internal Police of the same.” Moreover, popular rights enumerated by such declarations were considered essential to the framework of undivided sovereignty. Rather than checks on majoritarian rule, these constitutional liberties acted as the “principles” of legislative action, guiding a public power committed to enacting the communal interest.

In pursuing this vision of government and of the relationship between freedom and popular power, previously marginalized settlers broke from the driving assumptions of many colonial elites. In particular, small farmers and townspeople rejected the wariness of majoritarian rule that often characterized gentry accounts of republican liberty and which derived in part from classical ideas about political excellence. As Christopher Lasch remarks, under this competing republican tradition, “virtue implied the fullest development of human capacities and powers. [It] condemned a life devoted to the pursuit of wealth and private comforts not because it was selfish but because it provided insufficient scope for the ambition to excel.” Accordingly, participation in politics was both an education in virtue—through the Aristotelian experience of ruling and being ruled in turn—and the primary site for its display. This focus on achieving excellence through action in the public sphere entailed deep suspicion of material self-interest. “Republicanism condemned self-seeking when it tempted men to value the external rewards of excellence more highly than the thing itself or to bend the rules governing a given practice to their own immediate advantage.” As a result, most members of the community were considered too dependent on economic necessity—and thus too wedded to material
self-interest—to exercise power in the name of excellence rather than personal advantage. This account of virtue thus inevitably insulated statecraft from the public and placed decision making in the hands of an elective aristocracy, one chosen based on character rather than class affinity. As Robert Wiebe writes, such an ideal also necessarily established “a personalized manner of government” that saw worthy leadership as essential to collective well-being, since without virtue even the best constructed polities would be destroyed. However, for small farmers and townspeople emboldened by the Revolution, the fear that popular political control would eliminate virtue was largely irrelevant. As state constitutions and western rebellions demonstrated, the goal of exercising public power was precisely to make government implement the community’s “partial” or “selfish” economic needs. In fact, by interfering with the material interests of the majority, this classical ideal of virtue was seen as a method by which wealthy elites undermined both popular authority and the possibility that all settlers would enjoy economic self-rule. In minimizing the significance of such personalized excellence for political life, the new yeoman politics therefore minimized leadership as well and, especially, those deferential modes of authority that had structured colonial society. For the yeoman farmer, government remained legitimate through its continued unity with the interests of the public, not through the special qualities of particular representatives.

If newly empowered settlers chafed against the politics of virtue, they also questioned the importance of institutional balance and the belief in divided sovereignty. Central to most republican traditions was a concern with the processes by which regimes degenerate into despotisms. Aristotle, for instance, classified regimes based on whether they lodged power in the one, the few, or the many, with each form embodying sources of potential corruption. As Christopher Lasch notes, the Aristotelian tradition viewed the goal of political construction as “work[ing] out some principle of balance that would combine the advantages of each while nullifying the features that made them oppressive.” The final result, a mixed regime that divided sovereignty across institutional settings, produced a government devoted to liberty as self-rule.

Just as with the yeoman defenders of legislative supremacy, this republican account also held that law, properly conceived, was constitutive of liberty. However, as Philip Pettit asserts, it saw the laws as liberating only “so long as they respect[ed] people’s common interests and ideas
and conform[ed] to the image of an ideal law: so long as they [were] not the instruments of any one individual’s, or any one group’s, arbitrary will.” In other words, the one, the few, and the many represented factions within society whose interests were not equivalent to the common good. Thus true law had to result from a balancing process, which checked the attempt by partial groups to impose arbitrarily their own will on the collective.

Fisher Ames’s son, in elucidating the political philosophy of his arch-Federalist father, highlighted the basic disagreement between these versions of law as liberty and therefore between many small farmers and colonial elites. For Ames, a republic could never be a simple democracy, because strict majoritarianism imposed class rule rather than rule by the common good:

[Fisher Ames] saw that many persons confounded a republic with a democracy. . . . According to his creed, a republic is that structure of an elective government, in which the administration necessarily prescribe to themselves the general good as the object of all their measures; a democracy is that, in which the present popular passions, independent of the public good, become a guide to the rulers. 

By contrast, for newly empowered settlers seeking political authority, it was precisely legislative supremacy that established the common good. This was because the common good—understood as the enjoyment by all settlers of economic independence and productive control—was indistinguishable from the interests of the many. The only meaningful threat that legislative supremacy posed to liberty existed when legislatures were removed from the power of ordinary citizens, either through distance or unequal forms of representation. So long as government was primarily local, decentralized, and based on equality, such that the community could exercise an energetic public power, balance would be unnecessary.

In essence, what yeoman farmers and townspeople found themselves outlining in the years during and after the Revolution was a democracy of small property owners, which rejected both a dependent class of wage earners and paupers as well as an “unproductive” class of moneyed interests. According to this view, true republican liberty would be assured only if politics were organized to enhance popular rule and were structured around principles of local, decentralized legislative supremacy. Under
such conditions, public power could produce economic independence and eliminate the need for any settler to be subject to the arbitrary will of another.

**Thomas Paine, William Manning, and Producerist Democracy**

Perhaps no one during the Revolutionary period did more than Thomas Paine to champion the cause of small farmers, shopkeepers, and artisans in sketching this populist variation of liberty. Paine’s *Common Sense* exalted the capacity of ordinary people to govern themselves and was widely seen as helping to ensure Revolutionary support from poorer settlers. Woody Holton writes of the pamphlet’s impact in Virginia, “It led thousands of farmers to venture upon Independence as a bridge to a greater say in the internal government of Virginia.” Paine, in general, was little concerned with the problem of balance or the threat of majority tyranny. In *The Rights of Man*, he argued that mixed governments were in fact more liable to corruption than purer democracies. Such regimes undermined popular accountability precisely by insulating politics from the public and by making it difficult for the community to locate responsibility in any particular institution. “In mixed governments there is no responsibility: the parts cover each other till responsibility is lost; and the corruption which moves the machine, contrives at the same time its own escape.”

Paine also argued that individuals should accumulate only the amount of personal property produced by one’s own labor and saw government as having the duty to guarantee that acquisition by the wealthy did not deprive those impoverished of their “natural inheritance.” In *Agrarian Justice*, he called for a national fund, financed by inheritance taxes, which provided fifteen pounds to all citizens, men or women, on reaching adulthood, as well as an annual stipend of ten pounds to the aged. While the pamphlet itself was a response to events in France and was directed specifically to “the Legislature and the Executive Directory of the French Republic,” Paine made clear in his author’s inscription that “The plan contained in this work is not adapted for any particular country alone: the principle on which it is based is general.” He hoped that every government—consistent with a vision of freedom as self-rule—would work not simply to eliminate poverty but to ensure that all could reasonably enjoy economic independence and existence as members of the productive classes. Rather than creating individuals dependent on state beneficence, who thus would
remain unfree, Paine viewed his national fund as helping to eliminate economic servitude and pauperism:

When a young couple begin the world, the difference is exceedingly great whether they begin with nothing or with fifteen pounds apiece. With this aid they could buy a cow, and implements to cultivate a few acres of land; and instead of becoming burdens upon society, which is always the case where children are produced faster than they can be fed, would be put in the way of becoming useful and profitable citizens.

Therefore, in defending a commercial society built on economic and political control by producers, Paine articulated how legislative supremacy laid the foundations for meaningful republican freedom.\textsuperscript{56}

Still, despite the affinities between Paine’s populism and the politics that emerged during the Revolutionary era, there existed one important distinction. Although he argued for government action to protect the economic interests of those less affluent, Paine viewed this action solely as a corrective. For him, governments primarily served a negative function, in restraining the social power of unproductive, moneyed elites. At the beginning of \textit{Common Sense}, Paine wrote, “Society is produced by our wants and government by our wickedness; the former promotes our happiness \textit{positively} by uniting our affections, the latter \textit{negatively} by restraining our vices.” To the extent that a commercial society of small property owners could provide for everyone’s wants, the need for government disappeared. In \textit{The Rights of Man}, Paine again reiterated the theme of self-regulation and the hope of doing away with politics: “The more perfect civilization is, the less occasion has it for government, because the more does it regulate its own affairs, and govern itself.”\textsuperscript{57}

By contrast, Revolutionary politics produced an account of government that saw the community’s continual exercise of public power through popular law as a permanent and constitutive element of liberty. For such a defense of energetic government we must turn to an American yeoman whose writings vividly conveyed the new populist imagination. William Manning was a farmer and what Gordon Wood calls “a petty businessman”\textsuperscript{58} of moderate status who lived in Billerica, Massachusetts, until his death in 1814. In the late 1790s he wrote a pamphlet titled \textit{The Key of Libberty}, which in an early version he addressed to “all farmers, mechanics, and laborers in America, and all others who are friends to liberty and
free government.” Manning was largely self-educated, and although he admitted that he was “not master of the arts of spelling, grammar, and composition,” he hoped that his ideas would nonetheless promote the cause of freedom in America. Although unpublished in his lifetime, and rejected by numerous Democratic-Republican papers, Manning’s *Key of Liberty* provides powerful insight into the emerging populist vision. What makes the text so unique is the fact that most artisans, farmers, and shop owners, not to mention the true rural poor, had limited educational means and rarely expressed their political views in writing at all, let alone with such clarity and depth. Moreover, Manning’s very inability to publish his piece with the Jeffersonian press suggests how these arguments, although percolating among small landholders, remained shunned by the dominant paradigms of republican ideology. It also highlights the retreat into more hierarchical practices that followed the end of the Revolutionary era—and the reduced space available for a man who was not a “master” of grammar to have his voice heard in politics.59

Like Paine, Manning saw himself as defending a producerist democracy committed to the elimination of economic dependence and based squarely on government by legislative supremacy. Unlike Paine, Manning rejected the notion that commercial society ultimately could be self-regulating and government activity minimized. He defended the need for a permanently energetic political authority, because he believed that the few and the many held fundamentally contradictory interests. According to Manning, the basic divide within all societies was between the majority of individuals, whose hard labor was “the sole parent of all property,” and a select few—landed gentry, merchants, and lawyers—whose wealth allowed them to live without labor.60

Manning believed that no individual, regardless of class, could be counted on to act virtuously rather than out of personal self-interest. Luckily, when organized to think collectively, the self-interest of the many was equivalent to the common good, because the many sought conditions in which all members enjoyed economic independence and could control the produce of their own labor. By contrast, the self-interest of the few was inevitably oppressive. For Manning, since these elites lived off the labor of others, they possessed a fundamental commitment to defending inequality and social hierarchy—and, particularly, to protecting a divide between a leisure class and a permanent majority of dependent hirelings. Such interests led the wealthy to subvert commercial institutions in order to monopolize property and to reduce most settlers to
tenancy, wage earning, and bondage. Manning described this irreconcilable class conflict as “the great scuffle between the Few and the Many.” He saw this “scuffle” as making government a necessary and permanent feature of collective life. Only if laborers used state power to counter the economic self-interest of wealthy elites could the community’s “happiness” be maintained. Such happiness Manning defined as “enjoying the good of his own labors, and feeling that his life and liberties (both civil and religious) and his property are all safe and secure; and not in the abundance he possesseth; nor in expensive and national grandeur, which have the tendency to make other men miserable.” Under this formulation, government must always be energetic, since the communal goal of economic independence was under continual threat from nonproductive and acquisitive elites.61

Equally important, by exercising public power, ordinary settlers participated in the freedom of democratic self-government and expressed their own political independence. In other words, politics was not only a precondition for liberty but also a central site for its manifestation. Therefore, Manning rejected the hope of eliminating politics or of creating a self-regulating commercial society while also arguing that popular laws enacted by majoritarian governments were constitutive of freedom. This defense of undivided sovereignty and legislative supremacy meant that checks and balances were little more than attempts by wealthy elites to undermine the political and economic independence of laborers. Manning wrote, “A free government is a government of laws made by the free consent of a majority of the whole people,” and that such governments “are commonly destroyed by the combinations of the judicial and executive powers in favor of the interests of the Few.”62

Drawing together the central strands of emergent populism (belief in legislative supremacy and popular law making as the foundations for liberty), Manning called for the creation of a “Society of Laborers” to counter organization by the wealthy, in the form of the bench and bar, manufacturing associations, and the Society of Cincinnati. This Society of Laborers would seek to disseminate knowledge concerning laboring interests and to mobilize ordinary settlers to enforce their rights. It would therefore exist as an institutional basis for checking the actions of the few and for promoting public happiness through government.63

As Michael Merrill and Sean Wilentz note, Manning’s Society of Laborers was remarkable for its belief in the salutary effects of association, considered “partial” and corruptive by many republicans, as well as for
its foreshadowing of the nineteenth-century labor union and political party. Yet, to understand fully the distinctiveness of his vision, one must point out precisely what differentiates the Society of Laborers from these more familiar forms. Unlike the union, the society was not primarily concerned with defending the interests of a specific set of workers or artisans confronted with a relationship of employment. And in contrast to the party, the society was not organized around the goal of electing members to office. Rather, Manning sought a means by which the laboring community as a whole would always be able to exercise public power. He was searching for a way to constitute the many as a government behind the government, which could maintain the substantive unity between the people and the legislature. Manning believed that an association of laborers committed to political intervention and the expansion of knowledge would fulfill this role.

Even more dramatically, he viewed this association as helping to explain where, if at all, virtue fit within an account of self-rule. Recall that for elite republicans like Fisher Ames, virtue was the possession of a select few, whose learning and excellence equipped them to exercise practical decision making. By contrast, Manning suggested that through mechanisms like his society, all settlers could learn the basic conditions of collective life as well as the best means for social improvement. In other words, neither education nor virtue need be the exclusive domain of any group within society; instead, both could be democratized and made broadly accessible. Under this account, virtue was understood not as the excellence of high statecraft or political leadership but rather as the full awareness by producers of their own interests and of how to achieve those goals. Thus self-interest and virtue did not embody conflicting orientations to the community; rather, these orientations could be synthesized through democratic knowledge and popular action. In a sense, Manning’s society crystallized the new populist ethic, one that imagined a democratic culture that elevated the laboring community and fulfilled republican ideals of liberty and independence.

*Labor and Empire in the Populist Imagination*

While populism offered a dramatic reconstruction of republican freedom, drawing from localist and Rousseauian traditions, one should still underscore how wedded this account remained to the imperial status quo. In fact, these arguments worked to entrench both settler supremacy and the rigid divide between Anglo citizens and marginalized groups,
justifying a particularly intense commitment to Indian expropriation. As suggested earlier, given the centrality for the common good of a wide diffusion of property, emergent populism placed even greater focus on the need for expansion. Among the primary grievances that would plague the American west, from the Shays’ Rebellion to the closing of the frontier, were the lack of access to land and the fear of rural tenancy. In fact, the Battle of Fallen Timbers in 1794, which ended indigenous control in the Ohio country and thus opened it to Anglo settlement, was perhaps the single largest factor in dissipating the intensity of frontier antipathy to coastal power. As Frederick Jackson Turner famously noted, along with free land and the possibility of economic independence, the frontier provided space removed from the confines of elite and eastern authority. For instance, although the rebellions may have failed, the rebels themselves often avoided state punishment, as well as land forfeiture and taxation, simply by moving farther west and expanding the edge of settlement. The Shays’ Rebellion ended without a final confrontation largely because of such migration and the opportunities it afforded rebels to move elsewhere, claim land, and resume their ordinary lives.66

The inextricable link between empire and populism was also evident in the way that internal democratization encouraged even greater external exclusion. The elevation of the productive laborer went hand in hand with the denigration of the native, considered incapable of transforming the rugged wilderness into a site for economic and political independence. By locating all sources of social value in the act of labor, those whose activity could not be reconciled with the framework of agricultural and artisanal production inevitably became threats to the common good. One can imagine this as a direct corollary of assuming a unity between the interest of laborers and the interest of all. While a properly constituted government could limit the power of moneyed elites—by placing checks on accumulation and ensuring that the vast majority of settlers were small producers—the native represented a threat of a wholly separate order. In Agrarian Justice, the very pamphlet in which Paine argued on behalf of populist economic policies, he contrasted the European laborer with the American native who persisted in a “natural and primitive state of man.” Lacking all civilization and appreciation for the value of work, life for the native was “a continual holiday.”67 Such constitutional idleness rejected not only the supremacy of labor but the larger moral economy within which the laborer operated. Besides endangering the security, economic livelihood, and political independence of western
settlers, the indigenous presence problematized the equivalence between the interest of laborers and the interest of all.

It also questioned the assumption that social institutions should be organized principally to promote this ostensibly collective good. In other words, since indigenous removal grounded both the practical needs of labor and its philosophical preeminence, populist empire embodied a form of political association even more virulently exclusionary than that of the comparatively hierarchical colonial period. This virulence gained vivid expression in Jackson’s Trail of Tears and in efforts to eliminate indigenous communities entirely. And it also helps explain why coastal elites like John Marshall, who were wary of populist politics and concerned with the disorder produced by undirected frontier expansion, tended—much like Whitehall officials before them—to be more critical of native conquest and mistreatment. In essence, the great tragedy of populism was that as Manning’s hope of a producerist democracy slipped from grasp, farmers and townspeople increasingly embraced these brutal and xenophobic features of settler empire—a pattern that would be repeated time and again in U.S. history.

Federalist Balance and the Specter of Neocolonialism

In 1965, Kwame Nkrumah, the Ghanaian president, published the book *Neo-Colonialism: The Last Stage of Imperialism*, in which he argued that decolonization may have altered the juridical status of African countries, but it had not produced substantive independence. In place of direct political control, postcolonial societies now faced a variety of economic, financial, and trade restrictions imposed by former imperial masters. These restrictions reduced nominally sovereign states to the level of dependent satellites, with limited capacity to dictate the terms of their own collective future. Describing this condition as neocolonialism, Nkrumah wrote, “The essence of neo-colonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty. In reality its economic system and thus its political policy is directed from outside.”

For Nkrumah, economic dependence went hand in hand with two other common experiences. First, neocolonialism, like direct political control, inevitably exported those “social conflicts” that marked the aggressor state. To the extent that government decisions were dictated from abroad, the inequities embedded in foreign social systems took root locally.
as well. Thus foreign states continued to perpetuate forms of corruption and unfreedom in nominally independent societies. Second, unlike the relatively exclusive control exercised in direct imperial relations, postcolonial governments now found themselves in a global arena of competing powers; juridical independence simply meant the capacity to “change masters” rather than to escape domination once and for all and to “exist without a neo-colonialist master.” Subject to external authority, African states found themselves the economic and political prey of global powers scrambling once more to divide the spoils of the continent.  

The settler embrace of xenophobia and external violence in the early period of the republic was provoked by a similar American experience of global weakness and the sense that the newly independent settler society remained bound to European power politics. While small farmers and shopkeepers fashioned an ideal of freedom linked to an assertive collective will, such goals confronted a harsh postcolonial reality, in which the possibilities for national independence seemed to contradict these strong participatory aspirations. As a result, settlers developed a constitutional structure that transformed the meaning of populism. Cast as a politics wary of any prerogative authority, populism became largely concerned with maintaining the duality separating settler insiders from excluded outsiders—be they native, slave, or later Mexican. The decisive political turning point was none other than the ratification of the federal Constitution in 1789. By investigating the constitutional debates and their aftermath, we can appreciate how populist ambitions were contained and reified as principles of state antipathy and imperial exclusion.

Mercantilism and the Constraints of European Hegemony

For settler elites in the United States, the first significant postcolonial society, Nkrumah’s neocolonial specter was an intense preoccupation. North American colonies developed as mercantile appendages of the British Crown, which dictated—although not always successfully—economic development and settler migration around the material goals of England’s mercantile community. Although revolution produced a formal end of such control, as Walter Licht writes, “The United States remained still in the mercantile orbit. The fortunes of the now former colonialists remained in the grips of British commercial interests; the ups and downs of economic activity during and after the 1780s reflected the abilities of British merchants to flood the American market with goods or block American exports.” For
settlers the difficulties of shedding mercantile dependence were compounded by the general political weakness of the colonies and the seeming fragility of independence in a world of predatory European states. While the colonies may have been able to extract themselves from British control, would such extraction simply replace one master with another—perhaps even more oppressive? Robert Wiebe comments of Revolutionary elites:

Since 1783 they had pictured their nation as a prisoner on parole, protecting its precarious freedom against international forces that it might elude but never control. Even the best leaders and the most ingenious measures, they believed, could not stop the great powers from swaying America’s citizens, corrupting its officials, or infiltrating its governments, scheming against the nation, allying against it, or warring against it. . . . Partition, absorption: here were the apt analogies for America’s jeopardy.70

For such settlers, the Shays’ Rebellion crystallized the potential threats of dissolution and European subjection that confronted the independent colonies. It underscored the vulnerabilities facing semisovereign states organized under a loose confederacy and moved those elites previously skeptical of federal authority toward support for the Constitutional Convention in May 1787. For defenders of greater centralization, such as George Washington, no better proof existed “of the want of energy in our government than these disorders” that racked Massachusetts, an intellectual and military epicenter of settler revolt.71 Even more important, the Shays’ Rebellion made apparent the increasing disconnect between country and city regarding the principal threats to freedom. While both coastal merchants and poor western farmers saw liberty as self-rule as inherently linked to settler control over the future of American colonization, these groups disagreed fundamentally about precisely what endangered local imperial autonomy. For yeomen and the rural poor, the primary internal threat to freedom came from colonial mercantile interests, and the primary external threat came from Native Americans on the frontier. Under this populist reading, wealthy coastal elites simply replaced London merchants as the political and economic power; they did not end mercantile dependence once and for all but rather continued to undermine the property rights and productive control of farmers and townspeople. Coupled with the persistent danger to personal security and economic independence posed by indigenous groups, the monopoly interests
that captured state government and the Continental Congress reduced laborers to a condition of subservience not unlike that under British rule.

By contrast, for settler elites the central constraints on local freedom were the political passions of those previously marginalized combined with the threat of European interference. For the founders of the new republic, the Shays’ Rebellion made apparent how external machinations and the internal rise of popular power could allow European states to partition and dominate the various colonies. The rebellion itself was initially precipitated by the decision of British merchants to close their doors to American business. The ability of a foreign power to produce internal social strife simply by changing economic policy illustrated the extent to which the independent colonies remained under external sway. Moreover, the popular unrest that resulted not only imperiled effective government but also jeopardized the very permanence of the union. Throughout the 1780s and 1790s, frontier settlers across both New England and the Old Northwest repeatedly contemplated independence from the United States, under the aegis of one or another European power. Perhaps the most famous of these was the Franklin secession movement, in which the three western counties of North Carolina declared their independence in 1784 and sought a Spanish alliance throughout the 1780s, so as to wrest local power away from North Carolina and the Continental Congress.72

As a result, in contemplating the necessity for and requirements of a new federal Constitution, elites viewed the problems facing settler society through a politics of neocolonialism, not unlike that described by Nkrumah. For those participating in Philadelphia, behind closed doors and in secret, the possibility of substantive independence rested on creating a federal structure that could both limit external control as well as insulate political and economic decision making from the popular will. In fact, this secrecy was seen as necessary given the potential for continued upheaval and the real and extensive antipathy to such political reorganization. For supporters of the new Constitution, these exigencies were paramount in their justifications for moving away from local sovereignty as a basis for liberty. Alexander Hamilton and James Madison both invoked a postcolonial predicament in arguing for greater centralized power. Fearing the possibility that the separate colonies might become ensnared in competing European alliances, Hamilton warned in the Federalist Papers:
America, if not connected at all, or only by the feeble tie of a simple league, offensive and defensive, would, by the operation of such jarring alliances, be gradually entangled in all the pernicious labyrinths of European politics and wars; and by the destructive contentions of the parts into which she was divided, would be likely to became a prey to artifices and machinations of powers equally the enemies of them all. Divide et impera must be the motto of every nation that either hates us or fears us.

Echoing the same sentiments, Madison argued that without a stronger federal government, the United States would remain a weak and dependent satellite, unable to check powerful European states in their pursuit of North American fiefdoms:

The fortunes of disunited America will be even more disastrous than those of Europe. The sources of evil in the latter are confined to her own limits. No superior powers of another quarter of the globe intrigue among her rival nations, inflame their mutual animosities, and render them the instruments of foreign ambition, jealousy, and revenge. In America the miseries springing from her internal jealousies, contentions, and wars would form a part only of her lot. A plentiful addition of evils would have their source in that relation in which Europe stands to this quarter of the earth, and which no quarter of the earth bears to Europe.\(^{73}\)

For Hamilton, Madison, and others, the primary threat to republican freedom continued to come from the interference of a foreign metropole—only now the colonies found themselves the potential dependency of not merely Great Britain but of all the competing European states. Therefore, without unity and effective government, postcolonial weakness exposed the colonies to the very real danger of European hegemony. In order to achieve not just juridical independence from foreign masters but substantive independence as well, the defenders of the new Constitution sought to develop a political system that was based on greater centralization and able to limit the internal and external challenges to freedom.\(^{74}\)

*The Federalist Response to the Postcolonial Predicament*

Although many Revolutionary elites asserted the necessity of a federal system organized around a national government, they disagreed over the basic attributes of that government. While both Hamilton and Madison
were committed to limiting state sovereignty and to protecting the colonies from neocolonial dangers, each developed critically distinct alternatives. For Hamilton, substantive independence required a powerful centralized state in the European mold, one that could both claim political control from small farmers and townspeople and extract the United States from its dependent mercantile status. Such a national government would act directly upon citizens and enjoy substantial institutional powers, with states little more than organizational subunits. According to Hamilton, effective central control “must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations, but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions.”

Moreover, so as to eliminate mercantile relations with Britain, the colonies required an active government capable of creating an American mercantile orbit and of enhancing national economic power. Hamilton and his supporters imagined constructing a U.S. rival to European hegemony by strengthening the position of local financial elites and by promoting and protecting the interests of commerce and manufacturing. Therefore, the new federal authority had to be committed to entrenching the property rights and commercial interests of speculators, merchants, and manufacturers, which would thereby give the wealthy an economic stake in national well-being. As Hamilton wrote, “The prosperity of commerce is now perceived and acknowledged by all enlightened statesmen to be the most useful as well as the most productive source of national wealth, and has accordingly become a primary object of their political cares.”

Yet, if the new national elites found the emergence of a populist political vision a threat to internal stability, the idea of creating an American mercantile empire struck many as fundamentally incompatible with Revolutionary aspirations. Allowing commercial interests to gain control of political power undermined freedom as self-rule and only perpetuated the problems of popular antipathy. The rise of an established moneyed class—of a monopoly power directing a centralized political apparatus—would simply reproduce European social conflict in America, with an oppressive few confronting a propertyless mob. Benjamin Franklin warned that the growth of commerce and large-scale manufacturing brought with it great disparities in wealth and the emergence of a landless poor, because “it is the multitude of poor without land in a country, and who must work for others at low wages or starve, that enables undertakers to
carry on manufacture.” In fact, Thomas Jefferson’s great defense of agriculture and small farmers should be read as an attack on mercantilism and the Hamiltonian desire to see it take an authentically American root. In *Notes on the State of Virginia*, Jefferson wrote:

> While we have land to labour then, let us never wish to see our citizens occupied at the work-bench, or twirling a distaff. . . . Let our workshops remain in Europe. The loss by the transportation of commodities across the Atlantic will be made up in happiness and permanence of government. The mobs of great cities add just so much to the support of pure government as sores do to the strength of the human body.77

For both Franklin and Jefferson, not only did settler mercantilism undermine liberty by causing wage servitude and poverty; it inevitably produced political despotism. All previous attempts at free government ultimately had been overwhelmed by the rise of landless mobs, subject to the economic domination of the few and enjoying no personal stake in the collective good. Demagogues and tyrants who promised revenge against the ruling oligarchy could easily sway such individuals and end the dream of republican liberty. In other words, Hamilton’s solution to the problem of postcolonial dependence was no solution at all, because rather than checking the divisive potential of the many, it simply antagonized popular sentiment and made majoritarian tyranny all the more likely.

In response, Madison presented a distinct picture of political power, one able to defend American independence from both European interference and popular resistance. Madison shared the common belief that local and unconstrained popular rule would inevitably devolve into a political despotism, in which the divide-and-conquer policies of European powers could predominate. He wrote to Jefferson in October 1788: “In our Governments the real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended not from acts contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major numbers of the Constituents.”78 Yet, like Franklin and Jefferson, Madison believed that a Hamiltonian nation-state produced the same trap, because despots playing to the sentiments of the masses would appropriate centralized authority and trample on elite interests. Britain’s system of parliamentary supremacy offered a ready illustration of the dangers presented by centralization, as the King-in-Parliament had only recently employed the
legislature’s extensive powers to undermine the social status of settlers, place slaveholding rights in potential jeopardy, and strengthen nonsettler enemies such as Indian tribes and French Catholics. Thus, in restraining the sovereign power of the separate colonies, Madison came to see restraint itself as the proper guiding principle for a new federalist system. He imagined a strengthened national government as part of a republican system of institutional balance that undermined the capacity of any political site, and therefore of any competing social group, to capture political power. Under this rubric, greater geographic scope and increased distance between representative and constituent were political assets, because along with various checks and balances they limited the control exerted by popular forces.79

Madison’s model of divided sovereignty, in which the creation of a truly national government insulated statecraft from mass interests and thus divisive social conflict, emerged as the primary theoretical framework for the new federal Constitution. At the heart of Madison’s vision were elite colonial judgments about how law could be constitutive of freedom. Under the populist account, communally enacted law produced liberty by imposing the economic and political interests of the many and guaranteeing that all enjoyed productive control over labor. By contrast, for Madison law was constitutive of freedom only if it remained autonomous from politics and could not be reduced to the interests of any particular social faction. Madison viewed law, in the form of popularly derived statutes, as undermining a higher vision of “justice” to serve the goals of “an interested and overbearing majority”:

Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith and of public and personal liberty, that our governments are too unstable, that the public good is disgraced in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minority party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true.80

Yet, for law to be more than popular rule, Madison and the Federalists had to disconnect the idea of popular will from the particular interests of the many, made up of those small farmers and townspeople who at-
tempted through local majoritarianism and outright rebellion to seize political control. In making this step, Madison argued that the Constitution rather than local majorities expressed the popular will. The Constitution existed as a fundamental law that trumped ordinary state statutes and allowed the national government to impose political ends in keeping with a common good, one often inconsistent with the local interests of the laboring community.

Although Madison questioned the extent to which the courts were the final arbiters of this fundamental law, Hamilton went even further and contended that only an unelected and institutionally independent judiciary could protect the popular will from illegal and divisive actions by majorities. In defending judicial review and the court’s supremacy over constitutional interpretation against a more unmediated popular rule, Hamilton wrote:

It is far more rational to suppose that the courts were designed to be an intermediate body between the people and legislature in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two . . . the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.81

In essence, Hamilton sought to depoliticize the meaning of the “people” by transforming it into an abstract category accessible only through the practices of an unelected judiciary. This, of course, was simply an extension of Madison’s effort to imagine free law as properly autonomous from politics and thus insulated from public pressure. Ultimately, both Madison and Hamilton attempted to rearticulate those collective sentiments expressed by local majorities and enacted through state legislatures, which had previously been upheld as the popular will, as simply partial interests. Whereas under the populist reading, the “people” were a specific social entity—the laboring community—with clear collective goals, Federalists justified divided sovereignty and the autonomy of law by declaring that no group within settler society was more than a mere faction. This move was buttressed by reiterating how the practical attempt
by small farmers and townspeople to wield political power only deepened postcolonial weakness and the specter of neocolonialism.

Although the proposed constitution precipitated serious and intense opposition, such opposition suffered from fundamental disagreements. Anti-Federalists often gestured toward two conflicting republican bases for critique: one that shared some elite colonial premises and one far closer to the populist approach. Those anti-Federalists such as Richard Henry Lee, in his *Letters from the Federal Farmer*, argued against the Madisonian solution on the grounds that a strengthened national government undermined institutional balance and veered too closely toward “a consolidated system.” For Lee, articulating a localist republican tradition skeptical of political size, the principle of divided sovereignty was best fulfilled by maintaining the authority of the independent states. Lee worried that the geographic scope of the national government, combined with the variety of economic powers vested within it, would over time create a centralized despotism that eliminated checks and balances: “Unless the people shall make some great exertions to restore to the state governments their powers in matters of internal police; as the powers to lay and collect, exclusively, internal taxes, to govern the militia, and to hold the decisions of their own judicial courts upon their own laws final, the balance cannot possibly continue long.” Although Lee disagreed with Madison over the appropriate size of a just republic and consequently placed more emphasis on state sovereignty, the two nonetheless shared basic premises. In particular, each still saw the best political order as one that restrained the despotic potential of energetic government.82

This critique, predicated on institutional balance and a vision of the law as curtailing the exercise of any one political authority, led in an essentially different direction from George Bryan’s anti-Federalist arguments. Writing under the pseudonym “Centinel,” Bryan, a strong proponent of Pennsylvania’s unicameral legislature, attacked the new Constitution on grounds that it compromised popular rule and allowed the few to usurp power from the many: “The wealthy and ambitious, who in every community think they have a right to lord it over their fellow creatures, have availed themselves very successfully of this favorable disposition [the turmoil caused by revolution], for the people thus unsettled in their sentiments have been prepared to accede to any extreme of government.” Bryan explicitly attacked the fear of European domination—what I have called neocolonialism—hanging over arguments for the new national government. In his view, such dire warnings were merely a ruse by which
moneyed interests entrenched their own power. Speaking of the wealthy, Bryan wrote, “All the distresses and difficulties they experience, proceeding from various causes, have been ascribed to the impotency of the present confederation, and thence they have been led to expect full relief from the adoption of the proposed system of government; and in the other event, immediately ruin and annihilation as a nation.”83

Instead of searching for a new Federalist system, Bryan held that the colonies would remain free and independent only if they strengthened state legislatures and placed these in the hands of farmers and townspeople. Unlike Lee, Bryan rejected the framework of balance and called for an active and supreme parliament committed to promoting the will of the laboring community. In making populist arguments akin to those of Paine and reminiscent of Rousseau, Bryan defended localism not as a check on partial interests but precisely because simple democracies were most responsive to popular pressure:

The highest responsibility is to be attained in a simple structure of government... If, imitating the constitution of Pennsylvania, you vest all the legislative power in one body of men (separating the executive and judicial) elected for a short period, and necessarily excluded by rotation from permanency... you will create the most perfect responsibility, for then whenever the people feel a grievance they cannot mistake the authors and will apply the remedy with certainty and effect, discarding them at the next election.84

Bryan’s anti-Federalism rejected the belief that laws ideally should be a restraint on faction—a thought shared by most elites on both sides of the debate—and reasserted the populist notion of law as a means for collective actualization through popular rule.

In the end, the ratification of the Constitution embodied the institutional victory of Madison’s views and the repudiation of populist principles as the governing basis for settler society. As Joyce Appleby writes, ratification radically compromised the future of popular sovereignty:

The Constitution closed the door on simple majoritarian government in the United States. Popular majorities animated by what people wanted to do at a particular moment would be forever constrained. The Constitution created a fundamental law, and that law severely restricted the range of government power. The same founding document made it extraordinarily difficult to change the
distribution of power. Despite the celebration of popular sovereignty in America, the sovereign people were restrained once the Constitution was ratified.85

The extent to which ratification was a defeat for populist principles was not lost on settlers at the economic margins. In Massachusetts, the Constitution barely passed by a vote of 187 to 168, with opposition centered overwhelmingly in rural areas and heaviest wherever the Shays’ Rebellion had taken hold. Of those towns known to be sympathetic to the uprising, ninety of ninety-seven voted no. According to one supporter of the Constitution, “The whole opposition, in this commonwealth, is that cursed spirit of insurgency that prevailed last year.” At stake for small farmers and townspeople was nothing less than economic independence and the populist vision of government in the service of laboring interests. For “Cornelius,” a Massachusetts anti-Federalist, the new Constitution would “throw[] the whole power of the federal government into the hands of those who are in the mercantile interest; and for the landed, which is the greatest interest of this country, to lie unrepresented, forlorn, and without hope.” For many ordinary settlers, the emerging form of government appeared to be at root antithetical to both their economic interests as well as their desire for meaningful control.86

Expansion and the Institutional Demise of Populism

For an independent and imperial settler society, the institutional defeat of populism constrained democratic possibilities in large part by granting the national government nearly unlimited authority to direct territorial governance wherever Anglo colonization took root. In turn, it also focused populist energy on combating the perceived intrusion of imperial prerogative into the internal structure of settler life, over time helping to make government power synonymous with the imperial power of conquest and native subjection. In developing the practices for how to govern new territories, the Constitution followed the precedent established by the Northwest Ordinance. Yet this precedent had been on very shaky ground, as nowhere in the Articles of Confederation did the states vest the Continental Congress with such administrative authority. In fact, Congress’s intervention into the local settler organization of political life was fundamentally at odds with the prevailing norms of decentralized autonomy and popular rule. Madison and numerous other political elites believed that congressional administration, although politically necessary,
had no constitutional basis under the Articles of Confederation. In the *Federalist Papers*, Madison argued that “the Western territory” was “a mine of vast wealth to the United States” but worried that, without a clear grant of national power, local popular control would render it unproductive and the site for internal conflict and European aggression. While the Continental Congress had attempted to check these trends with proper administration, its actions were “done without the least color of constitutional authority.” As such, a potentially divisive struggle brewed between frontier settlers eager to assert popular rule and the Continental Congress, operating admittedly illegally but in the interests of national unity.

At stake for Madison and for other Federalists was the effort to ensure that Anglo settlement and national enrichment were not held hostage by popular passions. This involved the dual process of wresting power in the established colonies from small farmers and townspeople and of entrenching the values and customs of coastal elites in new lands. Although frontier settlers were the exponents of Anglo civilization—“agents of progress” by which native lands could be made productive—they were also possible threats to civilization. Coastal elites viewed these settlers, who often faced extreme destitution, as having embraced the “savagery” of their indigenous neighbors and thus as representing a continuous source of potential disorder. Such elites were especially horrified by the brutality with which frontier settlers confronted native peoples and saw the rise of their popular power as a potential attack on the progressive aspirations of the new republic. As George Fredrickson writes, although frontier settlers were necessary for colonization, “it was usually taken for granted that their way of life was a transitional one soon to be replaced by the kind of orderly and industrious society that existed in the East.” In keeping with this belief, the new Constitution made apparent that expansion would take place under the aegis of coastal authority, by providing that “Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other Property belonging to the United States.” Although the previous regime may have been limited in its legal capacity to constrain frontier behavior, no similar problem would confront the new national authority. Congress now enjoyed the legal right to administer western lands and through its actions could insulate political decision making from popular control.

The debates concerning governance and citizenship in Louisiana made evident how the new constitutional order checked and altered populist...
sentiment. The purchase treaty between France and the United States assumed that inhabitants of the new territories would eventually gain full citizenship and that the lands would achieve statehood; however, for the time being Congress should govern the territories in accordance with basic constitutional protections. In keeping with the principles of settler empire and the framework established by the Northwest Ordinance, political elites never seriously contemplated maintaining permanent dependencies in the territories. Still, if statehood would be the inevitable outcome, the new constitutional order meant that the national government could set the timetable and greatly influence the eventual structure of local self-government. As a result, congressional authority operated as the guiding force, controlling frontier autonomy and shaping the exercise of popular power.

Following ratification, Congress authorized the president to govern the territory until legislation could be passed, and then in February 1804 it adopted a temporary government “comprised of a governor, a legislative council of thirteen members, and judicial officers serving four-year terms—all to be appointed by the President.” Both bills deviated sharply from the principles of popular sovereignty and were immediately condemned by American settlers in the Louisiana territory, with the mayor of New Orleans resigning in protest over the lack of self-governance. The reasons driving such interim arrangements were twofold: First, Thomas Jefferson and others argued that the Catholicism of French and Spanish inhabitants made them unprepared for popular governance. According to Sarah Cleveland, “Jefferson considered the populace as ‘incapable of self-government as children’ and suggested that the territorial legislature should introduce democratic governance gradually, in accordance with the populace’s ability to adapt.” For many coastal elites, although not Jefferson himself, such ethnic and religious judgments also hid the deeper fear that without restrictive congressional control, frontier settlers would rule divisively through the whims of popular passion. As Senator Joseph Anderson of Tennessee noted, anti-Catholic arguments made little sense given that more than two-thirds of the inhabitants of Upper Louisiana were Anglo-Protestant settlers. Politicians from frontier states overwhelmingly condemned the temporary government as tyrannical, with the other senator from Tennessee, William Cocke, describing it as “military despotism” and declaring, “The people of that country are free—let them have liberty & a free government.”

Ultimately, Congress adopted a second, more representative form of interim political government, with a bill of rights and a popularly elected
legislature of twenty-five members, and admitted Louisiana as a state in 1812. However, prior to statehood, Congress continued to play an aggressive supervisory role, which would become routine in the administration of future territories. While Louisiana residents could elect their own representatives, Congress exercised a veto power over local statutes. More important, the appointed governor continued to enjoy broad discretionary power, which included the right to determine when to convene the elected legislature and to override its decisions if need be. Over time, such executive authority became a staple of territorial governance, with Congress, not unlike its British predecessor, employing the instrument of an appointed official to limit popular rule. In the process, congressional intervention made certain that local and unconstrained majorities would not direct political decision making. This intervention further ensured that statehood, when it finally arrived, was framed according to the principles of Madisonian republicanism, complete with an independent judiciary and an entrenched executive power in the form of a governor.94

The role of Congress in establishing the parameters for self-government also critically altered the structure of populist opposition. Most political elites questioned the constitutionality of territorial governance under the Articles of Confederation, because they assumed that while a royally derived prerogative power may be appropriate when directed toward excluded groups, it could not be legitimately directed toward settlers. As such, the internal community had to be predicated on free laws, guaranteeing that republicanism remained the basic premise of collective life. For frontier politicians, defending the political and economic independence of western settlers required making sure that such a prerogative power never seeped into congressional administration of new lands. Although the federal government may have been able to set the terms by which new territories finally achieved statehood, respect for basic constitutional guarantees needed to limit this authority.

As a result, Representative Andrew Gregg of Pennsylvania sought an amendment during the debates over Louisiana ensuring that all congressional acts with regard to the territory were “not inconsistent with the Constitution of the United States.” Similarly, Senator Anderson of Tennessee argued that every stipulated right provided by the Constitution immediately followed from expansion, because “the only power we have to legislate for that country is derived from the Constitution—& we must give them a republican government—we can give them no other.”95 If the new Constitution undermined the power of popular rule, it also provided
a means for establishing the equal status of all settlers and for checking the discretionary power of Congress. Although populism had been curtailed as a rubric for the organization of politics, its defense of the social position of small farmers and townspeople could still work to police the oppressiveness of the new federal government.

As I will discuss in a later section, the most infamous variation of this argument was presented by Jacksonian politician and Supreme Court Chief Justice Roger Taney in *Dred Scott v. Sandford* (1857). There he pointedly challenged the general territorial regulatory power of Congress, contending that the Constitution provided such authority only to territories possessed by the United States at the time of ratification. For Taney, this claim, aimed at limiting congressional discretion, was a critical means for defending not only slaveholding rights in newly annexed land but also frontier settler rights from the federal government’s coercive authority.96 Accordingly, any attempt by Congress to grasp at powers beyond constitutional language represented an illegitimate penetration of imperial prerogative into internal settler life. Just as similar assertions of centralized power under British colonial rule had reduced the settler to the status of the native, congressional discretion served to negate basic social commitments to republican liberty and internal equality. Such encroachments by the national government risked making frontier settlers, worthy of free citizenship, the political subjects of federal tyranny.

Although Taney may have embodied its full maturation, the political actor who best illustrated the initial populist turn toward skepticism and a politics premised on policing imperial prerogative was Thomas Jefferson. Jefferson was a gentle opponent of the new Constitution, due to its original lack of a bill of rights and his fears regarding a strengthened central authority. He famously wrote to Madison, “I own that I am not a friend to a very energetic government. It is always oppressive.”97 Yet, as Christopher Tomlins has argued, Jefferson’s opposition to “energetic government” was not an opposition to state power as such. He viewed politics as a site for yeoman settlers to exercise local popular rule and thus ensure both economic freedom and public happiness. Jefferson declared, “I am not among those who fear the people. They, and not the rich, are our dependence for continued freedom.”98 In fact, his ward system epitomized the populist belief in a small, producerist democracy, structured to actualize the collective good and in which majoritarian law was constitutive of liberty:
It is by dividing and subdividing these republics . . . until it ends in the administration of every man’s farm by himself; by placing under every one what his own eye may superintend, that all will be done for the best. . . . Where every man is a sharer in the direction of his ward-republic . . . and feels that he is a participator in the government of affairs, not merely at an election one day in the year, but every day; when there shall not be a man in the State who will not be a member of some one of its councils, great or small, he will let the heart be torn out of his body sooner than his power be rested from him by a Caesar or a Bonaparte.  

Jefferson’s defense of popular rule even led him to depict insurrections like the Shays’ Rebellion as healthy expressions of a democratic voice. In letters to friends he wrote, “God forbid we should ever be 20 years without such a rebellion” and that “The late rebellion in Massachusetts has given more alarm than I think it should have done. Calculate that one rebellion in 13 states in the course of 11 years, is but one for each state in a century & a half. No country should be so long without one.”

However, to the extent that political power became increasingly disconnected from local popular control, its energetic exertion was necessarily suspect. Such political authority was not effectively structured to promote producerist democracy, in which the activities of government served the laboring community. As a result, Jefferson remained wary of the implied powers of the new federal system; he worried that its enlargement of central authority conflicted with a robust populist vision. One therefore can read Jefferson’s strict constructionism, his view that powers not explicitly enumerated in the Constitution could not be claimed by the national government, as expressing the fear that nontextual sources of authority could easily devolve into an unlimited grant of power—one that would nullify whatever persisted of popular rule.

By emphasizing a politics based on skepticism toward state power, Jefferson embodied the shift away from focusing on how the popular will could be actualized through government. His arguments suggested an increasing concern with policing the basic duality that marked and sustained settler life: that between an internal condition of freedom and an external one of violence and coercion. One should note that territorial expansion was the principal area in which Jefferson defended greater congressional discretion. In doing so, he laid out the centrality for populist sentiment of both maintaining the royally deprived imperial prerogative.
and of checking its internal application, particularly after constitutional ratification. Jefferson saw the acquisition of new territory as a precondition for settler freedom and republican peace. In the same letter to Madison criticizing “energetic government,” he also wrote, “I think our governments will remain virtuous for many centuries; as long as they are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. When they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe.”

Yet, if an “empire of liberty” required an unchecked sovereign power that operated externally, this authority should never apply within settler society. Even in arguing for gradual self-governance for the territories, Jefferson’s primary rationale was that since Catholic inhabitants required a period of cultural assimilation, they could be subject temporarily to Congress’s discretionary authority. In other words, he justified greater federal power by arguing that the subjects of such power were, for the time being, not truly within the settler community. Under these circumstances, defenses of populism became increasingly centered on delineating social membership and establishing the hierarchical distinctions between settlers and non-settlers. As the nineteenth century progressed, the xenophobic implications of a politics built on maintaining this internal–external divide became ever more pronounced.

The Rise of Wage Labor and Populist Xenophobia

The view that government, and particularly the national authority, was a space not for collective actualization but for despotic control by the wealthy transformed the means by which small farmers, townspeople, and their political allies imagined achieving economic and political independence. In particular, it led away from Manning’s belief in an energetic popular power and toward greater faith in a self-regulating commercial society. Yet, as artisanal production began to collapse and industrial wage labor became more commonplace, the free market did not produce universal proprietorship; instead it increasingly entrenched oppressive work relations. As early as the 1820s and 1830s, a small group of radical social critics and labor activists began to question the compatibility between republican liberty and territorial empire. Individuals like Thomas Skidmore even proposed a new frame for American politics, one that entirely abandoned settler and paternal hierarchies and saw self-rule as a universal collective right. These arguments, however prophetic about
the future of industrialization and wage labor, were broadly ignored as a basis for reform. Rather than confront practical threats to self-rule, populist antipathy toward government and the dreaded imperial prerogative provided the backdrop for a new millennial politics—one professing a manifest destiny and committed to reaffirming the emancipatory potential of empire. If the market could not ensure freedom, expansion and the hardening of social exclusivities were embraced yet again as the primary means for protecting settler status. Small farmers and artisans retreated into a politics that defined equality not on the basis of positive social principles but by comparison with excluded and subordinated outsiders.

The Free Market, Economic Independence, and Populism in Retreat

The first great American conspiracy case against union organizing, Commonwealth v. Pullis (1806), underscores the populist move away from energetic government action and popular power as the basis for freedom. The case concerned Philadelphia journeymen shoemakers who in 1794 had organized to secure better wages and in 1805 went on strike. The strike collapsed after union leaders were indicted for the common-law crime of conspiracy, and the trial took place in the Philadelphia Mayor’s Court. In his instruction to the jury, Recorder Levy, the presiding judge, rejected the view that the journeymen cordwainers (the name came from the type of leather they used) enjoyed any collective right to organize or to alter established economic relationships. He viewed such behavior as a threat to order and an illegal form of association harmful to those who chose not to join. Critically, the arguments made on behalf of the journeymen by their Jeffersonian lawyers did not seek to defend association as a good in and of itself. If some journeymen laborers rejected the conspiracy law because it undermined their ability to assert explicit control over relations of employment, the lawyers defending the case argued on different grounds. They saw the law as oppressive because it focused exclusively on workers while allowing employers to organize collectively in their own interests. According to this view, although unionization was a necessary response, ideally the free market would regulate employment relations and ensure equity without resorting to any form of combination. As attorney Caesar Rodney remarked to the jury, “If you will take my advice, you will leave the regulation of these things to the open market. There every article, like water, acquires its natural level: adopt this rule and you will be more likely to get your boots much cheaper.”
This defense of economic self-regulation, and the rejection of collective assertiveness as an end in itself, became a staple of Jacksonian politics in the 1820s and 1830s. While the Democratic Party’s coalition stitched together a variety of unlikely social groups, including Southern slave owners, subsistence farmers, and poor workers both native born and immigrant, it crystallized the post-constitutional turn in populist argument, with its slogan—taken from Jefferson—of “equal rights for all, and special privileges for none.” Like Manning before him, Jackson famously viewed settler society as marked by conflict between “the real people” (farmers, artisans, and laborers generally) and the wealthy few, whom he called the “money power.” These aristocratic and oppressive forces sought to use state authority in order to undermine equality and render economic freedom impossible. For Jackson, the battle over the National Bank epitomized the greater class struggle:

The bank is, in fact, but one of the fruits of a system at war with the genius of all our institutions—a system founded upon a political creed the fundamental principle of which is a distrust of the popular will as a safe regulator of political power, and whose great ultimate object and inevitable result, should it prevail, is the consolidation of all power in our system in one central government. Lavish public disbursements and corporations with exclusive privileges would be its substitutes for the original and as yet sound checks and balance of the Constitution—the means by whose silent and secret operation a control would be exercised by the few over the political conduct of the many by first acquiring that control over the labor and earnings of the great body of the people. Wherever this spirit has effected an alliance with political power, tyranny and despotism have been the fruit.

Yet, as the emphasis on constitutional “checks” made clear, the solution was not direct and energetic popular rule; any consolidation of political power brought with it the specter of class oppression by the few. Instead, competition in the free market combined with the elimination of government interference would create a social system committed to the well-being and liberty of ordinary citizens. As a Massachusetts Jacksonian argued, “Too many laws and too much government are among the tendencies of the age against which we must guard.” Bruce Laurie writes that even in response to greater union organizing and political participation in the early 1830s, Democrats “campaigned for less government, not
more: they pressed for the abolition of militia duty and imprisonment for debt. They shrieked ‘freedom of conscience’ and ‘individual liberty’ at Whigs bent on legislating evangelical morality. Democratic lawmakers, much like Jefferson’s, governed best when they governed least.” This attack on active government went hand in hand with the belief that a self-regulating commercial society, stripped of any monopoly power or paternalist class authority, could ensure freedom as self-rule for all settlers. According to Democratic speechmakers, “Every avenue to distinction, every path to wealth is open to every citizen alike, and every citizen can make of himself what he chooses.”

However, between 1820 and 1860, the expansion of an unchecked market brought with it a far greater division of labor in work life and a steady downward mobility among many previously economically sufficient artisans and farmers, particularly in eastern cities. “The multitude struggled just to make ends meet. Wives bought wheat and other nonperishables in bulk and made the family clothing or patronized secondhand shops in working-class districts. They might save a few pennies on rent by moving into cheaper flats several times a year.” Faced with such realities, commercial self-regulation seemed less and less like a social panacea. While republican liberty presupposed that no one could be free if bound by master-servant relationships, market forces extended precisely such conditions by breaking down artisanal and rural work structures and promoting the development of hierarchical wage labor. Although the choice of entering into wage contracts was one ostensibly made freely, increasing numbers of individuals found themselves bound by rules dictated exclusively by employers. These rules, at times modeled after the eighteenth-century master-servant relations of the household, had the effect of dramatically limiting laborer independence and of enforcing structures of economic subordination inconsistent with the republican ideal.

In fact, Christopher Tomlins and Karen Orren have highlighted how such hierarchy was legally entrenched as the backbone of the free labor market, for instance through a series of state court decisions beginning in 1829 with *Stevens v. Reeves* in Massachusetts. Reeves, a skilled artisan, made an agreement with the owner of a wool factory to use one of its looms and to be paid by the piece. Like all skilled artisans, he saw the factory from the perspective of a customer buying a finished product, which he alone controlled. As such, he worked at the loom for a period of days and then left without any notice. After some time, Reeves returned,
completed his work, and left for good, again without notifying the factory that he had found employment elsewhere. Stevens, the owner of the factory, sued for breach of contract, claiming that Reeves had not given the requisite two weeks’ notice. Although the Supreme Judicial Court held in favor of the defendant on the grounds that Reeves had never been told of this rule, it concluded that employers enjoyed the right to enforce whatever conditions they chose so long as those conditions were made evident to employees. In other words, regardless of the desire by Reeves as a skilled artisan to maintain independent control of his own labor, wage relations presupposed that the employer could determine the terms and status of work. Nearly twenty years later, in *Rice v. Dwight Manufacturing Co.* (1848), the same court reaffirmed that although laborers enjoyed the ability to choose whether to enter wage relations, employers set the contractual terms.

Thus, given problems of downward mobility and the reduction of artisans into wage earners, the free market in the early to mid-nineteenth century appeared to exacerbate economic and bargaining inequalities between employers and laborers rather than promote broad-based self-rule. And instead of intervening in commercial society, the courts simply acceded to the market authority of the employer and refused to alter wage relationships. More crucially, the principal language of economic critique, Jacksonian populism, had no means by which to question these developments because it presupposed the equity of market forces and viewed governmental power as the relevant threat to collective life. While defending a belief in freedom as economic and political independence, the turn toward political skepticism in practice rejected the collective right to transform institutional sites of subordination.

It thus reinforced the sense that if market forces failed to eliminate wage servitude, tenancy, and economic dependence for poor settlers, the best alternative means was one that had long grounded society: migration and escape to the frontier. In the decades before the Civil War, Americans built roads on the banks of the Mississippi River, opening up new land to colonization. As Laurie writes:

The upper Midwest had about four million people by the eve of the Civil War, and most of them had migrated from the East. Even its reaches of rich and fertile grasslands failed to hold settlers. It no longer took much to stir the wanderlust of the American farmer, and the valleys farther west proved irresistible. About 250,000
migrants from Midwestern farms gathered at St. Josephs, Missouri, and other staging points after 1840 for the two-thousand-mile journey on the Overland Trail to the Pacific coast.

Like early colonists before them, those moving west generally enjoyed access to land at relatively inexpensive prices, with the federal government in 1820 offering a minimum of eighty acres for only $1.25 per acre. As a result, frontier farmers were by and large able to acquire property and build homes out of the rugged wilderness.113

Just as important, when economic conditions deteriorated, settlers did not hesitate to pick up and move repeatedly. Transience, not simply migration, was a basic fact of antebellum and nineteenth-century life. Historians tracking census data have found that by conservative estimates more than 60 percent of individuals disappeared from the records and that fewer than “two in five Americans stayed in their communities for extended periods of time.”114 In addition, few people confined to wage labor remained as long-term employees, as “more than 50 percent of those employed stayed with their employers for periods of no longer than six months.”115 Such transience had two key political implications. First, it undermined the strong communal bonds that often marked eighteenth-century settler life and that had fostered uprisings like the Shays’ Rebellion. Consequently, it made collective self-assertion in politics less feasible, because individuals moving through cities, towns, and frontier territory did not enjoy the same local commitments and close relationships that had mobilized popular pressure during the Revolutionary period. Second, and equally critical, the possibility of land ownership and of economic escape more broadly presupposed expansion. This desire to stay ahead of governmental interference and eastern hegemony required the constant extension of the sphere of colonization. It underscored the centrality for poor settlers of the tie between territorial conquest and economic independence, how empire was the driving engine of republican freedom.

_Byllesby, Brownson, Skidmore, and the Goal of a Universal Republic_

At the margins of Jacksonian politics, there did emerge a more comprehensive defense of populism, one that saw an energetic government pursuing the communal interest as the only means by which all laborers would enjoy productive control. Even more crucially, some reformers
began to connect this robust populism to a full-fledged critique of all settler dichotomies, straightforwardly questioning the compatibility of republican liberty and imperial practices. These ideas gathered force among labor radicals who flocked to the new trade union movement in the 1830s and especially to its various working men’s parties in eastern cities like Philadelphia and New York. For such individuals, faced on a day-to-day basis with the rise of factory production and wage labor, commercial self-regulation had very clearly failed to produce economic self-rule. Moreover, reformers argued that while expansion may be a temporary solution, over the long run industrial dependencies—unless challenged—would take root in new territory. According to the most persistent critics, the only lasting answer was to alter basic economic relationships and to confront directly the growing gulf between industrialists and wage earners. Doing so entailed refusing to fall prey to calls for yet more western land or to xenophobic attacks on nonsettlers.

In tying a defense of economic reorganization to a critique of conquest, thinkers like Langdon Bylesby, Orestes Brownson, and Thomas Skidmore suggested a potential avenue for populist ideas, one able to sustain faith in the laboring community’s primacy while at the same time questioning either the utility or justice of imperial prerogatives. In his 1826 manuscript, *Observations on the Source and Effects of Unequal Wealth*, Bylesby, a Pennsylvania printer and pamphleteer, pointedly rejected the essential settler argument that expansion promoted an empire of liberty by ensuring enough land for all social members to become independent proprietors and free citizens. Surveying the rising tide of industrialization, Bylesby concluded that although territorial conquest may appear to offer a respite from inequalities back home, in the end it worked primarily to entrench commercial and manufacturing interests. This was because wars of expansion, as with most conflicts, were at root promoted by elites in order to perpetuate an unequal accumulation of wealth. According to Bylesby, “If, as is frequently avowed, the object of a war be to gain an extension of dominion . . . these objects have no other uses, than as a source from whence to derive the means of extracting *wealth*, and its accompaniment, *power*, in order to influence the condition of others.”116 Rather than challenging practices of wage labor, one could expect that new land would simply open more space for the growth of these economic relations.

In many ways, Bylesby’s arguments presented a novel reconstruction of long-standing republican concerns—previously evident in Harrington’s
writings—regarding the effects of war on a community’s moral welfare and identity. In the 1790s, Manning had argued that one of the central methods “by which the Few destroy[ed] free governments [was] by raising standing armies and making needless wars.”\(^{117}\) In his view, conquest and the drive for territorial expansion provided a useful pretext for expanding the size and power of such an army, which could be employed internally at any time to deprive the many “of their own rights and liberties.”\(^{118}\) Byllesby now went further and raised general questions with the material and emancipatory effects of expansion, regardless of whether wars served as pretexts for new standing armies. He argued that, eventually, added territory on the frontier would become a source of profit for new industrialists, reinforcing those destructive wealth and power disparities already existing within settler society.

He saw the only real solution as transforming the industrial factory into a model of cooperative production without masters or dependent wage earners. Byllesby therefore called for new workplace associations, which pooled their productive labor in every industry, much as commercial elites pooled their wealth into joint stock companies.\(^{119}\) These bodies would develop common policies for economic production and growth through “a general system of conference” and over time would make cooperation rather than commercial competition the basis for industrial life.\(^{120}\) Such ideas struck a nerve with many trade unionists, who in the 1830s coalesced around workplace cooperatives as the solution to the demise of artisanal production and the separation of labor from capital. But Byllesby, as well as most unionists, had difficulty imagining the state as a potential instrument for collective self-assertion. Since government had long been seen as the bastion of a moneyed few who were committed to insulating politics from popular rule, the idea of a positive role for the state was difficult to fathom. As Laurie explains, when seeking avenues for accumulating the capital necessary to develop cooperatives, “Radicals did not consider banks, which were unlikely lenders in any case, and given their view of government, they did not consider a public creditor. The only option left was the voluntary effort of labor itself.”\(^{121}\) While no doubt massive in scope, this view simply reproduced the Jacksonian and Whig logic of self-help on a larger scale. Therefore it is not surprising that when the economic depression of 1837 hit, ending the possibility of laborers being able voluntarily to raise capital from among themselves, trade union attempts at cooperative ownership collapsed.
Still, there were voices inside and outside the trade union movement that struggled to tie Byllesby’s vision to one that also challenged the prevailing orthodoxy regarding commercial self-help. Orestes Brownson’s pamphlet, *The Labouring Classes* (1840), presented just such a reconstruction of robust populism, which critiqued the logic of empire and defended a constitutive and emancipatory role for energetic government. Brownson, a New England social philosopher and supporter of the Democratic Party, embodied the most radical elements of the Jacksonian coalition. In essence, he attempted to take arguments from the working men’s parties and place them at the center of the Democratic platform.

In many ways, his views, like those of Byllesby, represented the sentiment of alienated laborers in the manufacturing cities who had fallen from life as journeymen apprentices to that of permanent wage earners. For these workers in the new factories, the idea—shared by most Jacksonian and Whig politicians—that competitive individualism in the market would guarantee all settlers of good character economic independence was an illusion. Brownson wrote:

> We are not ignorant of the fact that men born poor become wealthy, and that men born wealthy become poor. . . . But be this as it may, one fact is certain; no man born poor has ever by his wages, as a simple operative, risen to the class of the wealthy. . . . The simple market wages for ordinary labour, has [*sic*] never been adequate to raise him from poverty to wealth. This fact is decisive of the whole controversy, and proves that the system of wages must be supplanted by some other system, or else half of the human race must for ever be the virtual slaves of the other.

Hard work alone was not enough for the vast majority of people to escape economic dependence. Moreover, when it did succeed, it merely moved citizens from the class of wage earner to that of employer, rather than to eliminate the guiding structure and create one premised instead on equality and independence. As long as this structure remained in place, republican freedom would be impossible, because, as Brownson declared, wages were “a cunning device of the devil, for the benefit of tender consciences, who would retain all the advantages of the slave system, without the expense, trouble, and odium of being slave-holders.”

Like Byllesby, Brownson also viewed territorial expansion, despite its immediate benefits, as ultimately incompatible with protecting economic
liberty. He made this point explicitly by drawing an analogy to the British example:

General emigration can at best afford only temporary relief, for the colony will soon become an empire, and reproduce all the injustice and wretchedness of the mother country. Nor is general emigration necessary. England, if she would be just, could support a larger population than she now numbers. The evil is not from over population, but from the unequal repartition of the fruits of industry. She suffers from the over production . . . because her workmen produce not for themselves but for their employers.

According to Brownson, since no empire could expand indefinitely, eventually the community would have to confront the inequities embedded within its own economic structure. Just as Byllesby had warned a decade earlier, unless oppressive forms of production were addressed at their source, they would be carried to new lands and bring with them all the “wretchedness of the mother country.” Brownson challenged poor laborers to focus their energies on claiming productive control within their own communities rather than to imagine that added territories would be a panacea.123

Brownson argued that the only lasting solution was broad-based individual proprietorship, principally through the redistribution of land and a return to artisanal production:

There must be no class of our fellow men doomed to toil through life as mere workmen at wages. If wages are tolerated it must be, in the case of the individual operative, only under such conditions that by the time he is of a proper age to settle in life, he shall have accumulated enough to be an independent laborer on his own capital,—on his own farm or in his own shop. Here is our work. How is it to be done?

One should note that such arguments were relatively commonplace in postcolonial America, with a wide spectrum of settler society—not simply trade unionists—concurring that wage labor was inconsistent with freedom and acceptable only as a temporary condition on the way toward property ownership. What made Brownson’s arguments distinctive was his dismissal of those means by which Americans ordinarily believed that independence could be achieved: through empire and self-help.124
Given the inadequacy of these traditional approaches, and having witnessed the collapse of voluntary workplace cooperatives, Brownson concluded that for ordinary individuals truly to enjoy economic freedom, they would have to assert control collectively over the instruments of state power. He wrote, “We have no faith in those systems of elevating the working classes, which propose to elevate them without calling in the aid of government. We must have government and legislation expressly directed to this end.” More specifically, Brownson extended Paine’s argument in Agrarian Justice for a tax on inheritance to declare that government should abolish all “hereditary descent of property” and redistribute wealth in keeping with the goal of all individuals enjoying independent proprietorship. Like both Paine and Manning before him, he imagined a democracy of small producers in which laborers exercised unconstrained popular power and intervened communally in market relations in order to promote liberty. Unlike Jeffersonian and Jacksonian politicians, Brownson viewed government action and majoritarian law as essential in actualizing collective freedom.125

Brownson’s concerns with territorial expansion and his account of energetic government hinted at a reformulation of populist ambitions, one that at its boldest could even challenge the classic settler dichotomy between free citizen and imperial subject. Yet Brownson himself was unwilling to develop the implications of these arguments. Although he was an outspoken critic of slavery, he argued that abolitionists should respect the 1850 Fugitive Slave Law—no matter how unjust—because it was ultimately the law of the land. And although he rejected paternal supervision for women and defended sexual equality, he refrained from broadening his extensive written defenses of universal male suffrage to include women. In a sense, Brownson was willing to accommodate himself to the hierarchies of settler society and pulled back from the driving logic of his own egalitarianism.

By contrast, Thomas Skidmore, the founder of New York’s Working Men’s Party, had no similar hesitancies. His 1829 work, The Rights of Man to Property, came during the high tide of wage earner discontent in eastern cities. It formed the basis for the party’s earliest platform and represented a comprehensive attempt to extract freedom as self-rule from settler dichotomies. For Skidmore, as with Manning before him, a basic social divide existed between the few and the many. But Skidmore expanded the definition of the many, arguing that they were not simply laboring white settlers but rather all individuals, regardless of settler status,
who were denied the conditions of economic independence. An admirer of Thomas Paine, Skidmore took his title directly from *The Rights of Man* and believed that one of Paine’s key contributions was his refusal to see justice as limited by nationality or existing social membership.126 As a consequence, Skidmore maintained that the goal of free labor was a universal one, as nothing about the experience of productive control suggested that nonwhites or even women were inherently incapable of enjoying it. In fact, he argued that rather than being political enemies, poor whites shared fundamental interests with black slaves and dispossessed Indians, as each group was confined by existing economic hierarchies to poverty and dependence.

As with Brownson, Skidmore believed that hereditary property should be abolished and divided among all Americans at the age of maturity (according to Skidmore, eighteen years old). Before this age, the government should establish measures to provide for the support and education of children. Since this right to economic independence and thus to property applied equally to everyone (“given to any human being . . . in virtue of his existence”), any individual under U.S. sovereignty should be embraced as a free citizen, irrespective of race, religion, or gender. For instance, slaves should be liberated and given the right to vote, because “the black man’s right to suffrage . . . [was] as perfect as the white man’s.” Moreover, according to Skidmore, the formal end of slavery alone was not enough to eliminate the substantive vestiges of bondage, unless emancipation came with individual proprietorship and productive control. Instead of master-slave relations persisting under new instruments of tenancy and wage servitude, he hoped that freed blacks would be “presented with lands, and other property also” and that “whites could prevail on their own feelings not to envy and oppose, this easy and natural method of extinguishing slavery, and its ten thousand attendant evils.” With regard to women, they too were “entitled to the same right of suffrage” and an equal division of property. For Skidmore, the settler dichotomy between free citizens (who enjoyed republican freedom) and stratified subjects (under discretionary prerogative powers) had to give way to a constitutional politics that treated all as liberated equals.127

Following Byllesby, whom he avidly read, Skidmore viewed the drive for territorial expansion as the product of basic inequities at home. While the wealthy sought to extend their economic power, the poor viewed conquest as a means for gaining an individual competency, either through military allowances or land opened up by war. Precisely because some
settlers were denied property, they were willing to become “conquerors” and employ violence to dispossess others. “Ask only at our Forts . . . and they will tell you. They will say, that if society had given them all a competence, (or rather the means of acquiring it,) such as all men might have, under proper circumstances, they would not have consented to be where they are.” For Skidmore, the economic forces that sustained westward expansion were problematic not only because they reproduced existing dependencies but also because they undermined universal respect for equality. Conquest as the engine for economic self-rule, even if successful, rested on illegitimate modes of subordination, since it imposed violence on outsiders who were worthy of equal consideration. In other words, colonization instrumentalized nonsettler groups, treating conquered individuals as dependent means useful solely for the fulfillment of internal settler ends.128

Skidmore’s anti-imperial politics led him to question directly native treatment and dispossession. Some Americans no doubt recognized the problems embedded in historic practices toward Indian tribes. Recall that although Marshall, in Johnson v. M’Intosh, accepted the legal reality of facts on the ground, he was wary of endorsing the moral validity of arguments about native savagery and thus indigenous conquest. Skidmore, however, dissented even from this purely legal recognition and maintained instead that violence or trickery could not trump Indian claims to full sovereignty. He argued provocatively that if an assessment of native-white relations revealed that real equality between the two communities would require returning to the Indians land previously expropriated, these measures should be adopted. For Skidmore, the idea that English colonists legitimately held wide tracts of native territory because rich planters like William Penn “gave a few beads to . . . some Indians” was absurd.129

As for those native peoples who would formally remain under American sovereignty, they too deserved complete rights of property and suffrage. In fact, Skidmore called for a New York State constitutional convention to make universal these protections.130 But as a crucial caveat, Skidmore believed that although sovereign and independent Indian neighbors could not be compelled by force to change their tenure practices, under American jurisdiction free citizenship required holding land privately.131 For Native Americans to become internal equals, they had to conform to republican ideas of economic and political independence and thus reproduce settler practices of property ownership. When U.S. officials in the 1880s engaged in just such a division of communal tribal land into private homesteads, the result was the large-scale impoverishment and expropriation of native
societies. Like those Indian Bureau officials, Skidmore maintained a strong republican belief in the centrality of property relations and “free labor” for collective life. While he likely would have been deeply troubled by later developments—due to his commitment to distributional equality—he was nonetheless blind to the destructive cultural effects of transforming native tenure. As with the rest of settler society, he persisted in viewing white land use as the universal standard of membership, assimilation, and ultimately freedom.

Despite this, Skidmore’s reinvention of republican liberty imagined the possibility of universalizing self-rule and eliminating the colonial duality of settler institutions. It challenged the ideological as well as pragmatic legitimacy of conquest. Skidmore argued for the shared interests of poor settlers, women, and imperial subjects and called on white laborers to expand their community of concern to incorporate these groups. As part of this thoroughgoing critique of settler supremacy, he also addressed the ethnic basis for open European immigration. According to him, all individuals everywhere had a natural right to an equal share of property, which could not be overcome by force. If anything, this right meant that no one, due purely to where they happened to be born, deserved moral priority in dividing economic spoils. Ideally, everyone, European and non-European alike, should have the right of free movement, by exchanging their local property rights with residents of a foreign country. Skidmore thus hoped that immigration no longer would be viewed as a tool for settler expansion but would be seen instead as a means for confronting the accident of birth. He argued for settlers to discard their historic reliance on exclusivity and subordination and in the process to create real conditions for external and internal peace: “And when government shall be so constructed as to make property real and personal . . . then shall we see governments exerting their functions, simply by indicating their pleasure, and not by exerting force.” In a sense, Skidmore maintained the classic settler belief in a millennial and republican project of tranquility. But he argued that such peace could never be achieved through violent subjugation, which only transformed citizens into conquerors. Actual peace required focusing on internal reform and ending unequal property and status relationships. In this way, “conquerors and warriors would be destroyed” and collective life would truly embody goals of tranquility.132

As with Bylesby and Brownson, Skidmore’s views emerged from a basic sense that the settler status quo, emphasizing self-regulating
commercial life and territorial expansion, was not sustainable as a method for providing insiders with the benefits of economic independence. Unfortunately, these arguments failed as a general matter to resonate during the Jacksonian era. In fact, Skidmore soon found himself expelled from the party he formed, due to the concerted effort of less radical editors and politicians. His attempts to form a new party largely failed, and his platform ultimately attracted few trade unionists willing to embrace such comprehensive reform. In many ways, arguments made by Skidmore and others undermined the basic contours of settler life, which for most whites continued to offer a reasonable means for avoiding dependence and achieving economic freedom. Byllesby, Brownson, and Skidmore all wrote in response to the rise of industrial production in the big cities. Yet these economic practices, not to mention the consolidation of corporate wealth, remained at a relatively incipient stage, and even most urban workers did not appear to endorse wholesale transformation. For many, social mobility and independent proprietorship continued to be generally accessible experiences. And while territorial expansion may have disproportionately benefited commercial and manufacturing elites, by opening new land it still provided the engine for such mobility, independence, and egalitarianism.

If anything, for settlers at the time greater inclusiveness presented more of a threat to internal freedom than did fears of permanent wage labor. As I will explore in the next section, for Jacksonians universal white male suffrage rested not only on ideas about native idleness, but also on claims of female incapacity and on the use of slaves for unfree and menial forms of work. If women were no longer dependents but free citizens with the right to vote, what did this suggest about the status of poor white men—a status dependent on their ability to maintain a paternal authority at home? Similarly, if slaves were no longer compelled to engage in degraded forms of labor, would this require settlers to participate in such activities or to compete with blacks in the marketplace? Given that these hierarchies sustained relative internal equality, there was little settler willingness to reconceive status relations let alone to impose sweeping institutional changes.

Unfree Labor, Gender and Racial Hierarchies, and the Embrace of Xenophobia

As a result, rather than challenging industrial hierarchies, an increasingly key method by which poor settlers defended their economic position was
by further limiting the most devalued forms of work to excluded groups and to those often marginalized in settler life. Women, to the extent that they became part of the labor force, found themselves confined to work practices viewed as inherently unfree. Although some women gained employment in semiskilled jobs, resulting from the greater division of labor in craft production, for the most part they were relegated to domestic service and unskilled textile work. This was hardly by accident, since advocates of manufacturing had argued as early as the late eighteenth century that unskilled labor should come primarily from women and children: those groups whose supposed natural incapacities warranted paternal authority and rendered them unfit for self-rule. As a consequence, in mill towns like Lowell, Massachusetts, by mid-century as much as two-thirds of the workforce (8,800 out of 13,200 people) was female.

Indeed, the tradition of Jacksonian populism tended to emphasize gender differences and to suggest continuities between the status of women within settler society and that of conquered groups at the colonial edges. During the eighteenth century, space existed in some communities for the inclusion of certain privileged women, particularly landholders who were unmarried or widowed. The 1776 state constitution in New Jersey extended the franchise to both propertied men and women; later enabling statutes employed the pronouns “he or she” to highlight female suffrage. The elevation of the productive laborer in the post-Revolutionary period, however, went hand in hand with arguments that depicted women as subjects of paternal authority. In line with Coke’s classic formulation of English subjectship, women and children were understood to be dependents of husbands and fathers. This dependency, while viewed to be natural and permanent, was legally enforced in the common law through *coverture*, which stipulated that women transferred their property and income—the material prerequisites of independence—to their husbands upon marriage.

The modest rights that existed for some upper-class women in the colonial period receded as small farmers and artisans began to assert their interests more vigorously and to reinforce a work-centered vision of republican citizenship. The division of labor between traditionally “feminine” work at home and “masculine” production on the farm or at the bench stressed a gendered account of full participation. While men gained independence and self-rule through homesteading and craft production, household work (with its ties to master-servant relationships) presupposed the basic subordination of all women. As a result, although the
The populist focus on productive labor undermined the idea that only landed elites should enjoy meaningful political voice, it did so by compromising those rights that existed for white women. Under the populist reading, even individuals without extensive means deserved to take part in collective decision making—as long as they engaged in productive work and were not destitute paupers. Yet this raised the classic republican question of how laborers (if they did not own extensive property) could prove that they had a fixed interest in the community’s welfare. The answer became that marriage and the husband’s status as head of a household established civic attachment. Thus, as property requirements for male suffrage disappeared in the first half of the nineteenth century, emphasizing paternal authority over women became a precondition for elevating the status of settler men.\(^{137}\)

As a consequence, women were not free citizens but rather were in a position parallel to imperial subjects, in that they faced discretionary and hierarchical structures of authority. Nonetheless, a clear distinction did hold between white women settlers and these outsider groups. Marriage was understood to be a contract based on consent. In return for gaining control over his wife’s property and income, the husband had responsibilities to support, protect, and represent his wife in political and economic life.\(^{138}\) Although this vision of dependency presented women as natural inferiors to men, much like children they were integral elements of the settler community and pointedly not conquered subjects. Their status derived from hierarchies within family structure rather than war or imperial colonization. Of course, in legal and political reality, women were still excluded from free citizenship. They existed on the same continuum of prerogative power as other stratified subjects, even if their status depended on directly paternal rather than imperial dictates.

Even more explicitly than in the realm of gender, white male workers sought to demarcate the line separating what was exclusively white labor from that considered appropriate for blacks. In the North, because many artisans had been slave owners, at the time of abolition free blacks were often skilled craftsmen. But, as artisanal production began to unravel in the early nineteenth century, white laborers repeatedly attempted to bar black craftsmen from skilled employment. Eric Foner writes:

Hostility from white craftsmen, however, was only one among many obstacles that kept blacks confined to the lowest ranks of the labor market. White employers refused to hire them in anything but
menial positions, and white customers did not wish to be served by them. The result was a rapid decline in economic status, until by mid-century the vast majority of northern blacks labored for wages in unskilled jobs and as domestic servants.\(^{139}\)

Similarly, in the South, white workers responded to their own slipping economic position by erecting occupational color bars. In 1845, Georgia passed a law prohibiting employers from hiring black mechanics or masons. However, due to the social power of Southern planters, such efforts were usually thwarted, and even the Georgia statute was rendered largely ineffective because it did not include slave artisans employed by white contractors.\(^{140}\) Nonetheless, the overwhelming social move by white laborers throughout the country was to exclude the black population from artisanal employment and independent proprietorship—limiting them to menial jobs considered below the dignity of whites.\(^{141}\)

In essence, with a more robust vision of populism in retreat, white laborers struggled to preserve their economic and political freedom by consolidating the forms of discretionary power marking collective life. Such behavior, of course, had deep roots in American settler society, with the Revolution itself a method of defending an old status quo that protected the social supremacy of Anglo colonists. By the mid-nineteenth century, this politics of empire and status protection hardened into a particularly virulent form of populist xenophobia. Such xenophobia justified territorial conquest in terms of the ethnic superiority of the “Anglo-Saxon race” and sought to extend the imperial prerogative across the continent. Given the threat of wage servitude and tenancy, small farmers and townpeople reaffirmed the long-standing ideological narrative of settlers as an ethnically chosen people, members of a historically redemptive nation, which through colonization would spread Anglo liberty and establish a millennial republic of peace. Just as status anxiety in the waning days of the British Empire had gone hand in hand with an intense civil millennialism in the colonies, the breakdown of social communities and traditional forms of economic activity reenergized the perceived link between empire and the historically unique project of the American republic.

By the 1840s, the vision of settlers as a chosen people had become encapsulated by the phrase “Manifest Destiny,” which John L. O’Sullivan coined in his editorial for the July and August Democratic Review on the issue of Texas’s admission to the Union.\(^{142}\) In the debate over the annexation of Texas, Senator Stephen A. Douglas of Illinois articulated the
principle of Manifest Destiny and with it the settler goal of a free and millennial republic spanning the continent. Describing God’s redemptive mission for the American people, Douglas wrote:

He would blot out the lines on the map which now marked our national boundaries on this continent, and make the area of liberty as broad as the continent itself. He would not suffer petty rival republics to grow up here, engendering jealousy at each other, and interfering with each other’s domestic affairs, and continually endangering their peace. He did not wish to go beyond the great ocean—beyond those boundaries which God of nature had marked out.143

This redemptive mission and its ethnic character helped justify calls for expansion during the Mexican-American War as well as judgments that Mexicans, as a “mongrel race,” were unworthy of full inclusion and could be treated as conquered imperial subjects. For those like Senator William Preston, the confrontation with Mexico was a just “war of religion and liberty,” waged by a “noble race” of “invincible Anglo-Saxon[s]” against an “invader” motivated by racial backwardness and Catholic “fanaticism.”144

The seductive appeal of xenophobia was apparent even in the lectures of Ralph Waldo Emerson, who in 1843 gave a talk titled “The Genius and National Character of the Anglo-Saxon Race,” in which he connected Manifest Destiny and internal settler freedom to the unique ethnic attributes of the country’s Saxon ancestors, attributes that gave true Americans “a general innocence and health, and with that, a general correctness of thought.”145 Although Emerson largely avoided employing his arguments about “race” to demean other communities or to justify their subordination, for many settlers such claims about Anglo virtue and manliness implied precisely these judgments.146 Under such circumstances the populist vision of small, producerist democracies became intricately bound up with the social exclusion of all those who endangered the national mission of settler freedom and permanent peace. While internal liberty required ensuring that governmental discretion was never directed toward free male settlers, it also necessitated the continuous use of imperial prerogative to pacify potential threats to freedom posed by those outside the social compact.

In the face of such virulent xenophobia, even classic settler presumptions of easy European immigration and inclusion faced some challenges.
By 1860 immigrants made up one-third of the population in the forty largest cities, and if they were more or less welcome on the frontier, in coastal and industrial centers facing new population pressures they were often seen as undermining native-born employment and proprietorship. In particular, this period saw the rise of anti-Catholic sentiment—evident for example in Senator Preston’s vision of Mexicans as driven by religious superstition—and the ascendancy of political “nativism” such as through the Know Nothing Party. Protestant settler denunciations were not unlike those that existed prior to the Revolution, and they revived views that Catholics, along with women, blacks, and natives, were incapable of freedom, in the case of Catholicism due to the despotic nature of their religious faith. In the end, anti-Catholicism, and anti-immigrant proposals generally, failed to sustain a popular political movement. For all their local electoral successes, Know Nothing leaders never succeeded in undermining existing naturalization or suffrage frameworks. Calls to place quotas on immigration, particularly from Catholic countries, or to extend the waiting period before naturalization, in this case to twenty-one years, would have to wait for over half a century to be seriously contemplated or enacted.

Still, the period did produce widespread social practices of discrimination and helped to legitimize work relations that often reduced immigrant labor to unskilled employment. This construction of wage production as primarily the domain of new—and thus not yet culturally assimilated—Europeans had long-lasting effects. One clergyman observed in 1887 that “Not every foreigner is a workingman, but in the cities at least, it may almost be said that every workingman is a foreigner.” While never truly challenging the demographic needs of territorial and economic growth, settler xenophobia therefore generated disparities of opportunity and treatment even among presumptively free citizens. Despite the fact that European immigrants and the native born each enjoyed access to western land and were included in participatory politics, these disparities segregated work life, fraternal associations, and neighborhoods according to internal judgments about who were the “true” settlers.

Taney and Policing the Imperial Prerogative

The individual who most powerfully expressed the importance of structural dualism and of hardening the internal-external divide for an increasingly xenophobic and truncated form of populism was none other
than Chief Justice Taney. Taney had been a central political figure in the Democratic Party, serving as Jackson’s attorney general and drafting the president’s veto message, quoted earlier, when Congress renewed the National Bank’s Charter. Despite being Catholic, in his political actions and court opinions Taney articulated the substance of the new populist faith: a skepticism of government combined with a defense of imperial prerogative. This prerogative assumed that government enjoyed an inherent sovereign right of coercive force over all those removed from settler society, especially natives and slaves.

In the case of American Indians, Taney explicitly upheld such royally derived powers as a basic attribute of sovereignty and depicted indigenous groups as legitimately subject to all the available instruments of federal authority. In United States v. Rogers (1845), the Supreme Court ruled constitutional U.S. federal jurisdiction over crimes committed in Cherokee land, regardless of treaty provisions granting such jurisdiction to the tribes. In his unanimous opinion, Taney made clear that Congress, through its prerogative right, held an absolute authority to dispose of native lands and indigenous groups as it alone saw fit. Moving away from issues of statutory construction, Taney reiterated the Doctrine of Discovery, although without any of Marshall’s moral qualms, and declared:

The native tribes who were found on this continent at the time of its discovery have never been acknowledged or treated as independent nationals by the European governments, nor regarded as the owners of the territories they respectively occupied. On the contrary, the whole continent was divided and parcelled out, and granted by the governments of Europe as if it had been vacant and unoccupied land, and the Indians continually held to be, and treated as, subject to their dominion and control.150

In so arguing, Taney asserted the imperial basis of settler society and the importance of an external sovereign power for internal collective freedom. This power served to entrench the social supremacy of Anglo settlers as well as the status hierarchies governing relations between whites and Native Americans.

Yet the decision that truly captures the xenophobic character of mid-nineteenth-century populism was Dred Scott v. Sanford. In it Taney combined the defense of an absolute sovereign power over blacks, whether free or slave, with a remarkable critique of prerogative authority when directed internally at settlers. As a result, he articulated the basic components of
populism after the Constitution: wariness of government, belief in empire as a precondition for freedom, and a commitment to hardening the structural duality marking settler life. Today *Dred Scott* is remembered as the Supreme Court’s reviled defense of slavery and racial subordination. Chief Justice Taney famously wrote of the legal status of blacks: “They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect.” Thus Taney declared that blacks, whether free or slave, were entirely outside the social compact and that the political community enjoyed an inherent and complete power to control them as a dependent population.

However, an exclusive focus on the implications of *Dred Scott* for the institution of slavery obscures the second key aspect of the decision—the way in which such unchecked power went hand in hand with a defense of constitutional limits and the rights of frontier settlers. As Sanford Levinson writes, “The meta-issue, as it were, of *Dred Scott*, is whether Congress possesses ‘plenary,’ i.e., unconstrained, power in regard to the territories of the United States.” Whereas from the Northwest Ordinance and the Louisiana Purchase through all the acts of American acquisition, Congress had attempted, albeit temporarily, to assert discretionary power in administering new territories, Taney sought to limit the national government’s coercive authority over settlers and thus to ensure that an imperial prerogative would never be exercised within collective life. In other words, the case was a microcosm of the intellectual ties in populist thought between arguments for internal freedom and those for external expansion and subordination.

The case itself raised the constitutionality of the Missouri Compromise of 1820, which prohibited slavery in the northern Louisiana Purchase. In his majority opinion, Taney held that the Compromise was illegal because the Constitution extended to all the territories and denied Congress the power to outlaw slavery. According to him, while the Constitution granted Congress the power to govern the territories as the necessary by-product of acquisition, this “implied” authority had to be exercised in keeping with constitutional norms and did not allow for the plenary prohibition of slavery. Since slaves were deemed private property, interference with such possessions infringed on the Bill of Rights, which extended in its entirety “to the whole territory over which the Constitution gives it power to legislate, including those portions of it
remaining under Territorial Government, as well as that covered by States.”

Skeptical of governmental interference, Taney sought to ensure that settlers were never subject to an inherent and plenary power—one that reduced free citizens to the status of natives or blacks. To highlight this point, it is worth quoting the justice at length:

The powers of the Government and the rights and privileges of the citizen are regulated and plainly defined by the Constitution itself. And when the Territory becomes a part of the United States, the Federal Government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen strictly defined, and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a Government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a Territory of the United States, put off its character, and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separated from the citizens of the United States, and the duties it owes them under the provisions of the Constitution. The Territory being a part of the United States, the Government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the Federal Government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved.

Under Taney’s approach, the Constitution immediately followed the American flag, and to treat settlers as colonial dependents fundamentally opposed the basic tenets of free government:

There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new States. That power is plainly given; and if a new State is admitted, it needs no further legislation by Congress, because the Constitution itself defines the relative rights and powers, and duties of the State, and the citizens of the State, and
the Federal Government. But no power is given to acquire a Terri-
tory to be held and governed permanently in that character.\textsuperscript{155}

Just as frontier politicians during the Louisiana Purchase had once as-
serted, Taney stipulated not only that all possessions must eventually gain
statehood but that the Constitution also provided clear limitations on
congressional authority.

This attack on colonial dependency leads Levinson to claim that
Taney repudiated empire as such. He writes, “To speak somewhat anach-
ronistically, Taney can be viewed as a ‘premature anti-imperialist’ who
rejected the notion of the United States as a country that could conquer
territory and govern it indefinitely at the behest of Congress.”\textsuperscript{156} In argu-
ing that \textit{Dred Scott} was an anti-imperialist decision, Levinson misses the
opinion’s normative core, which was in fact a constitutional defense of
both expansionism and a commitment to policing the internal applica-
tion of prerogative power. By maintaining “colonies,” the national gov-
ernment treated settlers akin to the British metropole, as simply one
among many subject populations ruled by royal fiat. For Taney, while
internal freedom required that the community enjoy a basic right of im-
perial conquest—as \textit{United States v. Rogers} made evident—this imperial
prerogative disappeared as soon as Anglo settlement was established. In
other words, what made colonial dependency such an anathema was that
it allowed a royally derived prerogative to direct relations within settler
society and, in particular, to exert oppressive force on frontier communi-
ties and white laborers. In clear Jacksonian terms, Taney justified un-
checked external sovereignty—and therefore empire—but also ensured
an internal condition of constitutional limits and white independence.

Ultimately, Taney’s decisions regarding natives and slaves highlight
the continuities and transformations in populist politics from the Revo-
lution to the eve of the Civil War. Like many before him, he viewed free
citizenship through the prism of ethnicity and believed that the nation
enjoyed a historically redemptive mission, one that justified both the
forced removal of Native Americans and the provision of subordinated
status for those deemed racially inferior. Such xenophobia was also inti-
mately tied to the interests of the laboring community, because only
through colonization and the rigid exclusion of all those who threatened
internal liberty would economic and political independence be main-
tained. Yet, in emphasizing a politics built on policing prerogative power
and entrenching social hierarchies, Taney also indicates what was lost in
populist belief. The institutional victory of Madisonian republicanism made highly unfeasible a politics centered on popular rule and local, undivided sovereignty, in which government action was itself constitutive of freedom. As a result, the constitutional order helped reduce to political irrelevancy those calls in postcolonial America for a serious attempt to imagine liberty divorced from empire and status subordination. In the end, it would take Southern secession and war for the impulses expressed by Skidmore or Brownson to gain political traction. Like the populist politics of the Revolutionary period, these impulses would once more emerge from those at the economic margins of settler life.

Conclusion: Civil War, Emancipation, and the Future of Republicanism

Among the numerous culturally transformative implications of the Civil War was that it reasserted the capacity of government to intervene in established economic relationships. Taney had viewed slave property as simply one form of ownership, a labor arrangement not unlike wage relations, which created constitutionally protected rights and which could not be made subordinate to collective interests. But through the Emancipation Proclamation and, even more directly, through the use of federal occupying soldiers in the South after 1862, congressional power very clearly intervened to destroy a coercive labor regime. In doing so, it made apparent the capacity of government to serve as an instrument for subordinated rights.

This fact was not lost on the most radical congressional critics of slavery. As Skidmore had noted thirty years previously, even if emancipation ended direct servitude, it by no means provided freed blacks with economic and political independence. For former slaves to participate fully in settler liberty, the federal government would have to engage in another great act of political intervention: the equal division of all planter land among freedmen. Individuals like Congressman George Julian, chairman of the House Committee on Public Lands, readily appreciated this fact and argued for the creation of a Freedmen’s Bureau committed to these ends. In his view, Southern blacks would be truly liberated only when they became proprietors in their own right. However, without meaningful land reform, blacks would inevitably face new, perhaps even more oppressive forms of bondage. Julian worried that in the South planter elites would reduce blacks to tenancy and destitution, leading him to exclaim
before Congress, “land monopoly is slavery.” And as for the North, Julian further argued that industrialists would perpetuate “a system of wages slavery,” with a “dominion over freedmen and poor whites [that] will be more galling than slavery itself.”

Such views were a long way from the free labor orthodoxy of Northern society prior to the Civil War. In keeping with the idea of freedom as self-rule, virtually all political sides in antebellum America assumed that liberty and economic subordination were inconsistent—whether such subordination came in the form of wage relations, tenancy, or slavery. Yet few followed Brownson or Skidmore to move beyond the language of self-help and competitive individualism to argue for labor’s control of government in the interests of economic freedom. Abraham Lincoln in his speech at the Wisconsin fair in 1859 repeated the traditional free labor themes of advancement through hard work in a laissez-faire labor market:

The prudent, penniless beginner in the world labors for wages awhile, saves a surplus with which to buy tools or land for himself; then labors on his own account another while, and at length hires another new beginner to help him. This, says its advocates, is free labor—the just and generous, and prosperous system, which opens the way for all—gives hope to all, and energy, and progress, and improvement of condition to all. If any continue through life in the condition of the hired laborer, it is not the fault of the system, but because of either a dependent nature which prefers it, or improvidence, folly, or singular misfortune.

For Lincoln, so long as the market was left to its own devices, individuals would be able to achieve economic independence. Consequently, what made slavery so abominable was that it was not truly a self-regulating commercial system but one in which slaveholders coercively extracted labor without providing pay or the semblance of choice. Now, in calling for land redistribution, Radical Republicans like Julian suggested that the market alone could not be counted on to ensure freedom, and that rather than creating independent proprietors, it would leave former slaves bound by a new “wage slavery.” Such views at root conflicted with Lincoln’s attempt to reimagine factory life in terms of those artisanal relations that had long held between master craftsmen and journeymen. Rather than Lincoln’s artisans who hire “new beginners” and help them on their way to independence, factory owners were considered by Julian and others to
be economic oppressors who simply replaced one form of bondage with another.

In a sense, the Civil War exposed the inconsistencies between free labor incantations of inevitable proprietorship and the practical conditions facing farmers and workers. Ultimately, the demise of Reconstruction undermined the hope of black independence, as new coercive labor regimes like sharecropping developed to replace slavery. Still, Radical Republican arguments, as well as the agitation by freed slaves themselves for proprietorship and productive control, helped reshape populist sentiment yet again, by reclaiming the importance of popular mobilization as well as the emancipatory possibilities of government action. In doing so, they also helped to set the stage for the political and economic conflicts that would mark late nineteenth- and early twentieth-century America, as settlers and historically excluded groups struggled for meaningful self-rule and full inclusion.

In the years following the Civil War, the United States found that it had permanently outgrown its previous status of global weakness. No longer bound by postcolonial dependence in its material or political relations, the emerging polity was a continental empire with an industrial economy unmatched anywhere in the world. If the founders of the Constitution had viewed republican insulation from popular power as a means for navigating a hostile international system, one characterized by neocolonialism, such fears now seemed quaint. Although in 1860 Britain, France, and Germany still enjoyed greater industrial production than the United States, by 1900 American manufacturing produced more than all three countries combined. However, along with such remarkable growth went a fundamental change in the structure of the American workforce, with the number of industrial wage laborers rising during the same period from 1.5 to 5.9 million people and accounting for 25 percent of the nation's labor force.

This development represented only one of a series of transformations facing the United States by the late nineteenth century. To begin with, the closing of the frontier raised basic questions about the future of empire as well as whether the promise of broad individual proprietorship could ever be achieved. It also challenged the utility of porous borders, since with the end of expansion there no longer appeared to be any demographic need for a massive influx of new immigrants and thus for policies such as free movement from Europe, easy naturalization, and noncitizen voting. Moreover, the demise of slavery questioned, however haltingly,
the ethnic basis of collective life and therefore whether and to what extent freed blacks—granted formal citizenship—would be incorporated into settler society.

In a sense, all the basic components of American settlerism experienced profound pressure: (1) the promise of economic independence and productive control, (2) territorial conquest and the supply of new land for settlement, (3) an ethnically defined vision of membership, and (4) essentially open European immigration. As a consequence, the United States came face to face with the very meaning of republican liberty, the guiding principle of American social life from the early days of coloniza-
tion. It did so under circumstances in which many political and economic elites wondered whether the principle itself was still appropriate and started imagining alternative ways to combine empire and freedom. Such forces faced a newly resurgent populist sentiment, one that at its most idealistic hoped to unshackle republican values from imperial confines and from a politics built on exclusion. If the ideas of Brownson and Skidmore had been inconsistent with Jacksonian times, to many they appeared increasingly appropriate under conditions of corporate concentration, industrial wage labor, and economic destitution—for settlers and nonsettlers alike. In the end, the struggle between these competing groups radically altered the possibilities of American life and produced a political framework that remains in force today.
Now the People’s Party says to these two men [black and white], “You are kept apart that you may be separately fleeced of your earnings. You are made to hate each other because upon that hatred is rested the financial despotism which enslaves you both. You are deceived and blinded that you may not see how this race antagonism perpetuates a monetary system which beggars you both.” This is so obviously true it is no wonder both these unhappy laborers stop to listen. No wonder they begin to realize that no change of law can benefit the white tenant which does not benefit the black one likewise; that no system which now does injustice to one of them can fail to injure both. Their every material interest is identical. The moment this becomes a conviction, mere selfishness, the mere desire to better their conditions, escape onerous taxes, avoid usurious charges, lighten their rents, or change their precarious tenements into smiling happy homes, will drive these two men together.

—Tom Watson, “The Negro Question in the South”

(1892)

In the last two decades of the nineteenth century, a mood of revolt once more swept through the countryside. Faced with a coercive credit lien system threatening debt and the loss of land, small landholders and tenants organized the Farmers Alliance. Eventually numbering over 2 million people in forty-two states and territories, the Alliance sought to free the rural poor from dependence on local merchants and commercial banking elites through a cooperative crusade and a subtreasury plan that would make federal credit socially available.¹ Formed in 1892, the People’s Party expressed these economic goals as well as the larger collective ambition of recentering politics around the basic interests of laborers. Alliance leaders and party activists linked their efforts to those of industrial
workers organized by the Knights of Labor and by the American Railway Union, as well as to newly freed slaves who shared the same rural experience of immiseration. As a result, they developed a broad-based participatory movement, which embodied the most sustained effort since the Revolutionary era to imagine how social conditions could be made compatible with freedom as self-rule. In the process, these reformers, who called themselves Populists, became the natural inheritors of the account of republican freedom, articulated most expansively by William Manning, Thomas Skidmore, and Orestes Brownson, and to which I have previously applied the word “populist.” In this chapter, I explore the implications of their movement for American ideas of democratic practice and membership and examine how rural and urban protest laid the groundwork for an eventual repudiation of the institutions and premises of settler empire.

Two features made the social movement particularly distinctive: its historical timing and its combination of previous currents in American political thought. To begin with, this social movement emerged at a moment prior to the entrenchment of twentieth-century modes of economic and political authority. Rural unrest occurred before the full ascendency of corporate capitalism and a bureaucratic state apparatus, each hierarchically organized and deeply interpenetrated. It also took place when the United States—although a growing regional and international power and no longer in a position of postcolonial weakness—had yet to produce a clear account of its proper orientation to the globe and of the appropriate uses of its newfound position. Precisely because Populist arguments developed prior to the victory of today’s structural and ideological arrangements, they therefore suggested an alternative direction for the American project—although one that ultimately was not pursued.

As for Populism’s basic vision, taken in isolation none of its component parts were novel. Earlier periods had seen mobilized publics engaged in challenging collective institutions, such as in the years following the Revolution. The United States had also witnessed the rise of a mass political party, the Jacksonian-era Democrats, energized by the participation of various producer constituencies and claiming to speak on behalf of the people in their entirety. Previous Americans had even defended the idea of universalizing republican freedom. As early as the 1820s, Thomas Skidmore outlined the contours of a nonimperial American polity, which repudiated a politics of expansion and treated all groups—at home and abroad—as worthy of meaningful self-rule. And after the Civil
War, Radical Republicans also frontally attacked the colonial duality marking settler life and fought for full black inclusion as independent and self-governing citizens.

But what made agrarian protest unique was that for the first time a self-assertive social constituency unified all these elements as a basis for popular action. Alliance members and party activists self-consciously identified rural poverty with the problems writ large of industrial work and sought to adapt long-standing goals of economic independence to radically altered circumstances. They imagined a new industrial society, nonhierarchical and popularly controlled, in which farmers and wage earners set the terms for economic and political decision making. At its peak in the 1890s, Populism challenged the hegemony of the two established parties and presented the very real possibility of the collapse of the Democratic Party in the South—an outcome that would have been unthinkable just years earlier. Moreover, large numbers within this mobilized social base saw their material interests as necessitating the breakdown of settler exclusivities and the extension of self-rule to previously marginalized groups, particularly blacks and women. Although these views may have represented the movement’s radical wing, they were held by many of its most popular leaders and allied supporters: William Lamb in Texas, Tom Watson in Georgia, Jerry Simpson in Kansas, William Neville in Nebraska, Terence Powderly at the Knights of Labor, and Eugene Debs at the American Railway Union. Each argued that the challenge for Populism was to create finally a cooperative commonwealth and maintained that settler supremacy had become a wedge to separate laborers and to undermine meaningful self-rule.

I argue that this skepticism of settler supremacy existed in large measure because, by the late 1800s, the tie linking internal freedom to an external imperial prerogative had frayed badly. If the purpose of expansion had been to promote settler freedom by ensuring property ownership and economic independence, changes in domestic production created far different results. With the factory system coming to dominate industrialization and capital centered in a small number of powerful corporations, the march to the Pacific seemed to strengthen the interests of economic elites rather than to foster settler equality and individual proprietorship. These developments suggested to farmers and wage earners the value of moving past the colonial dichotomies marking collective life. To the extent that both settlers and excluded groups found themselves bound by the same relationships of economic dependence, many questioned the
very utility of an imperial prerogative with rigid status hierarchies. For the most radical Populists, strengthening the political power of the laboring community meant linking the economic fate of all producers and therefore rejecting enforced inequalities between settlers and nonsettlers. It also meant ensuring that the United States’ ever-increasing activities abroad did not operate to enhance corporate interests or to reproduce the very forms of colonial authority Populists viewed as inappropriate at home. The agrarian movement thus outlined, often only haltingly, the potential for a nonimperial American polity, one wary of formal expansion as well as of the informal modes of intervention and coercion that appeared to define U.S. relations with its regional neighbors. In a sense, it presented a specific account of a postsettler society, one that made democracy an inclusive social commitment and that remained vigilant against the entrenchment of new structures of empire.

This vision of the Populist revolt and its transformative potential stands in sharp contrast to another familiar image of the movement. For some Americans today, the label “populism” itself is hardly complimentary, suggestive of both nativism and the worst elements of mob rule. Writing in the 1950s, Richard Hofstadter famously described the Populists as small property owners who due to economic changes and extensive immigration from abroad became obsessed with their own slipping status and imagined themselves as the “innocent pastoral victims of a conspiracy hatched in the distance.” Writing against the backdrop of Cold War blacklists and civil liberties violations, Hofstadter saw profound continuities between these practices and Populist agitation, arguing that the People’s Party epitomized the “paranoid style of American politics.” Populist paranoia was not based on political reality; instead, it transformed conspiracy into the primary causal mechanism of human history, one “set in motion by demonic forces of almost transcendent power.” The resulting anti-intellectualism, nostalgia, and xenophobia linked the party to a long tradition of paranoid reform movements, from Jacksonian anti-monopolism to McCarthyite witch hunts. Rather than being a project of social democracy or social equality, the agrarian movement expressed an effort by status-conscious landholders to blame their ills on ominous outsiders and to turn back the clock to a simpler time.

A common rebuttal, most powerfully developed by Lawrence Goodwyn, has been to assert that Hofstadter’s failure to appreciate the democratic impulse at the heart of Populism was because he mistook “Shadow Populists” such as William Jennings Bryan for the real thing. Shadow
Populists were primarily politicians and reformers who attached themselves to the movement well after it was under way and tended to thrive in states without deep Alliance roots or the specific social concerns that gave it such resonance. As Goodwyn writes, “where the agrarian movement was strong and growing, the politics of the movement was intact; but where the movement had never sunk genuine roots, or had become stagnant, the third party’s political stance was cooptable.” Instead of pursuing the goals of cooperation and a democratic monetary system, these shadow politicians saw free silver as both a panacea and a quick way to win elections by echoing Populist rhetoric. In the end, the shadow movement absorbed the original party and pressed convention delegates toward a self-destructive 1896 nomination of Bryan for president. As Christopher Lasch concludes, “Fusion with Democrats diluted the Populist program, put an end to the Populists’ efforts to break the Democratic monopoly in the South, where Populists had achieved considerable success, and destroyed the possibility of a new party that would unite black and white farmers behind a program of far-reaching reforms.”

Still, for all its flaws, Hofstadter’s description of political paranoia captures an aspect of American reformism and of the experience of the People’s Party specifically. As the previous chapter illustrated, the antebellum period saw the steady transformation of democratic radicalism—the hope that energetic government action could establish a free republic of small producers—into a drive to defend the status of ethnic insiders by asserting coercive government power over nonsettlers. Clearly such forces were also evident in the People’s Party and its supporters, with no better example than that of Tom Watson, the vice presidential candidate in 1896. During his career in Populism, the Georgia politician had been a charismatic champion of the need to unite white and black farmers, as both were equally citizens and equally subject to the same economic tyranny. Yet, after years of stolen elections, Watson became exactly the kind of paranoid politician Hofstadter identifies. As even Goodwyn notes, by the 1910s Watson “eventually blamed blacks, Catholics, and Jews for his own, and the nation’s, political difficulties. He became a violently outspoken white supremacist, anti-Semite, and defender of the Republic against the papal menace.” The particularly disheartening experience of Tom Watson speaks to the larger process by which many mobilized white Southerners so easily reverted to the language of settler supremacy. Despite the movement’s critique of empire and defense of social inclusion, xenophobia was always present at the margins. And such xenophobia became more
central for poor whites as the party increasingly lost at the polls and the larger movement disintegrated.

These realities leave us with a remarkable puzzle. How could a collective project committed—at its most emancipatory—to imagining all laborers, regardless of race, as sharing common bonds of interest collapse so easily and thoroughly into a politics of exclusion? I argue that we can make sense of these conflicting features only by once again placing the movement within the context of settler ideology. Ultimately, the polar images of Populism—one inclusive and anti-imperial, the other closed and status conscious—embody the competing claims of how poor settlers could achieve equality and republican liberty in the late nineteenth century. In its inclusive and egalitarian moments, Populism represented an attempt to universalize settler freedom and to strip it of its colonial roots under changed economic and cultural conditions. Populists sought to entrench liberty not through territorial expansion or an ethnically drawn class of dependent workers but by creating a unified popular will representing all laborers, one that would claim power over government and reorder economic and political life. In doing so, this grand coalition would fulfill the republican promise expressed by settler empire, but through means that would destroy its very basis—namely, the dichotomy between insiders and outsiders, free citizens and stratified imperial subjects. Yet, as in the past, whenever this robust vision faltered, so too did the impulse toward universality. Such contexts, especially those that prevailed after the electoral defeat of 1896, heightened the willingness to retreat into settler hierarchies and to embrace xenophobic and colonial forms of politics.8

In the following pages, I assess how the Populist movement and the response it engendered from political elites dissolved the legal and ideological framework of American settlerism and provided the basis for a fundamentally changed social community. The first section focuses on how transformations wrought by the Civil War and its aftermath created a climate in which the emancipatory project of the most radical Populists could take hold. In the second section I turn to the way in which the agrarian movement imagined and constructed a grand coalition of laborers. This coalition believed that by creating a permanently mobilized body of farmers and industrial workers, the people writ large could assert continuous power over political and economic institutions and make republican freedom the basic condition of social life. Next I discuss the ideological and political causes for Populist defeat, emphasizing the failure of
the movement to overcome its own settler limitations and the difficulties with the movement’s claim to speak on behalf of the public as a whole.

Finally, I describe how politicians and judges reacted to the Populist threat by strengthening executive authority and steadily introducing external prerogative powers—which generally had not structured internal settler life—within the domestic realm. Rather than self-consciously discarding the republican idiom, these figures imagined that prerogative powers, by quelling social unrest, were actually in the service of the old free labor orthodoxy. The consequence, however, was to reinforce the untenable nature of settler politics and the incompatibility between new forms of authority and prevailing commitments to freedom as self-rule. This systematic unraveling of settler empire meant that as the new century dawned, the United States increasingly reproduced the bureaucratic and legal structures of its European rivals. In the process, collective institutions moved away both from the dichotomy between free citizen and stratified subject and from the emancipatory promise implicit in settler society.

The Civil War and Its Aftermath

Throughout the nineteenth century, most poor settlers accepted as given the colonial dichotomies separating social insiders and excluded outsiders. They viewed government power, especially federal, as a coercive force whose authority undermined constitutional rights and reduced free citizens to the condition of stratified subjects. There did exist a competing tradition of popular politics, expressed in the Revolutionary experience of small farmers and townspeople. During the 1770s and 1780s, these farmers gained control of state legislatures and through undivided majority rule used government power to enact popular laws that alleviated debt, depreciated the value of paper money, and sought to ensure land ownership. This vision of local assemblies as sites for the collective exercise of public power linked anti-Federalists like Pennsylvania’s George Bryan to later social critics like Orestes Brownson and Thomas Skidmore. However, during the antebellum period these arguments were politically marginal, and for poor settlers, government power often became synonymous with the imperial prerogative. Only by checking its internal intrusion into collective life could white farmers and townspeople avoid state oppression and maintain their social supremacy over subordinated groups.
But starting with the Civil War, this prevailing vision of settler society and government authority came under heightened strain. To begin with, Radical Republicans vividly demonstrated the potential of government to restructure social and economic relations. In addition, corporate capture of state power exposed the risks involved in an anti-statist attitude, one that maintained faith in a self-regulating commercial society. And finally, the rise of industrial capitalism limited the possibility that greater economic freedom could be gained through frontier expansion. While many settlers sought to protect their slipping economic status by hardening colonial dichotomies once more, especially in the context of new Chinese immigrants, others increasingly saw fundamental economic realities as underscoring the incompatibility between reviving republican freedom and holding on to settler exclusivities.

The Transformative Potential of Government Power

In countless ways the Civil War promoted political and economic practices that threatened the old settler paradigm and raised questions about how to sustain republican freedom under conditions of corporate concentration and greater social inclusion. It did so in part by questioning the simple account of state intervention as largely equivalent with imperial prerogative and by illustrating its transformative potential, for good or bad, as an instrument for reshaping collective life. Particularly in the postwar period, the rise of new corporate hierarchies—in many cases directly aided by government action—illustrated to farmers and wage earners that the solution for new modes of dependence would be found not by limiting the state’s function but by asserting popular authority over the ends that the state should pursue.

One key turning point was no doubt Reconstruction itself, which indicated the dramatic uses to which federal power could be directed. As we have seen, Radical Republicans like George Julian or Pennsylvania congressman Thaddeus Stevens straightforwardly questioned the faith in a structural duality between internal limits and external prerogative; instead, they imagined federal power as a tool for remaking basic frameworks of membership. In keeping with settler accounts of liberty, these politicians took for granted that productive control and individual proprietorship provided the ethical basis for political participation. Therefore, including freed slaves as full members of the community required ensuring land ownership and economic independence—conditions as essential to securing freedom as ending actual bondage had been. This
commitment, however, could not be fulfilled through a laissez-faire labor market or the operations of a self-regulating commercial society. It required energetic congressional action, which Stevens hoped would redistribute slave plantations among black farmers and militarily occupy the South to entrench permanently the political and legal equality of blacks. As he remarked in December 1865, “This Congress is bound to provide for them until they can take care of themselves. If we do not furnish them with homesteads and hedge them around with protective laws; if we leave them to the legislation of their late masters, we had better had left them in bondage.” In a sense, for Stevens, only by exercising the imperial prerogative within settler society—complete with martial law—could the goal of free citizenship for blacks be established. Rather than compromising republican freedom, the discretionary power of government was its necessary instrument.9

With the collapse of Reconstruction, this effort at employing an energized state to fulfill goals of substantive equality was left largely still-born. But government as an instrument for altering and directing economic life did not simply disappear. During the Civil War, the Republican Congress had enacted numerous bills committed to promoting economic growth and to developing large-scale business enterprise. These included the Morrill Tariff Act of 1861 to protect American industry from competition; the Homestead Act of 1862, guaranteeing free land to settlers out west; the Morrill Land Grant College Act of 1862, providing federal land grants for colleges; the National Banking Act of 1863, imposing a national banking system and currency; numerous railroad bills that gave corporations federal land grants and subsidized transcontinental railway construction; laws establishing new federal bureaucracies such as the Office of the Comptroller of the Currency and the Office of Immigration, which aimed at centralizing government authority; and even the country’s first federal income tax.10

Such actions played a central role in facilitating postwar industrialization and began the steady process of creating a new state apparatus increasingly interpenetrated by corporate interests. The consequence was that as the United States became the foremost manufacturing power in the world, economic life was fundamentally reorganized around an expanding system of factory production. While the artisanal workshop did not vanish entirely, “by the turn of the century, nearly half the laborers in manufacturing worked in establishments with more than 250 employees.” These new factories were controlled by hierarchically organized
corporations, “bureaucratically managed, multifunctional, capital-intensive, and marketers of mass-produced items nationally and even internationally.” Such corporations directly challenged the laboring goal of productive control by asserting managerial prerogatives and moving to eliminate the independence of wage earners in the workplace.11

The rise of railroad transportation and the massive increase in railway mileage (which tripled between 1860 and 1880) further entrenched the emerging corporate form. It also consolidated national markets for manufacturing and for capital and generally promoted heightened economic concentration. For large numbers of farmers and workers, the result was a highly inequalitarian industrial society, one directed both politically and economically by corporate elites. As of 1890, 51 percent of all property was held by the top 1 percent, and 88 percent of the population, including the vast majority of white settlers, held just 14 percent of wealth.12

For laborers long steeped in populist traditions, the results were initially paradoxical. On the one hand, it was still the case after the Civil War that legislation like the Homestead Act created generations of new property owners and fostered both settler economic independence and social mobility. As Kerry Abrams suggests of settlement in the Washington Territory during the 1860s and 1870s, white laborers moving west continued to see themselves in classic republican terms, and their ability to enjoy self-rule derived from these new federal policies.13 Yet, for many other settlers, especially in more established frontier communities and in cities back east, new economic developments increasingly embodied the classic problem of state co-optation by moneyed interests. At virtually every level of government during the “Gilded Age,” giant corporations wielded influence over politicians from both major parties, with railroad companies enjoying particular access and privilege.14 Moreover, if such co-optation played on the classic Jacksonian wariness of the state, it also fundamentally questioned the utility of a self-regulating commercial society. If anything, settlerism’s historic suspicion of government discretion merely reinforced the rise of corporate power. Ironically, this was due in large measure to the anti-monopoly crusade of the Jacksonians themselves, who saw exclusive state and federal charters as despotic acts that threatened republican liberty by granting economic benefits to commercial elites. But as an unexpected consequence, general incorporation laws combined with government decentralization allowed more and more companies to take advantage of the legal form, in the end promoting even greater business concentration.15
Thus the divide between internal limitation and external prerogative not only seemed ill suited for the rise of industrial capitalism; for many in the new towns and cities that populated the American landscape, it actually exacerbated those features most incompatible with freedom as self-rule. For increasing numbers of settlers the best means for defending economic and political independence was not to ignore state capacities, but rather to reclaim government authority from corporate interests and to employ it aggressively on behalf of the laboring community. In a sense, the emerging connections between corporate and state power suggested the quaintness of viewing energetic government as solely a destructive imperial prerogative and of ignoring the political and economic possibilities inherent in state action.

The Failure of Expansion and Colonial Rule to Promote Freedom

If economic concentration and industrial capitalism questioned faith in commercial self-regulation, it also directly threatened the very framework of settler empire by undermining the ability of expansion to aid internal liberty. Dating back to the earliest days of colonization, the basic means for settlers to enjoy republican freedom was through territorial conquest and the extension of land ownership. It was this central link between new land and meaningful self-rule that legitimated empire, and with it the dispossession and control of indigenous groups. Yet, with the growth of frontier communities in the last decades of the nineteenth century, the essential goals of settler empire seemed as distant as ever. During earlier periods of expansion, conquest had gone hand in hand with a wide diffusion of property ownership among settlers and a remarkable degree of internal equality. Due to plentiful land, free laborites such as Lincoln had always viewed tenancy and wage earning as only temporary conditions on the way to individual proprietorship. However, with the rise of corporate power and the entrenchment of wide-scale factory production, expansion appeared to extend the new industrial order farther west rather than to create a burgeoning democracy of small producers.

And for those individuals living in urban squalor, exploitative factory work had become a permanent reality, one that the prospect of frontier settlement simply did not address. Perhaps more important, over time and even in rugged land like the Washington Territory, the march west tended to promote rather than check economic concentration and the strength of corporate interests. Railroad and commercial forces by and
large set the terms for expansion after the Civil War. Railroad corporations and industrial businesses saw the west as an inexhaustible fund for extending markets and building profits rather than as territory for small landholding and artisanal production, as many laborers believed it to be. Alan Trachtenberg writes that these businesses “conceived of themselves as having the entire national space at their disposal: from raw materials for processing to goods for marketing.” For settlers eager to achieve economic independence through western land ownership, this emerging order fundamentally conflicted with their goals by providing commercial and industrial elites even greater control over productive life. For new corporate entities, “The process of making themselves national entailed a changed relation of corporations to agriculture, an assimilation of agricultural enterprise within productive and marketing structures.” Thus, while federal laws like the Republican Homestead Act provided vast numbers of settlers with new land, it did so under conditions in which agricultural work ultimately became regimented and supervised by merchants, banks, and corporate manufacturers.

In a sense, insights by Byllesby and others about the inability of expansion to solve the problems of economic dependence had come to pass for large numbers of settlers. These radical critics had argued that unless the home polity addressed productive relations at their root, expansion would not be the servant of freedom but would merely reproduce oppressive economic conditions in a new land. Similarly, for poor farmers in the late nineteenth century—now burdened by debt and subject to the dictates of furnishing merchants and industrial manufacturers—new settlements over time merely seemed to enhance the westward move of corporate power. Expansion had created a dynamic industrial economy, but at the apparent cost of economic independence for more and more farmers and wage earners.

Nothing better illustrated the breakdown of settler ideology than the fact that internal equality for settlers was no longer coherently tied to external colonial control of subject populations. If territorial conquest appeared increasingly to clash with republican hopes of individual proprietorship, asserting the imperial prerogative over dependent groups also failed to improve white economic standing. Such prerogative power had been more than a legal justification for territorial conquest; it sustained the basic status hierarchy at the core of settler society. Operating externally, this discretionary authority applied to those groups, particularly blacks and Indian tribes, that were excluded from full social membership; prerogative
power thus had served to maintain the economic and political supremacy of settlers and their descendents.

This exclusion had been justified historically on the grounds that outsider groups did not possess the basic dispositions and habits of character necessary for republican freedom. While these arguments were often made in ethnic and religious terms, they were also premised on a claim about the relationship between work and liberty. Only Anglo settlers and European co-participants, who maintained productive control over labor through land ownership or artisanal work, were truly independent and thus capable of participating in politics. In other words, by arguing that a particular relationship to production provided the ethical basis for free citizenship, settlers also presumed that all other forms of labor were inherently degrading. Since such degraded labor was an inevitable part of production, ensuring internal freedom necessitated condemning excluded groups to menial jobs viewed as unfree. This intrinsic connection between economic freedom and economic compulsion meant that for settlers to enjoy free labor, they had to compartmentalize degraded work along ethnic, racial, and gender lines. And once consigned to wage earning, tenancy, conscription, and various modes of peonage, social outsiders then found their status justified precisely because of their relationship to production.

Dating back to the wide-scale importation of African slaves beginning in the mid-seventeenth century, the use of socially marginalized communities for menial tasks helped maintain a higher standard of living and greater property ownership for settlers. In fact, the effort throughout the nineteenth century by white laborers in both the North and the South to establish rigid occupational color bars and to limit blacks to the least respected forms of work was a central mode of ensuring greater economic freedom internally. Maintaining this productive divide, considered necessary for domestic liberty, required asserting the state’s discretionary power—its imperial prerogative—to control and order marginalized groups. Therefore, along with legitimating conquest, prerogative power also policed a productive divide between settlers who participated in free labor and outsiders who performed menial tasks that were economically necessary but oppressive.

After the Civil War, with the massive expansion of factory production and the fall in agricultural prices, more and more settlers were reduced either to wage labor or tenancy. White laborers found themselves competing with blacks, new immigrants, and Mexicans for work long considered
incompatible with liberty, under conditions in which such groups seemed to embody an “industrial reserve” capable of constantly pressing down white wages. Instead of protecting the economic independence of free citizens by designating social outsiders for menial jobs, the new industrial order left settlers and nonsettlers alike fighting over work traditionally viewed as unfree. In essence, most laborers regardless of colonial status were now on the wrong side of the productive divide.

Chinese Immigration and the Industrial Reserve Army
One immediate response was to reassert the duality between insiders and outsiders, particularly in the context of Chinese workers. Yet settlers did so in a way that illustrated the new industrial predicament. Rather than attempting solely to confine Chinese immigrants to degraded forms of work, they sought to exclude the community completely. This was precisely because white laborers found themselves in economic competition with Asians, despite the fact that the jobs themselves would have been viewed historically as inconsistent with republican self-rule. Since whites too were increasingly on the wrong side of the productive divide, some settlers hoped to protect their slipping economic position by employing discretionary congressional authority to curtail altogether the free movement of Asians to the United States.

Chinese immigration to the west expanded dramatically in the period following the California Gold Rush of 1849, with approximately 250,000 people making the trek to America. Of the 105,000 who resided in the country during the 1880 census, two-thirds lived in California and 90 percent in the ten western-most states. Chinese immigrants generally came in search of better wages and worked in the mines or building the transcontinental railroad. For many whites, they were the quintessential industrial reserve army, a permanent body of poorly paid workers who were used by employers to depress white earning and to check labor activism. Drawing from the traditional language of ethnic membership, settlers depicted these new immigrants as not only damaging white economic well-being but also as culturally unassimilable and unfit for inclusion.17

This sentiment led to the emergence of a new federal immigration system for the Chinese, one that emphasized their ineradicable ethnic difference and incompatibility with American ideals of free labor and republican independence. In 1870 during Reconstruction, Congress finally extended the right of naturalization beyond “free white persons,” but it
did so solely for “aliens of African nativity and to persons of African de-
scent.” Although Radical Republicans like Senator Charles Sumner sought
to break with settler dichotomies and make naturalization universal,
anti-Chinese sentiment was too strong. As a result, Chinese immigrants
were barred explicitly by the bill and found themselves subject to a new
legal category: “aliens ineligible for citizenship.” In essence, the natural-
ization law, despite attempting to incorporate blacks as free citizens,
embraced elements of social membership consistent with long-standing
practices. Although European immigrants could be naturalized and were
 accorded extensive rights even before formal inclusion, this was be-
cause they were ultimately co-participants in settler empire. By contrast,
Chinese immigrants were cultural outsiders, to a degree qualitatively
different from newly freed blacks. They were thus incapable of free citi-
zenship and had to be controlled through discretionary forms of
authority.18

Such authority was most immediately and directly expressed by Con-
gress’s use of its immigration power to limit Chinese movement from
abroad. The overwhelming aim of the new legislation was to curtail
dramatically—if not eliminate—competition for white settlers from Chi-
nese labor. This power had long been understood to derive from sover-
eignty itself and to be plenary and near limitless.19 In fact, for Jacksonian
populists like Taney, a discretionary immigration power was essential to
the capacity of state governments to control nonsettler populations,
particularly free blacks and slaves, and if need be to restrict their entry
entirely. It existed as one of the basic means by which the imperial pre-
rrogative protected the internal composition of settler society and policed
the movement of subject groups. And for this very reason, European im-
migrants, as settler insiders, largely avoided the coercive brunt of such
prerogative.

As a result, much like historic dependent communities—Indians,
slaves, and free blacks—Asian immigrants now found their freedom of
movement curtailed and subject to a plenary government power. In 1875
Congress passed the Page Act, the first federal bill in American history
restricting nonslave immigration. Although it was written in general
language to bar entrance of convicted criminals and prostitutes, the bill
was understood by legislative drafters and the public at large as aimed
to keep out Chinese women—who, it was argued, may contaminate set-
tler society through race mixing. The effect was the maintenance of an
overwhelmingly male Chinese population, with a male-to-female ratio
of 27 to 1 by 1890. Congress then passed the Chinese Exclusion Act of 1882, prohibiting Chinese labor from entering the United States for ten years and declaring that no court, state or federal, “shall admit Chinese to citizenship.” A decade later, in the Geary Act, Congress extended this ban and made Chinese laborers deportable unless they had a certificate proving residence in the United States prior to 1892. Those without certificates would have to show good cause for failing to acquire one and to provide “at least one credible white witness” to establish pre-1892 habitation.\(^{20}\)

Taken together these bills are often viewed as ushering in a new era of immigration policy, which over time would dramatically narrow the “golden door” and produce a general system of restrictiveness. They also underscored the historic move from state to federal control regarding issues of entry and removal. Chinese deportations present the very first examples in U.S. history of the federal government’s legal deportation of aliens, a practice that in the twentieth century extended far beyond Asian laborers. Therefore, historians like Roger Daniels argue that Chinese exclusion and deportation acts “became the hinge on which all American immigration policy turned.”\(^{21}\) But while the Chinese case would later be emulated in new modes of federal border control, during the Gilded Age immigration policies were still meant for dependent groups such as Asians, who were viewed as ethnically unfit for social membership. It was because the Chinese were considered to be unassimilable threats to settler identity that they found themselves subject to the same forms of discretionary prerogative power that had long governed imperial subjects. Thus it was perfectly compatible to maintain a parallel system—one that mirrored the basic colonial duality of settler life—which sustained a de facto open door for Europeans while imposing exclusion and forced removal on Chinese.

In other words, even as the end of slavery began to dissolve the classic boundaries of settler society, a commitment remained to protecting the divide between free republican citizens and stratified subjects. With respect to Chinese immigrants, this was most powerfully expressed in Justice John Marshall Harlan’s famed dissent from the Supreme Court’s ruling in \textit{Plessy v. Ferguson} (1896), which through the doctrine of “separate but equal” upheld the constitutionality of racial segregation in public accommodations. Harlan maintained that as a consequence of the Civil War and the Reconstruction Amendments, blacks should now be thought of as free republican citizens and therefore incorporated fully
into the political community. Yet this inclusiveness did not mean the end of subject status for those who remained ethnically distinct and a danger to settler ideals. For Harlan, the Chinese persisted as just such an outsider community, “a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country.” Harlan viewed it as a profound injustice that blacks, “who risked their lives for the preservation of the union,” would be barred from riding in coach cars while “a Chinaman can ride in the same passenger coach with white citizens of the United States.” In essence, he sought to maintain settler narratives of identity and membership under radically shifted circumstances. In classic settler terms, the problem with “separate but equal” was that it provided subordinated outsiders (the Chinese) greater rights than it did to appropriately privileged insiders (newly incorporated blacks).22

Harlan reaffirmed his wariness of Chinese inclusion by concurring in Chief Justice Melville Fuller’s dissent in U.S. v. Wong Kim Ark two years later. There, the Court provided a limited constitutional constraint on efforts aimed at restricting the rights of the Chinese population; it held that although Chinese immigrants may be unable to naturalize as “aliens ineligible for citizenship,” the U.S.-born children of Chinese parents enjoyed birthright citizenship under the Fourteenth Amendment. According to the dissent, the majority opinion was fundamentally “injurious to the public interest” because it served to incorporate into settler society “large numbers of Chinese laborers, of a distinct race and religion, [who] remain[ed] strangers in the land, . . . unfamiliar with our institutions, and apparently incapable of assimilating with our people.”23 Moreover, the dissent buttressed these claims with arguments tinged with settler millennialism, which had been prevalent among politicians and laborers even during the earliest days of Chinese immigration. These views suggested that China embodied a threatening empire seeking to use an endless supply of workers to expand culturally and politically into the United States. In a claim that mirrored Revolutionary-era views of French Catholics in Quebec, Fuller and Harlan argued that “subjects of the emperor of China . . . [remained] bound to him by every conception of duty and by every principle of their religion” such that even those born in the United States were still “pilgrims and sojourners as all their fathers were.” Only by asserting discretionary power over new immigrants would the danger imposed by imperial China be surmounted and republican institutions survive.24
In both *Plessy* and *Wong Kim Ark*, Harlan’s concerns about the relative treatment of blacks and Chinese and about Asian inclusion, respectively, were considered irrelevant by the Court’s majority. This was precisely because neither emancipated blacks nor U.S.-born Chinese had been elevated by the Court to the status of free settlers. In both instances, formal citizenship was seen as perfectly compatible with structures of subordination, as highlighted by the idea of “separate but equal.” Moreover, the very precondition for providing small numbers of Chinese with birthright citizenship had been exclusion laws that overwhelmingly curtailed the growth of the Asian population and protected white settlers from both economic competition and the ethnic threat posed by a large nonwhite immigrant community. Yet, in a sense, Harlan’s attempt to sustain colonial dichotomies while incorporating the black community—long presumed to be socially excluded—spoke to fundamental changes in collective life. Like efforts by Radical Republicans, it suggested that if settler membership could be so essentially revised, perhaps the old framework in its entirety could be transformed to take into account new circumstances. For many white laborers now trapped in wage relations or tenancy, the old settler solutions no longer worked. Even if the Chinese were removed from the polity, this would not solve the profound social and economic dilemmas generated by the rise of corporate wealth and industrial production. While Chinese prohibition could halt nonwhite immigration and defend settler supremacy, it could not alter the basic facts of the industrial workplace or revive experiences of meaningful independence and productive control.

Out of political necessity, poor settlers began to develop an alternative response, one that embraced the shared economic interests among all laborers, regardless of their status in the settler hierarchy. The simple reality was that, with business concentration and factory production, the settler domains of economic necessity and economic freedom could no longer be divided according to ethnic or racial affiliation. Both insiders and historic outsiders shared the same social experience; thus, liberating one group from dependence necessarily entailed liberating the other. In a sense, white laborers came face to face with a profound truth—for settler freedom to be achieved, settler colonialism itself had to be overcome. It was this insight that framed the return of robust populism in the 1880s and 1890s and structured an emerging ideal of an inclusive and socially democratic new polity.
The Grand Labor Coalition and the Return of Robust Populism

In the spring of 1886 the country was engulfed in massive industrial strife. Just a year earlier, workers organized through the Knights of Labor struck Jay Gould’s railway lines in order to protest wage cuts. The strike paralyzed rail service and effectively stopped traffic west of the Mississippi. As Walter Licht writes, “Under financial pressure, Gould capitulated to the strikers, a David-and-Goliath victory that would be celebrated in working-class communities throughout the country.” The immediate consequence was twofold. First, the Knights saw their membership soar from over 110,000 in July 1885 to nearly 750,000 a year later. Second, Gould recommitted himself to crushing the union, precipitating a second walkout that began in east Texas and spread across much of the west. This Southwest strike set the stage for the Great Upheaval, in which over 200,000 workers from small towns and major cities chose May 1, 1886, to declare a national general strike on behalf of an eight-hour day. For both those who defended labor protest and those who saw it as a dangerous threat to social order, the United States seemed to teeter on the edge of convulsive change.25

It was in this context that the Farmers Alliance made its initial moves toward reclaiming the robust populist tradition. William Lamb, the president of the Montague County Alliance in Texas, proclaimed a boycott in support of the Knights’ Southwest strike—an act in direct conflict with the policy of the Alliance’s statewide leadership. Over time, sympathy boycotts spread across the state and mushroomed to include the provision of direct aid to strikers through farm produce and even money. These efforts eventually led to the staging of joint political meetings between Alliances and Knights of Labor assemblies. In the process, workers and farmers seemed to underscore a startling new development. Rather than being distinct constituencies with divergent interests, they were each part of a larger laboring community—one that shared the same fundamental goal. For strikers and their supporters, this goal was nothing less than the historic promise of settler freedom: the ability of all laborers, rural as well as urban, to enjoy economic and political independence.26

Over the next decade, members of the Alliance, and later the People’s Party, struggled to achieve such independence in large part by systematically undermining the prevailing norms of settlerism. In the years following the Civil War, the most radical Populists increasingly realized that the
basic assumptions of settler empire were both incompatible with the new industrial order and no longer consistent with freedom as self-rule. Therefore, in order to build a grand labor coalition that embraced the interests of all producers, a new form of politics was needed—one no longer bound to the colonial dichotomies of internal freedom and external control. This new politics involved three basic components: (1) a redefinition of who constituted the democratic “people” entitled to full economic and political freedom, (2) a sustained critique of territorial conquest and new forms of expansionism, and (3) the institutional creation of a permanently mobilized citizenry able to assert its interests immediately and directly.

*Populism and Who Counts as the “People”*

In keeping with settler tradition, a relation to work provided the ground for free citizenship and republican liberty for the Farmers Alliance and their labor allies. In the past, the productive divide between free and unfree labor meant that while Anglo proprietors and artisans could claim political membership, marginalized groups who engaged in degraded work were necessarily outside the social community or the “people.” But to the extent that industrial changes undermined the economic independence of all farmers and workers, regardless of settler status, it led reformers to reinscribe the terms of inclusion. Such changes focused attention less on the form of productive labor and more on the antagonism between producers and nonproducers, or between the “masses” of laborers both rural and urban and the “classes” of commercial and industrial elites.

In describing the threats facing economic freedom, Terence Powderly’s 1878 Preamble to the Constitution of the Knights of Labor powerfully evoked this need for labor unity across the productive divide:

The recent alarming development and aggression of aggregated wealth, which, unless checked, will invariably lead to the pauperization and hopeless degradation of the toiling masses, render it imperative, if we desire to enjoy the blessings of life, that a check should be placed upon its power and upon unjust accumulation, and a system adopted which will secure to the laborer the fruits of his toil; ... this much-desired object can only be accomplished by the thorough unification of labor, and the united efforts of those who obey the divine injunction that “In the sweat of thy brow shalt thou eat bread.”27
Such a call brought with it the related claim—directly reminiscent of the arguments of William Manning—that the laboring community was constitutive of the people and that laboring interests were necessarily the interests of all. As the 1886 Knights of Labor Preamble read, “We have formed the Order of the Knights of Labor, for the purpose of organizing and directing the power of the industrial masses, not as a political party, for it is more—in it are crystalized [sic] sentiments and measures for the benefit of the whole people.”

Since laboring interests were consistent with ensuring republican freedom, there necessarily existed an ideological unity between the people writ large and the industrial masses more specifically. Rather than being one faction among many, the latter as embodied by the Knights of Labor were an organized expression of the collective whole and its commitment to liberty.

This vision of unified labor as constituting the people and as sharing a singular commitment to economic independence also struck deep roots with the Farmers Alliance and the People’s Party. Echoing the sentiments of the Knights’ Preamble, the party’s inaugural Omaha Platform from 1892 declared, “Wealth belongs to him who creates it, and every dollar taken from industry without an equivalent is robbery. ‘If any will not work, neither shall he eat.’ The interests of rural and civil labor are the same; their enemies are identical.” For such Populists, the problem of wage slavery and rural tenancy were two sides of the same coin. In each case, commercial and industrial elites had separated capital from labor and in the process stripped producers of both profit and productive control.

In rearticulating who counted as the people, Knights activists and Alliance members directly challenged settler xenophobia. For Powderly, all laborers were equally subject to wage slavery and the dangers of economic dependence regardless of gender or racial background; as such, new European immigrants, freed slaves and women were all welcome. In response to race baiting at a Knights convention in Richmond, Virginia, Powderly asserted the importance of organizing black workers, because as he bluntly declared, “the negro is free; he is here, and he is here to stay.” It was therefore incumbent on all laborers to appreciate their shared predicament of industrial bondage and for whites to embrace the view that “in the field of labor and American citizenship we recognize no line of race, creed, politics, or color.”

In particular, such arguments repudiated the discourse in the postwar South of white supremacy. For Tom Watson, the need for interracial solidarity was a simple matter of self-interest for poor farmers trapped in the
crop-lien system and bound by debt. He argued that the People’s Party would appeal to both whites and blacks by telling each group: “You are kept apart that you may be separately fleeced of your earnings. You are made to hate each other because upon that hatred is rested the financial despotism which enslaves you both. You are deceived and blinded that you may not see how this race antagonism perpetuates a monetary system which beggars you both.” In his view, the identical economic position of black and white farmers meant that their fates were permanently intertwined and that even the most inveterate racist—if truly committed to liberating whites from debt bondage—would necessarily have to do the same for blacks:

This is so obviously true it is no wonder both these unhappy laborers [whites and blacks] stop to listen. No wonder they begin to realize that no change of law can benefit the white tenant which does not benefit the black one likewise; that no system which now does injustice to one of them can fail to injure both. Their every material interest is identical. The moment this becomes a conviction, mere selfishness, the mere desire to better their conditions, escape onerous taxes, avoid usurious charges, lighten their rents, or change their precarious tenements into smiling happy homes, will drive these two men together.32

For Powderly and Watson, solidifying labor unity required stressing to all farmers and workers their shared self-interest. It was not high ideals but rather the everyday operation of economic power that would drive previously antagonistic communities together and create producerist solidarity. The centrality to Populist politics of material concerns and concrete experience mirrored William Manning’s earlier belief that all individuals, regardless of social standing, were ultimately driven by self-interest. This premise thus continued Manning’s challenge to the accounts of political virtue previously emphasized by elite republicans. Recall that, for Madison, too close a tie between representative and represented made the legislator beholden to partial interests and unable to use independent reason to act to promote the greater good. Under such a view, self-interest—and the inability to distance oneself from concrete experience—was exactly what reduced the rule of law to class tyranny. By contrast, Populists argued that one’s social context was inescapable and that the call for virtuous leadership often constituted a mask for class legislation. Even more important, self-interest was not only unavoidable but indeed
constituted the basic means by which people made sense of their condition and developed both political allies and views of the good. To Watson, eager to break the Democratic Party’s stranglehold on Southern politics, making evident to blacks and whites their shared self-interest raised the promise of a racially unified movement—one able both to end agricultural peonage and to destroy the Democratic Party forever.

Ultimately, by emphasizing the material experiences that bound seemingly disconnected laborers together, Populists sought to build labor solidarity and to construct a coherent and unified account of the common good. Watson and Powderly rejected the notion that citizens would be moved to act simply due to private conscience or their better natures; rather, they focused on the concrete social circumstances that presented a shared reality of subordination and a common hope of freedom. Therefore, Populists discarded the idea, defended by Fisher Ames and Madison, that only a virtuous few could rise above their partial desires and recognize the community’s larger interests. Instead, they believed that ordinary laborers, given their daily struggle against dependence and inequality, would perceive the continuity between their particular interests and the common good (i.e., widespread republican freedom). Organized on the basis of these interests, laborers of all stripes would then become the prime engine for social transformation, collectively imposing liberty as self-rule through their political and economic activity.

Still, although this emphasis on self-interest suggested a more socially inclusive vision of the people, it nonetheless had its limits. To the extent that shared material goals broke down or could not be clearly articulated, so too did the embrace of excluded groups. In the same essay in which Watson called for racial unity under the banner of the People’s Party and its subtreasury plan, he also defended racial segregation so long as it was not legally enforced, commenting: “The question of social equality does not enter into the calculation at all. That is a thing each citizen decides for himself. No statute ever yet drew the latch of the humblest home—or ever will. Each citizen regulates his own visiting list—and always will.” Watson was thus no Thaddeus Stevens, who went so far as to be buried in a black cemetery in Lancaster as a statement of principle. For Watson, since interest and not principle ruled, the Populist project of social inclusion hesitated at extending the ideals of equality beyond the public sphere and the workplace.

Moreover, the focus on solidarity through unified interest meant that when white labor conceived of its goals as requiring exclusion, the ten-
dency persisted to fall back into the settler discourse of organic citizenship and external prerogative. As mentioned earlier, this pitfall was vividly demonstrated by the treatment of Chinese immigrants. Certainly many Knights of Labor activists saw their organization as universally inclusive. In *Thirty Years of Labor* (1889), Powderly wrote that the Knights refused to include a plank in their constitution calling for the removal of “servile races”—a specific reference to the Chinese—because the organization “recognized neither race, creed, or color” and refused to exclude “any portion of humanity” from the benefits of republican freedom.36 During a massive 1878 labor demonstration in Chicago, the radical Knights leader George McNeill reiterated that the entire laboring community, regardless of ethnicity or settler status, deserved economic independence. He declared to the great applause of the crowd that “The present workingmen’s movement was for all, without distinction of race, color, nationality, politics, or religion. . . . It mattered nothing . . . whether a man was born in Africa or China, in Europe or America.” McNeill further added that he “wanted Chinamen in America, if they would work for American wages.” According to him, white laborers “did not want to keep the Chinamen out”; they wanted only to eliminate exploitative practices of contract labor, which imported workers at wages well below U.S. norms.37

In fact, the idea that liberty of movement should be provided to all workers, whether European or non-European, ran deep and was seen as a cornerstone of republican independence—a right provided to every free citizen. That same year, in response to calls for Chinese exclusion an Irish wage earner wrote the *Boston Pilot* arguing that “Not many years ago a similar war-cry, ‘No Irish need apply,’ was echoed and re-echoed throughout America by bigots as blind, ungenerous and intolerant . . . as any in the world.” The writer asserted that, rather than closing the door to the Chinese, the United States should truly become “an asylum for the oppressed of every clime.” Thus, when Powderly and the Knights of Labor entered the debates around immigration, they initially held to a universalist creed. As McNeill’s comments indicated, the Knights focused on creating rules to check the importation by corporations of contract laborers, who could be used as strikebreakers or to reduce wages. Throughout the 1870s, the Knights called for an explicit ban on the practice, which was eventually passed as the Foran Act of 1885. As expressed by activists like McNeill, the goal was not to create racial exclusions or to limit the free movement of foreign nationals, which was considered by many to be a basic republican right.38
Yet, over time, while most Knights maintained this argument for European immigrants, their members increasingly saw Asians solely through the prism of contract labor—as new servile workers or “coolies” threatening their economic livelihood. This perception derived in part from how corporations explicitly conceived of Asian workers: as temporary employees who could be used to crush union organizing or to reduce wages during periods of prosperity. Given these very real practices, old settler dichotomies made it easy to reduce all Chinese to the status of fundamentally unfree laborers, inherently unsuited to republican practices. Many in the Knights found it simpler to embrace Chinese exclusion than to hold firm to ideals of universal brotherhood. By 1886 even Powderly was willing to declare of Asians that “the yellowman is only a slave.” He and others likely recognized that the Chinese were being scapegoated and that immigration bans would not solve labor’s basic economic predicament. Still, for increasingly destitute white workers, the idea that their ethnic brethren were being replaced by Asians was unacceptable and pointed out the limits of inclusion when material interests diverged.39

But despite these evident drawbacks, the engine of economic solidarity played a critical role in undermining the link between membership and ethnicity—at times even for Chinese immigrants—and expressed a vision of citizenship far more open and culturally plural than that prevailing under settler empire. Especially in the South, the willingness of Populist Party politicians and their supporters to challenge white supremacy had reverberating consequences. Edward Ayers writes, “Such pronouncements were indeed remarkable in the New South. Just a few months earlier, no white would have thought of saying them. The political exigencies of the Populist revolt put good orthodox white men in the position where the racial injustice of their society suddenly appeared to them as injustice.”40

The Rise of a Populism Opposed to Empire

By redefining who counted as the people, the Populist movement not only pressed against settler exclusion but also challenged the prevailing norms of empire. In the process, it placed previously marginal arguments by those like Brownson and Skidmore in the political center and underscored how empire actually compromised rather than promoted republican freedom. Radical members of the Alliance and the People’s Party saw territorial expansion and the emerging drive for global preeminence as
combining corporate power with military might. Conquest opened up new markets for industrial profit and promoted the need for a large standing army, permanently ready when called upon to suppress labor mobilization.

For Tom Watson, territorial growth did not provide economic freedom and collective self-rule; rather, it created precisely what it was meant to stave off: a feudal society in the United States to mirror those in Europe. In 1893, writing derisively of U.S. imperial size and pretensions, Watson commented, “Having become an empire in territory, and in wealth, and in power, we seek to become an empire in outward appearance, in the display of armies and navies, in the geegaws of royal ceremonial and observances, and in the maintenance of splendid embassies at foreign capitals.” At a moment when American politicians were contemplating the annexation of Hawaii, he declared, “For the first time it is announced that we can go twenty-one hundred miles into the ocean and seize upon Islands which do not belong to us and are not necessary to us.” The drive for such possessions and for global power generally presented a foreboding image of a future United States. Needing to maintain control over unruly citizens at home and to act flexibly abroad, America would find itself with a monarchical president, no longer bound by the popular will and acting in the name of commercial and industrial elites. Watson wrote, “Who shall gather round himself the servile attentions, the abject flatteries, and the degrading prostrations of the court circle? Why, the President, of course; the man whom our masters, the corporations, set up over us.”

Five years later, the most radical Populists viewed the Spanish-American War and its aftermath as making evident the validity of these fears. In the lead up to the war, Jerry Simpson—Kansas congressman and in the words of one prominent scholar, “the unofficial voice of the party in the House”—looked upon the prevailing mood of jingoism with deep suspicion and argued that war should be treated as an absolute last resort. Simpson was one of just nineteen congressional representatives to vote no to the April 13, 1898 House resolution authorizing the use of military force in Cuba. He worried that, rather than defending “the right for a struggling people to . . . govern themselves,” America would find itself “on the low plane of stealing the territory of some other country.”

The political cost for Simpson was enormous. Despite his near folk hero status among poor midwestern farmers, he lost his 1898 reelection
bid in large part due to the cresting tide of pro-war sentiment. In one of his final speeches to Congress after his defeat, Simpson raised questions about recent appropriations bills and measures to entrench a new professionalized military by increasing the size of the army from 25,000 to over 100,000. A consistent opponent of such legislation, he declared that several legislators had told him that the real reason for these bills was to establish an expanded military infrastructure, which when needed could “suppress domestic violence.” Mirroring Watson’s language, Simpson asserted that “along with a scheme for colonial empire,” corporate and political elites sought “to place on the throne in this country William McKinley, President of the United States, Emperor of the West Indian Islands and of the Philippines, and then get a standing army to enforce the power of this new empire.”

Outside the doors of Congress, Watson too reiterated his concerns about corporate power and the specter of military despotism. A bitter opponent of the war, Watson rhetorically asked one crowd during the conflict, “Who gets the benefit of the war?” In terms reminiscent of both Bylesby and Skidmore, he answered:

National bankers will profit by this war. The new bonds give them the basis for new banks, and their power is prolonged. The privileged classes all profit by this war. It takes the attention of the people off economic issues, and perpetuates the unjust system they have put upon us. Politicians profit by the war. It buries issues they dare not meet. What do the people get out of this war? The fighting and the taxes.

One should note that these pointed attacks on both territorial empire and U.S. projections of global power did not primarily focus on the treatment of indigenous groups under colonial rule. Rather, the central concern for radical Populists was the way in which external assertions of power necessarily corrupted the home country by elevating interests counter to the laboring community and by creating centralized and hierarchical institutions of despotic power. As Watson concluded, much as Harrington or Manning might have, “Republics cannot go into the conquering business and remain republics. Militarism leads to military domination, military despotism. Imperialism smooths [sic] the way for the emperor.” Institutions like a large standing army and a unitary executive directly threatened freedom as self-rule and confronted ordinary citizens with a vast and repressive apparatus of state power.
Still, if the primary focus was not external treatment, developing this critique of empire radical voices nonetheless also hinted at broader arguments about the moral illegitimacy of colonial power. Perhaps the most full-throated formulation of such a view came at the very end of the movement, from a Nebraska politician, William Neville, who eventually would be the last Populist congressman in Washington. In February 1900, during the war of occupation in the Philippines, Neville took to the floor of Congress to denounce the conflict. He did so by explicitly linking control over Filipinos to the politics of racial subjugation marking American practices at home. For him, the occupation was of a piece with a larger and destructive feature of collective life: the continuing treatment of nonwhite communities—foreign and domestic—as merely instruments for the achievement of internal settler ends. These communities were seen as useful primarily for extracting economic profit and thus were properly subject to coercive and discretionary power.

Speaking to Southern white supremacists in the Democratic Party, who opposed imperial annexation, Neville stated,

> It is amazing to a Populist to hear members upon this side of the House declare in debate that “this is a white man’s government,” and justify a property and educational qualifications to exclude the black man from the right of suffrage and at the same time denounce the Republican party for trying to govern the brown man without his consent.

For Neville, the same principle that rejected conquest in Asia or in the Caribbean also rejected the unequal treatment of blacks, Chinese, and Mexicans in the United States. Both forms of subordination reduced groups worthy of republican freedom to the status of imperial subjects.

In so arguing, Neville connected his rejection of territorial empire to a universalist vision of self-rule: “It is a real consolation to believe in the common brotherhood of the human family; to believe that all men were created equal, or in other words, to believe that when God made man and woman as the source of human development, class distinction was not decreed.” Neville continued by emphasizing the essential right of self-determination for Europeans and non-Europeans alike:

> Nations should have the same right among nations that men have among men. The right to life, liberty, and the pursuit of happiness is as dear to the black and brown man as to the white; as precious
to the poor as to the rich; as just to the ignorant as to the educated; as sacred to the weak as to the strong, and as applicable to nations as to individuals, and the nation which subverts such right by force is not better governed than the man who takes the law into his own hands.48

Of particular note, Neville refused to view this self-determination as requiring any preceding period of white tutelage, as was increasingly argued by political leaders to defend either the Filipino occupation or to justify new reservation policies toward Native Americans. And in rejecting white tutelage, Neville rejected both actual political control by the federal government as well as those informal practices of economic and military interference, which had long marked Western engagement with nonwhite peoples. In other words, his call for self-determination had no caveats.

Neville’s speech thus represented a striking development: an American politician consciously repudiating empire in all its manifestations and describing racial control at home in terms of domestic colonial rule over dependent subjects. Neville explicitly described blacks as treated in the United States like imperial subjects rather than proper citizens, concluding, “No government can claim the dignity of being a government by the people when a portion of its people are subjects not having equal rights before the law.”49 According to him, a consistent commitment to republican freedom required two basic elements: equal inclusion within the United States and the pursuit of international policies that respected indigenous self-rule and denied European and American authorities the right of oversight. In a sense, for Neville and Watson, even if the United States did not hold actual colonial territories, a foreign policy centered on American interventionism was nonetheless unacceptable. Such a policy would lead the United States to interfere throughout the world in local disputes, imposing outcomes that were dictated by commercial interests in Washington. In the process, it likely would produce far greater violence on the ground. It is true, Watson averred, that “the Spaniards and the Cubans were bushwhacking one another, and killing from three to five men at a battle. We have gone down there and killed more men in three months than they would have killed in thirteen years. If they were starving before, who feeds them now?”50

Thus, step by step, the ideology of producerism and the language of self-interest led poor farmers and wage earners to a remarkable set of
conclusions. Reversing centuries of settler tradition, many radical participants in the Populist movement, as well as their political allies, redefined social membership to include virtually all agricultural and industrial workers; in the process, they repudiated the colonial dichotomies of settlerism that had separated white insiders from native or black outsiders. Equally dramatic, they rejected the long-standing defense of territorial expansion as the precondition for economic freedom and instead came to view the drives for conquest and, now increasingly, for global power as promising only military despotism and further inequality at home. In their most sweeping moments, some leaders were even willing to embrace Skidmore’s vision of indigenous self-rule free entirely from western tutelage. And perhaps most important, these calls were not the views of Jacksonian outliers but rather were made by popular leaders in the context of massive social protest—protest that challenged the political dominance of existing parties as well as the economic dominance of industrial and agricultural elites. Although hardly complete, such efforts expressed the hope of greatly expanding settler freedom and therefore imagined the United States as a producerist democracy stripped of colonial pretension and potentially open to all.

**Populist Self-Rule and the Goal of Permanent Mobilization**

If many in the Populist movement sought to separate settler freedom from its historic ties to expansion and colonial rule, they did so by reasserting a vision of popular politics that had emerged in the years before the federal Constitution. Motivated by the belief that self-rule required the laboring community to exercise public power and to enact popular laws in keeping with the collective good, this grand coalition of laborers emphasized the importance of permanent watchfulness over government. To the extent that elected representatives themselves seemed disconnected from the social experiences and material interests of the “people,” Populists moved to create parallel institutions that would constantly mobilize citizens and thus embody the collective will.

These associations hearkened back to the tradition of extralegal conventions and institutions that emerged after colonial independence. Settler revolt brought with it an increased skepticism about the legitimacy of existing representative bodies to speak on behalf of the people. Especially for small farmers and townspeople, asserting self-rule and promoting economic freedom meant organizing “out of doors” and developing quasi-public associations, such as popular assemblies, that ensured direct
public control over government. Similarly, during the Gilded Age, as corporate interests appeared to capture both politics and the legal machinery of the state, citizens developed a plethora of informal and extralegal institutions to remedy grievances and express collective sentiment. These ranged from popular law courts that served as a parallel judicial framework for members of various workingmen’s groups, including the Knights of Labor, to farmers’ cooperatives in the south and west.

But the greatest example of extralegal organizing was the way in which Populists extended the Jacksonian approach to the political party. Not unlike many 1830s Democrats, Populists viewed the party as an instrument for eliminating the divide between representative and represented and for facilitating a free society of small producers. This vision of the party as a central instrument for will formation, and as a primary site for the people’s permanent mobilization, combined the eighteenth century’s revolutionary modes of extralegislative association with the nineteenth century’s party machinery—which had come of age during the Jacksonian period and that dominated politics during the Gilded Age. Along with organizing local, state, and federal offices through intricate systems of patronage, during this period parties even controlled the electoral process itself. Given the remarkable pervasiveness of elections in the late nineteenth century, resulting from the shortness of tenure and the myriad of local and state officials who held elective posts, this was no small matter. Mark Kornbluh writes, “Among other things, they registered voters; printed, distributed, and counted ballots; nominated candidates; financed and ran campaigns; and controlled the distribution of political information through an overwhelmingly partisan press.”

Such parties “mobilized voters as members of social groups” and created lasting ties between party affiliation and ethnic, religious, or racial identity. They did this through numerous social activities and popular spectacles, including parades and picnics, as well as by providing basic services for their supporters. For example, for newly arrived European immigrants, party officials helped potential voters through the naturalization process—with party committees in each city devoted to the task. More generally, in return for voter loyalty and support during campaigns and elections, parties assisted with jobs and social welfare. At the federal level, bureaucratic offices grew to 190,000 in 1896 and provided a job for almost one voter in every hundred. Thus, the party was a critical source of social integration, incorporating diverse communities of white immigrants,
freed slaves, and native-born settlers into both the emerging economy and a highly participatory electoral process.\(^{54}\)

This party machinery had two features that made it particularly compatible with the Populist movement’s political vision. First, to the extent that the electoral process and government offices were both totally interpenetrated by the party, the clear divide between the established legal framework and extralegal modes of organizing was dissolved. Parties became quasi-public institutions, which served as the basic sites for will formation and popular participation and could not be disentangled coherently from the “official” political process. Second, the sheer number of elections meant that not only were parties quasi-public; they were engaged in efforts of continuous mobilization. Instead of popular participation being consigned to the occasional vote, the centrality of party identification meant that public involvement through a vast array of campaign activities—“ratification meetings, pole-raisings, parades, marches, barbeques, rallies, and bonfires”—created a permanently engaged citizenry.\(^{55}\)

For Populists, the principal difficulty with existing parties was that they split the laboring community across numerous social cleavages, with none more destructive than the old sectional divide between North and South, in which Republicans and Democrats alike “waved the bloody shirt.”\(^{56}\) The party system’s method of social integration, through patronage and the provision of social services to distinct regional and ethno-religious communities, worked to stratify rather than to unite the public. As Robert Wiebe famously writes, such Gilded Age politics pictured the United States as a decentralized “society of island communities” and organized collective life by playing on the separate identities and experiences of each community.\(^{57}\) By contrast, the Populist movement, like extralegal conventions during the Revolution or at the peak of Jacksonian mobilization, imagined the party as an institutional site for all producers and thus for the people as such. As Ignatius Donnelly wrote in the Preamble to the Omaha Platform, rejecting sectional politics and calling for labor unity, “We seek to restore the government of the Republic to the hands of ‘the plain people,’ ” and “this Republic can only endure as a free government while built upon the love of the whole people for each other.” The goal of mobilization was to create a space for the direct and continuous expression of popular sovereignty by the entire laboring community. In doing so, government action would become a permanently accessible tool for the fulfillment of collective ends. As the Preamble read on, “We
believe that the power of government—in other words the people—should be expanded . . . as rapidly and as far as the good sense of an intelligent people and the teachings of experience shall justify, to the end that oppression, injustice, and poverty shall eventually cease in the land.”

For such popular self-rule to work, the party necessarily had to be internally democratic and nonhierarchical, embodying the collective sentiments of the laboring community as expressed by agricultural and industrial workers themselves. Gilded Age parties, due to decentralization and a focus on local organizing, had undoubtedly been responsive to the needs of their constituencies. Still, their basic structure was hierarchical, linking support for a party boss to patronage and services rendered. By contrast, radicals like Donnelly, William Lamb, and Tom Watson imagined the party as situated within a framework of multiple and overlapping labor organizations, the most important being the Farmers Alliance. In other words, party members were also Alliance members, tested through years of experience in the cooperative crusade and committed to a set of political objectives. While organized for vote getting and the immediate control of government, the party was only one element of a larger collective framework and therefore could be rooted by these parallel institutions to the interests of the greater movement. Just as the party was a government behind the government, organizations such as the Farmers Alliance and the Knights of Labor embodied the government behind the party. The result suggested a form of popular politics in which laborers were multiply organized, able to assert control at various local, state, and national sites of decision making, and thus made directly responsible for the party and the movement.

In a sense, this vision of the people permanently mobilized and engaged in self-rule provided concrete expression for Manning’s hope of a Society of Laborers. Manning had imagined an institutional framework both for the dissemination of knowledge about producer interests and for labor’s collective self-assertion in politics. Nothing better expressed the way the Farmers Alliance and People’s Party pursued these objectives than the Alliance’s lecturing system and the party’s National Reform Press Association (NRPA). In every county, the Alliance established hundreds of suballiances of no more than fifty people, each with a lecturer whose purpose was to explain the cooperative crusade, to link the actions of the suballiance to the larger organization and to help farmers articulate their grievances to the wider community. And with the NRPA
the People’s Party developed thousands of journals and weeklies, which expressed the goals of the movement to ordinary citizens and, in letters to the editor, provided an institutional voice for poor farmers. As Manning suggested a century earlier, these institutional sites embodied an alternative vision of how virtue could operate within a political community. By disseminating knowledge and incorporating the experiences and views of farmers and wage earners, mechanisms like the Alliance system provided a means for democratizing intelligence and for ensuring that all individuals, not simply the educated few, understood their own interests and how best to achieve them. Such associational forms took for granted a belief in the basic competence of each laborer—their essential capacity to connect personal self-interest to the moral needs of the community. In this way, radical Populists within the Alliance system and the Knights of Labor developed a clear place for virtue in their accounts of political activity and a just society. According to Powderly, for instance, the attack on the wage system and the defense of the cooperative commonwealth rested on a fundamental belief that the former was incompatible with an ethical life grounded in self-discipline, personal responsibility, and autonomous reflection. For him, republican freedom embodied a vision of human flourishing, since the experience of self-rule provided a continuous practice in collective self-assertion and moral independence. In Powderly’s view, the key question was how to make individuals move from conditions of dependence and wage slavery to those of emancipation. In particular, how could workers and farmers, attached to a vision of settler supremacy but morally degraded by the realities of economic bondage, be made to see themselves as possessing the same basic goals and as capable of exercising popular power? Thus instruments like the union and the party, complete with newspapers and lecturers, were more than tools for raising wages or challenging workplace prerogatives; they played an essential elevating role. They provided one method by which laborers gained the cultural and material resources—the democratic virtue—necessary for altering their conditions.

In essence, through countless parallel institutions, the Populist movement sought to combine participatory democracy with mass politics. It imagined the interests of laborers as embodying the emancipatory goals of society at large and, when properly organized, able to speak on behalf of the whole community. At its most radical, the movement hoped that by creating a political infrastructure for the continuous self-assertion of
agricultural and industrial workers, economic independence and political freedom would become general experiences. As the Kansas populist Frank Doster, later chief justice of the Kansas State Supreme Court, told listeners in his 1894 Labor Day speech, the existing parties, Democrat and Republican, “stand paralyzed” in the face of industrial transformation and corporate power, unable “to adapt the legislation of the country to the strange conditions which this new life has forced upon us.” In response, the People’s Party and its supporters would “bring the power of the social mass to bear upon the rebellious individuals who thus menace the peace and safety of the state” by ensuring “that the industrial system of a nation, like its political system, should be a government of and for and by the people alone.”

In order to fulfill this promise, Populists demanded a plethora of political and economic reforms centered on the subtreasury plan, which by mortgaging agricultural crops to the federal government at reduced interest rates would make credit more readily available and greatly reduce the specter of debt bondage. However, along with democratizing the monetary system, Populists—as expressed in the Omaha Platform and the Alliance platforms that preceded it—also called for government ownership of transportation and the means of communication, the free and unlimited coinage of silver, more equitable taxation through a graduated income tax, the reclamation of excess land from railroads and corporations, the eight-hour work day, and the abolition of private police forces such as the Pinkertons. These measures aimed to create a new economic and political landscape that tied industrialization to freedom as self-rule.

The Retreat from Republican Inclusion

In the end, however, the agrarian revolt collapsed, leaving this agenda largely unfulfilled. In part, this was due to tremendous opposition from political and corporate elites. Yet the fundamental reasons for this collapse were not solely or even primarily external, but rather were derived from basic inconsistencies within the movement itself. If anything, the agrarian revolt remained trapped within settlerism’s colonial paradigm, such that it could not universalize its own economic and political commitments. With electoral defeat, many party members reverted to ethnically exclusive visions of collective life and, in the process, undermined the legitimacy of the Populist claim to speak on behalf of all the “plain
people.” These tendencies, most powerfully illustrated by the political journey of Tom Watson—from radical egalitarian to white supremacist—made it increasingly easy for middle-class and corporate opponents to depict Populism as captive to demagoguery.

Co-optation, Backlash, and Contradictions Inherent within Populism

One should not underestimate the intensity of elite opposition to the People’s Party and its reform agenda. For the presidential election of 1896, McKinley drew on an unprecedented campaign war chest of $3.5 million, generated from corporate directors and wealthy supporters of both parties who viewed Bryan, let alone radicals like Watson, as a dangerous threat to social order. In the South, the Democrats responded to the Populist challenge with a systemic effort at rigging votes and intimidating voters. Even more insidiously, Democrats sought to entrench permanent one-party rule by disenfranchising those voters, particularly blacks, who were both the most marginal and the most destabilizing for the established order. Ayers writes that after a decade in which “disenfranchisement pushed on relentlessly” across the South, by the time Alabama addressed the issue of voting rights, “The way seemed clear. The disenfranchising laws enacted by the convention when it met in 1901 were nothing new: stringent residency requirements, a cumulative poll tax, a literacy or property qualification, a grandfather clause.” The overall effect was to crush the hope of interracial labor unity by ending black voting power in the South and, despite the notorious grandfather clause, by restricting severely the voting rights of poor whites as well.64

These efforts in the North and South to contain agrarian protest were motivated in part by an intense suspicion of the men and women who made up the rank and file of the Populist movement. To middle-class observers, such agitators appeared as little more than an uncouth rabble. This sentiment was most vividly captured by William Allen White’s famous editorial, “What’s the Matter with Kansas?” For him, the Populist was defined by an economic desperation and a mob mentality, which made rational discourse impossible and violence an ever-present threat. Describing the encounter that finally convinced him to write the column, White later recalled:

A block from the office a crowd of Populists tackled me. . . . They surrounded me. They were older men—men in their forties and
fifties and sixties—and I was twenty-eight. They were shabbily dressed, and it was no pose with them. They were struggling with poverty and I was rather spick-and-span. . . . Anyway, they ganged me—hooting, jeering, nagging me about some editorial utterance I had made. I was froggy in the meadow and couldn’t get out and they were taking a little stick and poking me about.65

The idea of placing public decision making in the hands of such individuals presented the very worst possibilities of majority rule; it meant handing over power to the demonic crowd and to whoever could play on its weaknesses and aspirations.

For White, the poverty of Populist supporters hearkened back to the great republican concern with economic dependence—the fear that social circumstances conditioned the poor to a life of obedience and tyranny as opposed to one of reason and autonomy. Rather than promoting collective freedom, the success of these groups could produce only demagogic politics and rampant anti-intellectualism. It meant that Kansas would be seen by sober minds as an uncivilized backwater. “Go east and you hear them laugh at Kansas; go west and they sneer at her; go south and they ‘cuss’ her; go north and they have forgotten her. Go into any crowd of intelligent people gathered anywhere in the globe, and you will find the Kansas man on the defensive.” White’s taunts indicated the depth of class animosity toward the rural and urban poor, and especially the degree to which economic and political elites regarded efforts at collective self-assertion with fear and disrespect. E. L. Godkin famously described the agrarian social movement as “the vague dissatisfaction which is always felt by the incompetent and lazy and ‘shiftless’ when they contemplate those who have got on better in the world.”66

Yet, for all the vote rigging and demonization, the ultimate defeat of the Populist movement resulted in large measure from the People’s Party’s basic failure to institutionalize its vision of popular politics and permanent mobilization. Through fusion with Democrats and co-optation by silverite politicians, the party became one more among a variety of competing electoral forces, elite driven and hierarchically structured. The ease with which this move occurred derived from the internal weakness of the very labor organizations that helped make the party a mass democratic institution. By 1892 the Knights of Labor, damaged by brutal employer repression, the failure of strikes and boycotts, and competition from the “prudential unionism” of Samuel Gompers and the American
Federation of Labor, could no longer effectively organize agricultural and industrial workers. While this task fell to the Farmers Alliance, Lawrence Goodwyn has demonstrated that it too faced serious difficulties. The move toward third-party politics had been directly caused by the inability of Alliance cooperatives to become self-sustaining and profitable. Such experiences taught farmers that only by claiming power over corporations and private commercial banks through energetic government would the goal of a cooperative commonwealth be achieved. But this also meant that at the exact moment when Populism needed Alliance institutions to infuse the new party with democratic accountability and mass participation, the Alliance was in marked decline. With its cooperatives faltering, the Alliance did not have the institutional and popular strength of its heyday in the late 1880s.

More fundamentally, the fact that local leaders and ordinary party members had lost control of their own institutions spoke to a crucial normative difficulty with Populist thinking. At the center of the Populist account of democracy was a conception of the people. Rather than being racially defined or a simple aggregation of voters, the people constituted the actually existing community of laborers in their entirety. For Populists, the people were the “masses” of farmers and industrial workers who found themselves confronted by the “classes,” what one Nebraska newspaper called “the monied aristocracy, who have set themselves up as our dictators.” In essence, they rejected the old Federalist notion that no actual body within society could represent the whole community and thus that the people had to be an ideal abstraction—a constitutional framework that gave institutional voice to competing class segments.

At a basic level, Populists appreciated that their account rested on a fiction: in any community not all members were laborers, no matter how broadly one understood the category. Moreover, it was also clear that the producing classes were profoundly fragmented across a number of vectors: white versus nonwhite, rural versus urban, artisan versus wage laborer, tenant versus land owner. The idea of labor unity was therefore itself also a fiction, as these groups had distinct social experiences as well as competing immediate goals. Certainly, not all positions held by laborers at all times were compatible with the public good. However, Populists and their intellectual predecessors like Manning and Brownson argued that republican freedom ultimately could not be protected by a constitutional procedure—be it legislative supremacy or governmental balance. In the final analysis, freedom as self-rule rested on having a mobilized
popular constituency inside and outside of elected institutions, one continually engaged in ensuring that collective decision making served the larger community. Since all laborers, regardless of their specific work relationship, ideally shared a material interest in economic and political independence, they embodied that constituency best equipped to sustain republican liberty. When properly organized, distinct producers would recognize the unity between their partial interests and the common good and through collective effort would impose a democratic and popular will. In this way, a partial constituency within society could come to represent the whole.

But for the Populist belief to succeed, its own members and leaders had to be able to move beyond their immediate needs and prejudices. The claim to speak on behalf of the people had to be more than an illegitimate assertion of class power; it had to display a consciousness of the interests that linked historically competing groups and of how those interests could be fostered. It also required that mobilization went hand in hand with bottom-up control and that individual Alliance or party members dictated the terms of political intervention, in keeping with republican ideals, and were not simply following their associational leaders. In other words, this account of democratic politics took for granted that the rural and urban poor, despite White’s comments to the contrary, were not an undifferentiated mass that could be molded by flatterers and demagogues to serve any purpose. Instead, the members of the agrarian movement had to be competent citizens and authors of their own political destiny—individuals who possessed democratic virtue.

Yet events from 1896 onward suggested that influential party higher-ups believed just the opposite. These leaders, to the consternation and helplessness of ordinary members, were able to pursue an alliance with William Jennings Bryan—one that ultimately destroyed the electoral viability of agrarian radicalism. Such events threatened the idea that movement participants were driving agents at all, individuals who directed and shaped their own political institutions. It also underscored the potential dangers of presuming that the Populist Party represented the people in their entirety and that its policies were synonymous with the public will. As these institutions could be quickly co-opted, their assertions of democratic legitimacy similarly could be employed by elements within the coalition to quell dissent or to impose ends inconsistent with republican ambitions. In other words, small groups could claim the language of the “people” to substitute their own will for that of the public.
**The Defeat of Anti-Colonial Thinking**

The best example of the dark side of presuming to speak for the “people” can be seen in the return of settler xenophobia. The overwhelming problem with the larger populist tradition, which tied Paine and Manning to Watson and Powderly, was that throughout the nineteenth century most white laborers usually understood their interests in the narrowest terms. Such narrowness made the notion of an identity between part (laborers) and political whole rest on profound modes of subordination. Due to a pervasive politics of exclusion, the collective self-assertion of white producers often had deeply destructive effects for social outsiders. The previous era of mass popular engagement, the Jacksonian period, may have generated universal white suffrage, but it did so at the cost of further entrenching settlerism’s colonial dichotomies. According to politicians and judges like Taney, economic independence for white settlers rested on the expropriation of native lands and the dependent work of nonwhites. By using ethnic and gendered terms to define who counted as a free citizen, Jacksonians drastically curtailed the liberating potential of protest and mobilization. And during the late nineteenth century, whenever the agrarian revolt faced strain or potential defeat, these tendencies reemerged. They did so in ways that not only undermined the broadly emancipatory claims of the movement but also made Populists appear more like a mob than a collection of free and autonomous citizens.

Even during the heyday of the movement, old exclusivities were evident in the primary, although not sole, orientation toward the Chinese. Due to anti-Chinese sentiment, the Omaha Platform had called for a restriction on “undesirable emigration” and included a ban on alien land holding. Yet it is important to note that for radical Populists who supported the ban, its main purpose was not nativist. Men like Jerry Simpson saw no inconsistency between opposing alien landholding and arguing against Chinese exclusion: “I believe . . . that the gates should be thrown wide open, so that any man on the face of God’s earth who desires to improve his condition and better his fortune shall be permitted to make his home here in this land.” This was because in the same plank that contained the alien ban, the party also demanded the redistribution to poor farmers of most land currently owned by railroad companies. Populists argued that corporations, which did not occupy or productively use land, should not be able to claim absolute title to it—a point reiterated by the Knights of Labor who called in 1889 for an end to all
land held for speculation. Radical Populists thus saw the provision against “aliens” as centrally aimed at foreign corporations, who like American companies had accumulated western land illegitimately and were now absentee landlords.70

However, in the wake of political defeat, such proposals increasingly jettisoned their initial purpose of challenging corporate dominance, both domestic and foreign. Instead, alien land laws became yet another way to promote settler supremacy and to deny nonwhites the benefits of free citizenship. As implemented in western states in the early decades of the twentieth century, these laws did not limit corporate speculation but rather barred possession by “aliens ineligible for citizenship.”71 They served to disinherit Asian immigrants and to divest them—much like free blacks under frontier land grants—of access to the nation’s land reserve and therefore of the possibility of republican inclusion. In essence, rather than sustaining a robust critique of economic hierarchy and subordination, all that remained of Populist policies appeared to be their most troubling implications as settlers fell back on old methods of dispossession.

In this context, so-called nativist politics flourished, with white laborers steadily abandoning even the commitment to open European immigration, one of the few inclusive elements of the old settler narrative. Terence Powderly spent the final years of his life serving as U.S. commissioner general of immigration from 1897 to 1902 and later as chief information officer of the Bureau for Immigration from 1907 to 1921. An Irish Catholic himself, to the end of his life Powderly refused to embrace xenophobic justifications for barring southern and eastern Europeans or measures like the literacy test. The latter he viewed as casting aspersions on the capacity of those without formal education to be free citizens and thus as an assault on the ideal of republican equality. Still, over time, Powderly’s concern with “imported” workers, echoed by other labor leaders, developed into a general rejection of “unnatural,” “induced,” or “assisted” labor and created a climate in which immigration restrictions, particularly for culturally dissimilar groups, could grow ever more comprehensive.72 In essence, Powderly was unable to make fully compatible his desire for an open and inclusive polity with concerns about economic competition. As a result, while he continued to defend in principle the ideal of free movement for all Europeans, in political reality he helped set the stage for its decisive repudiation. He did so by expanding the rationales and practices of border exclusion and postentry social control.
Even more so than issues of immigration, questions of black-white labor unity strikingly highlighted the limits of settler freedom. The ease with which white farmers in the South, the heart and soul of the agrarian movement, accepted the wholesale disenfranchisement of blacks and the rise of institutionalized segregation starkly underscored the constraints of Populism. In 1904 Tom Watson began his long conversion from staunch egalitarian to Democratic Party boss and white supremacist. Running as the Populist candidate for president, Watson called for Democratic politicians in his home state of Georgia to pass a constitutional amendment that would remove blacks from the voting rolls. Watson, a long-time opponent of just such measures, defended his new position on two counts. First, the “bugaboo of Negro domination” meant that “The white people dare not revolt so long as they can be intimidated by the fear of the Negro vote.” Second, according to Watson black votes were routinely employed by the powers that be in Georgia to defeat meaningful reform. “In Georgia they do not dare disenfranchise him [black voters], because the men who control the democratic party machine in Georgia know that a majority of the whites are against them. They need the Negro to beat us with.”

Watson expressed the disappointment shared by white farmers with the tentativeness with which Southern blacks greeted the Populist Party. Confronted by a campaign of coordinated terror organized by Democrats, most blacks were hesitant to stake their personal security on an alliance with whites, many of whom only recently had been invoking the language of racial supremacy and defending the “lost cause” of Southern secession. Yet, for Watson and others, the black community became an easy scapegoat for the failures of Populism. Not unlike the colonial fear of a subservient slave population in English hands, freed blacks were now depicted as culturally attuned to domination. Black votes could be manipulated and used by powerful commercial interests, it was argued, because the group as a whole did not possess the capacity to act autonomously and to assert republican freedom. Once again, the presumption that settler liberty was distinctively ethnic reinforced a willingness to fall back on old racial exclusions.

In 1904 Tom Watson still believed that once all white laborers could be organized to transform the prevailing status quo, blacks would then be reenfranchised and white supremacy eliminated for good. Nonetheless, this willingness to sacrifice the basic rights of a million Georgians to the long-term cause of republican freedom suggested the deep shortcomings of his formulation. At the most basic level, Watson presumed that
white workers ultimately could not be counted on to think collectively in terms of the people as a whole. Rather than pursuing the interest of all laborers, when faced with ethnic divides most white settlers would disregard the common bonds forged through productive work. This meant that in the final analysis, even under the account offered by Watson—one of the great articulators of radical democracy—the laboring community was exposed as a partial interest, unable truly to represent the people in their totality.

In essence, while the settler experience suggested an egalitarian and emancipatory discourse, it also undermined the agrarian movement’s very claim to universality. If anything, this ambiguity within Populism discredited its vision of a mobilized popular will, one that was actually constituted within society and armed with a sense of shared public interest. By the 1910s, “Tom Watson Populism” had become a slur, little more than a ready base of supporters who could be counted upon for acts of violence and intimidation—be it against Catholics, Jews, or blacks. If anything, the “people” seemed almost overnight to have been transformed into a disorganized mob, pliable to leaders who played on divisive animosities and an anger bred by destitution. Nothing better illustrated this turn of events than Watson’s use of hate mongering to spur the lynching of Leo Frank, a Jewish man framed for the murder of fourteen-year-old factory girl Mary Phagan.74

As for the critique of empire, with Populism becoming dominated by wealthier agrarian interests in the south and the west, Watson’s own thoroughgoing anti-imperialism became an outlier position within the elected party. The party leadership called for the opening of external markets to American agriculture and defended a foreign policy structured around economic and commercial expansion.75 Radical leaders like Watson were no doubt wary of this turn and believed that it served the interests of agricultural and corporate elites rather than poor farmers or industrial laborers. They also appreciated that in the end American commercial expansionism would be sustained by military authority—the capacity of the state to impose an “open door” on recalcitrant governments in Latin America and Asia. Therefore, calls for new markets went hand in hand with arguments for greater naval power and a larger standing army—precisely the instruments of militarization that republicans had long viewed as threats to a free citizenry.

Yet, especially after 1896, much of the party was deeply demoralized, and many elected officials, to the extent that they represented the old
movement at all, were wary of going against the prevailing tide of jingoism, both in its territorially acquisitive and commercially expansionist modes. In 1898, of the twenty-two Populist members in the House of Representatives, only two—Simpson and Milford Howard—voted against the Spanish-American War. For the others, a yes vote was in part an act of self-preservation, a reaction to fears that Republicans and Democrats would tar the party with charges of being unpatriotic. Such self-preservation did not ultimately succeed, as regardless of how they voted, in the war’s aftermath Populist House membership collapsed to only five representatives—for all intents and purposes ending the party’s presence as a legislative force.

Even more problematically, the persistent specter of settler xenophobia made what remained of the call against empire ring hollow. To the end of his life, Watson opposed imperialism abroad as well as the American entry into World War I, which he believed would produce only military despotism at home and the rise of an entrenched corporate oligarchy, not unlike colonial adventures in the 1890s. As C. Vann Woodward writes, “It was his opinion that ‘no king that ever lived wielded more autocratic control than President Woodrow Wilson has demanded,’ and he was using that power to ‘systematize universal goose-stepping.’” When such arguments had been made in the context of defending an inclusive republican vision, the critique of empire became part and parcel of a broader emancipatory project. But when combined with virulent white supremacy, the same charge rang of parochial isolationism. By conceding the ground of democratic equality, these arguments increasingly allowed defenders of global expansion to carry the torch of universalism and inclusion. As I will discuss in Chapter 4, anti-imperial arguments appeared to resound in racial terms, while American global power gradually became cast by Wilson and both Roosevelts as a forward-looking and tolerant enterprise.

This failure to discard settler ambiguities emphasized the difficulties inherent in claiming to represent the “people” and greatly diminished the attractiveness of the Populist movement to twentieth-century reformers. For those who argued over the future of American freedom after the defeat of agrarian radicalism, the idea of democracy had to be purified in ways that shed its linkage to the Watson mob. And if membership was to be extended, for many this effort had to be pursued on grounds less transformative and more amenable to the prevailing winds of economic centralization.
Nonetheless, such failure hinted at an important point for the social movements that emerged over the following century. The political problems of Populism underscored that the producing classes need not be thought of as the only constituency capable of protecting republican freedom or of extending its domain to excluded groups. For those unwilling to give up the idea of a mobilized popular agent standing behind government, this fact suggested that various constituencies, rather than laborers alone, had the capacity to represent the larger public through their concerted activity and to embody a democratic base committed to imposing the general good. Depending on the historical moment, the interests of different groups—for instance, consumer associations during the Progressive period or blacks organized through the civil rights movement—may well coincide with a more inclusive defense of self-rule. In the end, the great tragedy of Populism had been its own inability to sustain precisely such a defense. While Populism succeeded in highlighting the inadequacies of settler frameworks, it failed to create a new postsettler society that made sense of which ideological components should be safeguarded and which ones eliminated.

The Immediate Response to Populism and the Goal of Permanent Peace

During the height of industrial unrest and Populist revolt, political and corporate elites appreciated that settler assumptions and institutions seemed to be under severe strain. But for them, agrarian and labor protest did not offer a potential solution; rather, it indicated a profound and deeply troubling disintegration of collective life. Confronted by internal crisis, many viewed an aggressive application of state violence within settler society as necessary simply to maintain a fragile stability. In the past, the ideology of settler empire had tied together two principal projects: those of republican freedom and permanent peace. Only by pacifying the continent and eliminating all foreign threats would settlers securely possess the territory needed for economic independence. According to settlerism’s millennial underpinnings, this expansionist project would create a lasting condition of tranquility and would allow social insiders to enjoy domestic liberty free from any external danger. Now, however, with the continent pacified, for many judges and politicians the goal of ensuring such tranquility no longer revolved around threats posed by Native Americans or European rivalries. Instead, it focused on the effort
to subdue political and economic disorder at home—disorder occasioned by new industrial conditions and the increasing disjunction for farmers and workers between the expectation of independence and the experience of hierarchy and control. Therefore, creating a permanent republic of peace involved an internal project of pacification, one that presupposed the domestic use of a flexible and discretionary government power. Judges in particular came to believe that this power was best exercised not by legislative majorities instituting labor’s collective will but by insulated executives able to respond quickly and overwhelmingly to social chaos. In other words, pacification required both the internal application of external prerogative and far greater political centralization within the executive branch.

As with the Populist movement, this drive for social order worked to undermine the dual framework of free citizenship and stratified subjectship that marked settler colonialism. While Anglo and European settlers participated as equals in politics and enjoyed the protection of rights granted to full social members, nonsettler populations were to varying degrees subjects of an imperial authority derived originally from the British Crown. Although this relationship between subject and sovereign assumed that both parties possessed obligations and rights, in practice it provided settler government with extensive discretionary power. But faced increasingly with the specter of social collapse, the need to contain conflict meant softening the line that separated free citizen from stratified subject. Thus individuals, regardless of ethnicity or race, slowly found themselves confronting forms of discretionary rule historically understood to be colonial. In the late eighteenth century, Anglo colonists revolted against British authority on precisely the grounds that the new global empire imposed tyrannical power on all subjects, irrespective of settler status. These settler colonists sought instead to defend a rigidly hierarchical social order that provided insiders with extensive economic and political freedom. Now, 100 years later, the United States—much like the industrializing British Empire before it—had become a massive polyglot society. Maintaining political and economic control in this setting meant starting to extend exactly those modes of government prerogative that had appeared earlier to bind royal subjects to monarchical sovereigns.

This initial move involved the rise of executive authority, as underscored by key Supreme Court decisions during the late nineteenth century. Yet many judges and lawyers continued to hope that extending such
discretionary power would actually defend the old free labor commitments to republican self-rule. Like Populists, they sought to develop the contours for a postsettler society that still maintained its links to ideals of economic independence and free citizenship. In the end, however, these actors could not square the circle between these emerging modes of authority and their commitments to free labor orthodoxy. This orthodoxy appeared inappropriate for the modern industrial age and indicated to new generations of businessmen and politicians the need for an alternative narrative of both freedom and empire, one largely stripped of its reliance on settler ideals.

Social Unrest and the Rise of Executive Prerogative

The doctrinal development during the 1890s of emergency powers inherent in government highlighted the rising belief, on the part of elites, in the need for internal discretionary authority. Confronting domestic crises required a strong and potentially unchecked prerogative right, which could be applied swiftly to impose social peace. Such goals were at the heart of Justice Samuel Miller’s 1890 majority opinion for In re Neagle, which articulated both the fear of disorder and the desire to expand the legitimate domain for state coercion. The case concerned a disgruntled litigant, David Terry, himself a former justice of the California Supreme Court, who threatened to kill Justice Field while he sat on the federal circuit in California. After a foiled assault attempt on Field, Terry was shot and killed by a U.S. marshall, David Neagle, assigned by the attorney general to protect Field. As Terry remained a popular local figure, Neagle was then charged with murder by the California government in a defiant show of states’ rights, prompting him to file a federal habeas motion for unlawful detention.

In providing relief, Miller held that while no congressional statute specifically authorized Neagle’s actions, statutory authority could be inferred from federal legislation giving U.S. marshals, when operating in the states, the same authority as local sheriffs and deputies to execute the laws. According to Miller, “If . . . a sheriff of the State of California was authorized to do . . . what Neagle did, . . . to protect a judge from assault and murder, then Neagle was authorized to do the same thing in reference to the laws of the United States.”

While Miller could easily have concluded there, he continued by offering a sweeping reading of the President’s powers under the “take care” clause of the Constitution. These powers (which applied to executive
appointees as well) extended beyond strict constructionism to “include the rights, duties and obligations growing out of the Constitution itself, our international relations, and all the protection implied by the nature of the government under the Constitution.” In essence, the president enjoyed inherent emergency authority to address moments of unrest such as threats to federal judges. Miller wrote, “It would be a great reproach to the system of government of the United States, declared to be within its sphere sovereign and supreme, if there is to be found within the domain of its powers no means of protecting the judges.” In so arguing, Miller in effect imported the language of imperial prerogative to the domestic realm and suggested that due to necessity the executive must possess powers greater than those stipulated by either the language of treaties or congressional statutes.81

Miller defended this position by hypothesizing that if U.S. mail carriers, who like Justice Field were federal officials, were being systematically “robbed,” “assaulted,” and “murdered,” the president unquestionably would have an inherent right to call out the militia and provide armed military protection.82 While the case itself never directly addressed the problem of social conflict, Miller saw the need to establish discretionary power in the executive as a means for protecting government institutions and their officials and for maintaining public order.

Yet the goal of overcoming all internal threats came at a steep price. By invoking the necessity for a flexible and robust emergency power, Miller in one fell swoop abandoned the basic premise of structural dualism. According to him, social pacification seemed to require claiming domestically all the power embedded in the imperial prerogative, including—as his hypothetical illustrated—even the executive right to employ military troops at home and without specified congressional authorization.

Five years after In re Neagle, In re Debs made explicit the need for the domestic application of imperial prerogative in order to confront industrial strife. In 1894 the American Railway Union (ARU), led by Eugene V. Debs, at the time a staunch Populist supporter, found itself spearheading a widespread industrial strike against the Pullman Company to protest a 20 percent wage cut. The strike produced a stream of sympathy boycotts, with railway employees across the country detaching Pullman cars and halting those trains carrying them. Within days of the boycott, railway traffic heading west from Chicago had been completely shut down. Arguing that the strike obstructed the transportation of U.S. mail, President
Cleveland, acting on his own authority and without any congressional authorization, sued to enjoin the strike. Then, against the wishes of the governor and the mayor, both of whom maintained that the situation was stabilizing, he ordered 12,000 federal troops to Chicago to enforce the injunction. Cleveland’s attorney general, Richard Olney, himself a longtime railway lawyer and still a board member of various lines, claimed that the president enjoyed this authority under the 1792 Insurrection Act, which once had been invoked by George Washington to suppress the Whiskey Rebellion. As a result, Debs and other officials of the ARU were indicted in federal court and sentenced to prison, with Debs ultimately serving a six-month term. On the streets, the injection of federal troops escalated the clashes, leaving over fifty civilians dead across seven states.83

In upholding the indictments and declaring constitutional the president’s unilateral injunction, Justice David Brewer’s court opinion maintained that:

> The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and security of all rights entrusted by the Constitution to its care. The strong arm of the national government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transportation of the mails. If the emergency arises, the army of the Nation, and all its militia, are at the service of the Nation to compel obedience to its laws.84

No longer a hypothetical as with *In re Neagle*, for the Supreme Court, the Pullman strike and its sympathy boycotts “assaulted” mail carriers and threatened the very operation of government and the safety of its officials. Controlling labor unrest required investing the executive with inherent and unchecked emergency powers and constitutionalizing not only the injunction but also the president’s unilateral and domestic use of the military to crush the strike. In other words, rather than focusing on a statutory basis for the latter action or judicially assessing whether labor protest amounted to an actual “insurrection,” the Court provided near limitless presidential authority to employ federal troops as the executive saw fit in contexts of industrial disagreement.

For many Populists, the assertion of such power epitomized the seeming transformation of republican citizens into dependent subjects. In the same essay in which Tom Watson attacked territorial expansion and the
drive for global power, he singled out judicial decisions in the spirit of *In re Neagle* and *In re Debs* as providing the legal justification for an American feudal order, one based on corporate interest and unchecked presidential authority. “For the first time it is boldly declared, by Judicial decision, that organized Capital can coerce Labor, and that organized labor is forbidden to make effective protest. The old baronial right to ‘bind a laborer to the soil’ finds its twin-brother in this modern corporation right to bind the laborer to his Engine.” For Watson, executive injunctions and other acts of federal emergency power, made constitutional by the Supreme Court, were the very heart of political despotism and laid bare the moral dangers of imperial politics.

Besides underscoring the slippage between internal restraint and external prerogative, *In re Neagle* and *In re Debs* also articulated a subtle shift in who properly exercised this prerogative. From the country’s revolutionary founding through the Louisiana Purchase and the *Dred Scott* decision, questions of prerogative primarily concerned congressional power. These questions revolved around whether legislative majorities enjoyed a sovereign right derived from both royal precedents and the inherent nature of government. The historic solution had been to limit this congressionally exercised prerogative to matters of territorial expansion and the control of excluded groups. However, the reality of social disorder meant that government action needed to be swift and flexible, capable of responding to crises immediately and armed with all the potential instruments of state violence. Since such power was most efficiently exercised by the executive rather than the legislative branch, the two Supreme Court decisions hinted at a gradual shift in both who should wield prerogative rights as well as who could be subject to its force.

Therefore, along with questioning the structural dualism of settler life, legal developments suggested a reordering of governmental institutions to pacify unrest and to crush labor protest more effectively. It was not coincidental that the rise of executive prerogative took place precisely during an era when farmers and workers were threatening to take over state and federal legislatures and to employ public power in ways that challenged the emerging industrial order. The move to invest greater discretionary authority in the executive branch was a direct effort to insulate the instruments of state power from popular agitation and to protect government from being overrun by the forces of social disorder. As a consequence, at the same time as they legitimated inherent emergency
powers in the president, judges also struck down popularly enacted measures, including worker’s compensation efforts and maximum hour laws, as illegitimate forms of legislative prerogative. For Populists like Watson, such developments ushered in an age of “monarchy,” with power insulated from citizens and centralized in the hands of executives now willing even to apply military force to impose corporate interests.86

*Industrialization, Wards of the State, and the Quaintness of Free Labor Orthodoxy*

For the justices defending the newly expanded presidential powers, however, the goal of pacification and the resort to executive prerogative were meant to ward off rather than to promote despotism. Like the agricultural and industrial workers organized by the Knights of Labor, the Alliance, and the People’s Party, Justices Miller and Brewer still held firm to the settler belief that liberty was inextricably tied to productive control and that economic independence was the ethical basis for free citizenship. For them, this vision of independence remained wedded to the old free labor belief in a laissez-faire market and a self-regulating commercial society. The market embodied a privileged domain for freedom; they believed that, if left to its own devices, it would ensure that all hardworking settlers became individual proprietors. Consequently, any intervention into the labor contracts agreed to by individuals turned free citizens into wards of the state, undermining their basic right to choose the terms under which to work and disturbing the delicate operations of the market itself.87

The need to expand the domestic reach of the executive’s prerogative rights resulted precisely from the view that labor protest and agrarian revolt threatened to destroy the commercial system on which free labor orthodoxy was built. Under this view, inherent emergency powers actually defended republican freedom and the privileged domain of the market from the real sources of despotism—social unrest and legislatures seeking to placate labor. In other words, many on the courts intended the shift from congressional to executive prerogative as a defense of free labor and as a response to crisis conditions that threatened the very future of economic liberty.

By exploring decisions such as the *Slaughterhouse Cases* (1873) and *Lochner v. New York* (1905),88 as well as Supreme Court rulings assessing the status of women and Indians, we can appreciate the persistence during this period of judicial arguments rooted in such republican accounts of
free citizenship. Yet these court opinions, especially *Lochner*, also highlight the ideological inadequacy of free labor orthodoxy given massive social changes. As the Populist challenge made evident, with the rise of wage labor, tenancy, and corporate consolidation, old free labor assumptions about commercial self-regulation could no longer cohere collective life. Pacification appeared as simply the despotic assertion of executive power, and legislative constraint embodied a judicial attack on democratic self-rule rather than an effort to reduce settlers to dependent “wards.” In a sense, for pacification to be part of an emancipatory project, social elites would have to develop new, more compelling rationales for government coercion—and thus a new ethical basis for membership.

Justice Stephen Field’s seminal dissent in the *Slaughterhouse Cases* illustrated that in 1873—before the full onslaught of industrialization—the language of free labor orthodoxy and legislative constraint could still express the social experiences of many laborers. The case concerned an 1869 Louisiana statute of incorporation, which granted a twenty-five-year monopoly over the landing and slaughtering of animals in New Orleans. While authorizing the chartered company to build a large slaughterhouse, which for a reasonable price any butcher could use, the act also banned the maintenance of any other abattoir. In response, some 200 butchers excluded from the monopoly challenged the statute on grounds that it violated the Thirteenth and Fourteenth Amendments. In the *Slaughterhouse Cases*, a divided Supreme Court sustained the constitutionality of the law, with Justice Miller declaring for the five-member majority that since the “main purpose [of the amendments] was to establish the citizenship of the negro,” to extend their equal protection privileges to white butchers “would constitute this court [as] a perpetual censor upon all legislation of the States.”

In dissent, Justice Field, a War Democrat from California, articulated a basic Jacksonian wariness of state-mandated monopoly and the power of government to establish privileges that benefited one group at the expense of another. For Field, placing internal limits on legislative power ensured that all free republican citizens enjoyed the chance to compete on an equal footing in a self-regulating market and thus to achieve economic independence. According to him, “This equality of right, with exemption from all disparaging and partial enactments, in the lawful pursuits of life . . . is the distinguishing privilege of citizens of the United States. To them, everywhere, all pursuits, all professions, all avocations are open.” In keeping with the republican framework, freedom was intertwined with
proprietorship and demanded that individuals be able to assert productive control over labor. The loss of such control embodied a “condition of servitude” and meant that the individual “would not possess the liberties nor enjoy the privileges of a freeman.” Field invoked the right to pursue one’s calling in order to defend artisans and small property owners from state-sponsored privilege and to reaffirm how work provided the ethical basis for free citizenship. By stripping individual proprietors such as butchers of the “fruits of [their] own labor,” the Louisiana law violated the foundational right of free labor, “one of the most sacred and imprescriptible rights of man.”

Field’s arguments embodied a full-throated defense of artisanal production and the compatibility between a laissez-faire market and republican freedom. As with classic settler assumptions, they were also grounded on a fundamental distinction between those worthy of full membership and those who were properly ruled as subjects. This became clear when the day following the Slaughterhouse decision Field joined in Justice Joseph Bradley’s concurring opinion in Bradwell v. Illinois (1873). There the court found constitutionally permissible an Illinois law that rejected a woman’s right to practice law based solely on grounds of gender. While free labor and the right to pursue one’s trade may have been bedrock features of republican citizenship, they did not apply to those deemed unfit for proper inclusion. Reiterating well-worn claims about the natural and immutable paternal authority imposed on women, Bradley declared:

> The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. . . . The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the creator.

As paternal subjects, a status that paralleled imperial subjectship, women were thus excluded from the benefits of economic independence. In fact, much like in his Slaughterhouse dissent, Field’s willingness to concur in Bradley’s separate spheres argument evinced his Jacksonian stripes: recall that a central means by which Jacksonians extended suffrage to all white males was by reinforcing paternal hierarchies and describing husbandly control at home as proof of male capacity for self-rule.
A year later, in *Minor v. Happersett*, the Court once again used the question of women’s status to reassert the governing divide between formal citizens and free ones. By a unanimous vote, the Court ruled that women had no constitutionally guaranteed right to vote based on their formal position as citizens. Chief Justice Morrison Waite asserted that as a purely legal category “citizen” simply carried with it the “reciprocal obligations” between state and individual, in which a person owes the state “allegiance and is entitled to its protection.” In essence, formal citizenship merely indicated which sovereign a person was tied to in relations of obedience. According to Waite, as a legal matter, “subject,” “inhabitant,” and “citizen” were interchangeable, a name applied depending on “convenience.”[^93] Rather than a right that attended to all subjects of sovereign power, suffrage was granted only to specific categories of citizens. Waite continued by explicitly aligning citizenship for women with Coke’s old feudal definition. As paternal subjects, women, like other groups facing discretionary power, were presumed to be outside the bounds of full membership. As a result, the state could impose various modes of prerogative authority to maintain institutional structures compatible with their natural dependency.

New jurisprudence toward Indians further developed the implications of being both a “citizen” and a dependent of the state. In the late nineteenth century, with the continent largely settled, the U.S. government found itself faced with the difficult question of how to treat the remaining population of Native Americans. Its response was the General Allotment Act, or Dawes Act (1887), which sought to transform the nature and goals of reservation policy. Previously, and as articulated by Justice Marshall in cases like *Cherokee Nation* and *Worcester*, the purpose of the reservation was to maintain indirect colonial rule over an outsider population. Now, by contrast, supporters of the Dawes Act hoped that indigenous groups could be incorporated into American society in ways that essentially mirrored the treatment of newly freed blacks. Following the lead of Christian reformers like Francis Amasa Walker, the commissioner for Indian affairs in the 1870s, the law attempted to destroy the tribal system entirely and to give Indians formal U.S. citizenship. According to Ronald Takaki,

[The Dawes Act] gave the President power, at his discretion and without Indians’ consent, to allot reservation lands to individual
Indians in the amount of 160 acres to each family head. It also conferred citizenship upon the allottees and any other Indians who would abandon their tribes and adopt the “habits of civilized life.” In addition, the law permitted the federal government to secure tribal consent to sell “surplus” reservation land—land which remained after the allotment had taken place—to white settlers in 160-acre tracts, and to hold money derived from such sales in trust for the Indians, to be used for their “education and civilization.”

As the 1889 Annual Report of the Commissioner of Indian Affairs argued, “tribal relations should be broken up, socialism destroyed, and the family and the autonomy of the individual substituted.”

The immediate consequence was devastating for native peoples and involved the wholesale transfer of Indian lands to white farmers, land speculators, and railroad corporations. In 1900, only thirteen years after Dawes was passed, Native Americans had lost almost half of their land, holding only 78 million acres of the 138 million possessed in 1887. And with Indians stripped of their property and tribal structures, similar questions arose to those concerning women as well as emancipated blacks and U.S.-born Chinese. To what extent did the provision of formal citizenship for Indians mean the end of imperial prerogatives and the provision of free citizenship? In language virtually identical to Bradwell and Minor, the Supreme Court answered by reproducing the basic combination of formal citizenship and substantive dependence. In United States v. Celestine (1909), Justice Brewer asserted that citizenship did not exempt Native Americans from exclusive federal jurisdiction, nor did it necessarily bring with it all the privileges and immunities accorded other U.S. citizens. According to Brewer, Congress had not meant “by the mere grant of citizenship to renounce entirely its jurisdiction over the individual members of this dependent race.” And in 1916, Justice Willis Van Devanter in United States v. Nice declared that “Citizenship is not incompatible with tribal existence or continued guardianship, and so may be conferred without completely emancipating the Indians or placing them beyond the reach of congressional regulations adopted for their protection.” In classic settler terms, prerogative authority legitimately could be applied toward subject groups like Native Americans as part of an intricate structure of control suited to fit the particularities of each dependent population.
Still, under court jurisprudence and settler ideology, if state discretion was justified for women, Indians, and blacks, it should never be employed against free citizens—reducing them to the status of wards. In fact, it was this desire by judges to limit prerogative power, and thus to protect republican freedom for privileged insiders, that produced an intense judicial critique of economic regulation. For those on the Court, safeguarding free citizenship increasingly meant policing legislative majorities, whose economic actions mimicked the paternalism appropriate only for nonsettlers or women.

Nothing better illustrated this attempt to limit what was considered to be economic paternalism than Justice Rufus Peckham’s infamous decision in *Lochner v. New York*. However, while Peckham advanced arguments largely congruent with those offered by Field, by 1905 the implications for most laborers were quite different, and consequently the vision offered of paternalistic danger seemed deeply out of step with emerging realities. As a result, the decision highlighted how both the judiciary’s resistance to legislative power and its defense of the market as a privileged domain no longer coincided with workplace experiences.

The case itself concerned an 1895 New York state statute placing a ten-hour limit on the workday and a sixty-hour limit on the work week. Convicted of employing a baker for more than sixty hours, Joseph Lochner appealed his case to the Supreme Court, which in another 5–4 decision struck down the law as a violation of the Fourteenth Amendment and the liberty of contract. In dissent, Holmes accused the majority of replacing the Fourteenth Amendment with “Mr. Herbert Spencer’s Social Statistics” and reducing the constitution to a defense of “an economic theory which a large part of the country does not entertain,” namely, conservative laissez-faire economics and its accompanying social Darwinism.98

Yet, in contrast to Holmes’s charge, Peckham’s opinion did not argue that government activity somehow violated immutable laws of economics. Rather, he sought to defend the historic republican commitment to economic independence by rejecting the perceived prerogative powers of the legislature. For Peckham, such powers were appropriate only for “wards of the state,” those who were incapable of free labor and thus liberty as self-rule. By contrast with such political dependents, who were justly governed by discretionary authority, free individuals could “care for themselves without the protecting arm of the state, interfering with their independence of judgment and of action.” Peckham viewed the bakers as
akin to artisans, small property owners, and professionals, whose right to control their own productive labor was illegally compromised by legislative majorities. In a sense, Peckham imagined that the social position of New York bakers in 1905 was equivalent to that of Louisiana butchers in 1873: independent proprietors struggling against the assertion of state-sponsored privilege. Listing other petty entrepreneurs, Peckham declared that unless such laws were declared unconstitutional, “A printer, a tinsmith, a locksmith, a carpenter, a cabinetmaker, a dry goods clerk, a bank’s, a lawyer’s, or a physician’s clerk, or a clerk in almost any kind of business, would all come under the power of the legislature, on this assumption. No trade, no occupation, no mode of earning one’s living, could escape this all-pervading power.” Maximum hour laws would even affect employers and, most important, limit the ability of individuals to realize themselves in their work by laboring strenuously and for long duration on tasks they found meaningful. “Not only the hours of employees, but the hours of employers, could be regulated, and doctors, lawyers, scientists, all professional men, as well as athletes and artisans, could be forbidden to fatigue their brains and bodies by prolonged hours of exercise.”

However, the basic problem for Peckham’s argument was that his image of the baker as an independent proprietor no longer reflected social reality. The bakers in New York were neither petty entrepreneurs nor journeymen on their way to status as master artisans but instead were wage earners who worked long hours in sweltering and badly ventilated factories. As a result, strenuous labor did not embody an individual commitment to developing a craft or to finding social meaning through productive control. These workers were part of a sweating system, in which factory owners sought to cut down on the costs of production by extracting as much labor as possible from wage earners. Under such circumstances, popularly enacted laws were part of efforts by laborers themselves to reclaim control over the conditions of work, and not an attempt by legislatures to transform free citizens into stratified subjects or wards of the state akin to women or Native Americans.

The disjunction between free labor orthodoxy and industrial experience left the effort to pacify collective life, and to shift the center of discretionary power from the legislative to the executive branch, bereft of an emancipatory rationale. With free labor incantations of hard work and self-help made quaint by social change, it became more and more difficult for politicians, judges, and corporate businessmen to employ the
expectations of individual proprietorship and productive control to justify emerging industrial norms or to provide an ethical foundation for free citizenship. For order to be more than an end in itself, such elites would have to imagine alternative ways to make the defense of domestic tranquility compatible with a compelling vision of collective possibility. Without such a vision, the retreat into free labor orthodoxy, now no longer meaningfully tied to social experience, would eviscerate republican ideals of self-rule and independence.

Conclusion: Citizenship after Republican Freedom?
 Written originally in 1860, Walt Whitman’s “Facing West from California’s Shores” not only crystallized the energy of settler expansion but also prophetically expressed the restlessness and sense of incompleteness that now marked late nineteenth- and early twentieth-century America. In the poem’s concluding lines, Whitman eulogized the western frontier’s passing in language similar to that of Frederick Jackson Turner thirty years later: “Long having wander’d since, round the earth having wander’d, / Now I face home again, very pleas’d and joyous, / (But where is what I started for so long ago? / And why is it yet unfound?)”101 Such words captured the national mythology of the pioneer settler, the archetypal American capable of building civilization out of the New World’s rugged wilderness. Yet, unlike Jefferson before him and Turner to come, Whitman also questioned, however implicitly, the basic premises of settler society.

In Whitman’s poem, pride in settler conquest was combined with deep uncertainties regarding the ultimate value of empire. Territorial growth had never been viewed as an end in itself but rather as a necessary precondition for both settler liberty and permanent peace. Empire was inextricably linked to a utopian project, in which expansion would ensure all free citizens enough land to become economically self-sufficient and would provide the political community security from external threats. By the time Whitman wrote “Facing West,” it already appeared inevitable that the principal goals of colonization would be accomplished. The continent was increasingly pacified and European states no longer presented any meaningful challenge to global independence let alone to American survival. Yet Whitman’s pioneer settler, as he stared out at the Pacific Ocean, seemed to have forgotten the purpose that had long motivated expansion. Rather than being an incubator for settler democracy, the
imperial project appeared instead to have erased its own emancipatory impulse. For the settler, not only had colonization failed to establish economic and political freedom, but such goals had in fact disappeared from memory. In their place, American empire, and its continual process of conquest and control, had become self-perpetuating—the primary and “joyous” drive of the pioneer severed from any clear link to domestic tranquility or to settler liberty.

It was this sense of the dramatic divergence between social expectations and social experience that framed political struggle in the 1880s and 1890s. With settler ideology in crisis, agricultural and industrial workers sought to institute a vision of permanent mobilization and mass democracy, one that realized the aspiration to liberty as self-rule. Judges and politicians, however, by and large saw this Populist vision as reducing the republic to chaos and threatening the very ideal of free labor. Their immediate response was to assert the need for domestic tranquility and to strengthen the internal uses of prerogative power, exercised more and more by the executive rather than the legislative branch. Although the project of restoring order was justified by the importance of free contract to republican liberty, these claims rang hollow after a generation of corporate consolidation and social strife—not only for the industrial poor but also for greater numbers of urban professionals and businesspeople.

As such diverse individuals as Oliver Wendell Holmes, Teddy Roosevelt, and Josiah Strong made clear, defending the new powers of the federal state and successfully repudiating the Populist vision of mass democratic politics would entail rethinking the moral value of the market itself. For them, a destructive commercialism lay at the root of labor protest and agrarian revolt; this commercialism sapped political membership of social value and made Americans both unwilling to sacrifice for the national honor and disinclined to connect their own individual strivings to the country’s larger historical mission. These public intellectuals sought to reassemble the old commitments to empire, freedom, and permanent peace, but in ways that fundamentally altered if not discarded settlerism. Promoting economic independence and republican freedom no longer provided the rationales for expansion or international power. Now economic prosperity and the state’s ability to project itself globally became their own justification. Rather than having membership be tied to productive control over labor, the ethical ground for inclusion was one’s participation—through hard work, the vote, and war abroad—in a global project of extending American influence and industrial wealth.
From the Spanish-American War to Progressivism to the New Deal, various politicians, social reformers, and judges in the early twentieth century sought to align American political and legal institutions with those prevalent in Europe and drew directly on the forms of executive prerogative constitutionalized during the Gilded Age. These actors embraced the new fluidity between free citizen and imperial subject and viewed state power as able to mold an unruly mass of impoverished and ethnically plural individuals into a unified national citizenry. Just as government asserted power internationally to maintain order and protect national interests, it asserted power domestically to contain social conflict and to ensure that political participation was consistent with the nation’s larger goals. In a sense, this new American polity rejected the vision of Justices Peckham, Brewer, and Miller just as radically as it did that of most Populists. If the great struggle of the preceding years had concerned how republican freedom could be made compatible with industrialization and the end of slavery, the political response in the twentieth century deemphasized the very ideal of freedom as self-rule—reducing it from a central role in collective discourse to a voice of increasingly isolated dissent.
It is interesting to speculate what might have been the results had we been able to link spending to an adequate sentimental ideology. If we had been able to conquer Chicago, and improve it as a national asset, we might have been more sensible in our operations. It is interesting to compare what we were able to do in the Philippines under the ideals of humanitarian imperialism... The imperialistic ideal coupled with our natural humanitarian impulses permitted us to treat these primitive people better than our own. We were not afraid of ruining their character because we did not think of them as equals who had characters to ruin. Therefore, we were able to do many sensible things for the comfort and peace of our little brown brothers.... One wishes that it were possible to consider our own country as an asset today.


In defending the internal uses of executive prerogative and in failing to offer a compelling narrative of republican freedom under industrial conditions, Supreme Court justices like Peckham, Brewer, and Miller inadvertently highlighted how thoroughly removed the country had become from its settler roots. Incantations of free labor and assertions about the evils of paternalism and special governmental privileges may have persisted, but in fundamental ways the United States was no longer legally, politically, or economically constructed as a project in settler empire. In a sense, these judges—however unwittingly—emphasized the basic predicament that would define American collective life for the first four decades of the twentieth century: What constitutional structures should govern a postsettler society and what account of freedom could justify these structures and ground a new ethical basis for citizenship?
Settlerism as an organizing political and constitutional system disintegrated slowly and in stages, and therefore it would be difficult to pinpoint a single moment that marked its final end. The clearest legal and political means by which one could perceive the demise of the old framework was in the treatment of European immigrants, the historic engine of conquest and territorial expansion. With the frontier largely settled, the place for white immigrants in collective life became increasingly uncertain. Without a demographic need to populate new territories, the American commitment to de facto open borders waned. Thus the first sign of a retreating settler politics was the gradual elimination of alien suffrage laws, which had promoted immigration and fostered the quick inclusion of Europeans as free republican citizens. In the final years of the nineteenth century, states overwhelming rejected new proposals to enfranchise foreigners, with the last such proposal going down in defeat in Massachusetts’s 1917 constitutional convention. Even more strikingly, the Idaho territory in 1874 became the first state or territory during the era to repeal its declarant alien voting law. These efforts snowballed in the initial decades of the twentieth century, after McKinley’s assassination in 1901 by an immigrant and concerns during World War I with foreign loyalty. In 1926 Arkansas, the last state in the union to allow noncitizen voting, repealed its alien suffrage law. In essence, the United States had begun to approximate Coke’s old approach to the relationship between aliens and sovereign subjects. Rather than being co-participants in a settler colonial enterprise, white foreigners—at least prior to naturalization—were outsiders properly governed through a legal regime distinct from that for full members.

This increasing American conformity to the European model was further brought home in immigration border policy, which emphasized the federal government’s near absolute power over the entrance and movement of all noncitizens, regardless of race. In *Oceanic Steam Navigation Co. v. Stranahan* (1909), involving a federal statute that authorized officials to prevent the entry of individuals carrying contagious diseases, the Supreme Court went well beyond the specific facts of the case. In matters of immigrant entrance, the justices rejected as a general matter a meaningful role for judicial review of congressional action. As Justice Edward White declared in his opinion for the Court, “over no conceivable subject is the legislative power of Congress more complete than it is over . . . the right to bring aliens into the United States.” In fact, according to White this power “embrac[ed] every conceivable aspect of that subject” and
suggested the legitimacy of wide-ranging controls vis-à-vis noncitizen aliens. In the past, Chinese exclusion had been premised on their inherent unfitness for republican citizenship and had gone hand in hand with the persistence of an open door for white immigrants as well as the avoidance of exercising such plenary authority over them. However, by 1917, with the premise of territorial expansion gone, the public increasingly came to view all new immigrants, irrespective of ethnicity, as economic competitors. That year the U.S. government finally established a literacy test for new arrivals—the very measure Powderly had long fought against—which supporters hoped would limit entrance especially by southern and eastern Europeans.

In 1921 Congress then passed its first numerical quotas, restricting annual immigration from each country to 3 percent of “the number of foreign-born persons of such nationality resident in the United States as determined by the United States census of 1910.” Three years later Congress passed the National Origins Act, further limiting entrance to 2 percent of the numbers already residing in the United States according to the 1890 census. The law’s central purpose and effect was to purify ethnically the population of new immigrants by reducing the quota for southern and eastern Europeans. The law also explicitly excluded from the quota system Asian immigrants—“aliens ineligible to citizenship and their descendents” and blacks—“the descendents of slave immigrants.” As a result, it boosted the share of entrants from northern and western Europe to 84 percent and essentially ended the legal immigration of many nonwhite groups.

The racially discriminatory elements of the 1924 National Origins Act, which have been discussed at length by historians, certainly helped to perpetuate the idea of whiteness as crucial to full American inclusion. Yet taken together the two quota provisions carried with them another key implication. Even if American inclusion would continue to be defined in racial terms, the limitation and control of European migrants suggested that such racial hierarchies were embedded in a very different institutional framework. In effect, all immigrants were now subject to the discretionary and prerogative power of the federal government. Europeans too, while at the top of this stratified hierarchy, found their free movement curtailed and their presence in the United States managed by an increasingly intrusive state authority. Just as with the constitutional entrenchment of executive emergency power, immigration restrictiveness had also undermined settler dichotomies. In asserting the legitimacy of
prerogative rights over European aliens, such restrictions organized previous settler insiders under the same rubric of control that applied toward Indians, blacks, Chinese, and Mexicans.

This rubric was most evident in the extension of a postentry deportation system for all immigrants, which emerged during the 1920s. As Daniel Kanstroom writes: “Deportation of ‘aliens’ without proper documents became a major component of an increasingly large, bureaucratized deportation system. The total number of deportees rose from 2,762 in 1920 to 38,796 in 1929. From 1921 to 1930, of the more than 92,000 people deported, more than 36,000 were found to have entered without proper documents, without inspection, or by fraud.” In fact, this broad-based use of prerogative powers to remove large numbers of migrants created a new category of “illegal aliens.” Again, the idea of who counted as illegal clearly was racialized in American politics, focusing particularly on Mexican laborers recruited to work in the fields of the Southwest. But even with the racial nature of deportation efforts, these policies made apparent that all immigrants were under a plenary regime. Like previous subject populations, recent arrivals from Europe found not only their right to vote denied but their life before naturalization supervised by state authorities with powers of exclusion and removal. Taken as a whole, government efforts—marked by the end of alien voting, quota restrictions, and deportation procedures—highlighted a remarkable break with practices that had been pervasive since the seventeenth century.

In a sense, this shift fundamentally disconnected the imperial tie between territorial expansion and the internal provision of republican freedom. Without land out west to settle, not only was the demographic need for new immigrants at an end, so too was the historic expectation that empire would spur economic independence and self-rule for settler insiders. Looking back at the long trajectory of expansion, conquest and the related subordination of subject populations had undoubtedly spurred a remarkably egalitarian community of free white citizens. Yet, with the rise of new forms of economic and administrative power, it was also the case that republican freedom continued to be elusive and the emancipatory hope of settler empire ever more remote. The challenge for new generations of Americans was to determine what framework would take its place and which, if any, of the old settler commitments were worthy of protecting.

In this chapter, I chart the twentieth-century development of a revised account of liberty, viewing its culmination in the constitutional order
established by the New Deal. In the first section, I argue that in the decades following the collapse of Populism, social critics and reformers, including Walter Weyl and John Dewey, attempted to rebuild the intellectual foundations of republican freedom through arguments about universal education, leisure, and meaningful work. However, such goals were swamped by the concurrent rise of state administrative power, especially in a context devoid of an engaged and self-assertive popular constituency. With the defeat of agrarian protest and the demobilization of its social base, political participation receded from collective life and—to the extent that it remained—became increasingly divorced from actually wielding power. As a consequence, full membership in the community lost its ethical basis in either economic independence or democratic self-government. As I illustrate in the second section, expansionists like Theodore Roosevelt and Josiah Strong sought to fill this ethical void by focusing on the rise of U.S. global power, imagining that this power could provide Americans with a sense of shared purpose and collective meaning.

In the remainder of the chapter, I describe how New Deal policymakers connected these imperial yearnings to emergent accounts of political authority and the meaning of citizenship. I argue that this new order elevated security as society’s guiding commitment, as a replacement for the old and now increasingly distant goal of participatory control. In the early years of the twentieth century, Dewey and other radical Progressives had defended such security—particularly in the sense of extensive social and economic provisions—as a central precondition for economic independence and republican self-rule. However, with these broader ideals in retreat, New Deal officials often transformed security into an end in itself. And in the process, they argued that liberal administration rather than popular control was the best instrument for providing a stable income and for serving fundamentally humanitarian ends. As for external relations, these policymakers also sought to reimagine territorial expansion in the service of settler freedom as global hegemony in search of permanent peace. Over time, the institutional basis for the emerging polity became an empowered presidency, which functioned as an authoritative body representing and constructing the public will. In fact, this strengthened executive entailed the routinization of the imperial prerogative within domestic politics and the everyday operations of government.

If, as I have argued, the American Revolution sought to defend republican freedom against an encroaching and centralizing metropole, the
twentieth-century polity eventually exemplified precisely the dissolution between free citizen and stratified subject that so troubled Anglo colonists. Moreover, these developments suggested a remarkable inversion of means and ends, both at home and internationally. Whereas empire historically was intended to be the servant of freedom as self-rule, American power increasingly appeared unmoored from a guiding purpose besides its own extension. Rather than sustaining the political or workplace authority of free citizens, the imperative of maintaining the country’s global power operated primarily to reinforce internal corporate and state hierarchies. And if Progressives had hoped that economic security would enhance popular knowledge and capacities for self-rule, the language of security instead became largely disconnected from a clear emancipatory vision.

Modern Complexity and Self-Rule in the Progressive Imagination

With Progressivism replacing Populism as the paramount reform movement, activists emerged who like their predecessors struggled with the viability of republican freedom under fundamentally altered conditions. The increasing bureaucratic complexity of government and the economy had generated a plethora of new social groups and occupational categories, from salaried employees to lawyers, doctors, social workers, and teachers. As members of these new middle classes, many Progressive intellectuals saw a basic incompatibility between the producerism of the nineteenth century and the institutional realities of the times. For thinkers like John Dewey, who surveyed a political landscape that held little in common with his Vermont youth in the 1860s and 1870s, the central goal of social reform remained the drive to reconcile self-rule with the industrial age. However, this could not be achieved by simply reasserting the policy prescriptions of Jacksonian or Populist radicals. Economic independence may well have been central to republican liberty, but it would not be achieved for the majority of Americans through small-scale farming or by addressing factory labor without also addressing new forms of bureaucratic employment.

For Progressives, this fact was brought home by the urban experience. Fewer and fewer individuals were traditional “producers” in their economic lives; furthermore, they faced no foreseeable likelihood of joining that category. Given the changing nature of work, alternative bases had
to be found to sustain old republican goals. As a consequence, Progressives sought to take advantage of new instruments of statecraft, particularly redistributive tools and public education, to challenge the bureaucratic division of labor and to foster those qualities of character that had long rooted free citizenship. In this section, I detail their intellectual efforts to reconcile freedom as self-rule with emerging workplace and political conditions. I also illustrate how, by failing to tie their vision of independence to a mobilized and self-assertive popular constituent, they ultimately set the stage for a robust state power increasingly untied to democratic accountability. Over time, the Progressive effort to bind modern life to republican ideals was whittled down to its elevation of administrative authority. To the extent that a larger ideal persisted, it rested in the transformation of security from a means for achieving self-rule into a guiding social end.

Weyl, Croly, and Republican Freedom for a New Age
In the years before World War I, Herbert Croly and Walter Weyl, co-editors of the *New Republic*, began to sketch the contours of a distinct framework for republican freedom, one that sought to address straightforwardly the realities of bureaucratic complexity and to move away from populist reliance on the producing classes as society’s primary democratic agent. For both Croly and Weyl, the United States stood at an ideological and historical crossroads. The key question confronting the country—as it had long been—was how to defend the promise of economic independence. This independence faced intense, perhaps unsustainable, pressure due to the sheer size of modern industrial life and the steady decline of homesteading as a means for entrenching both free labor and participatory citizenship.

In words reminiscent of Frederick Jackson Turner, Croly wrote of the old settler paradigm, “The American pioneer or territorial democrats were, according to their own lights, freemen in both the economic and political sense.” The availability of land provided the “promise of ultimate economic independence”—productive control and a daily experience in moral and material autonomy. Yet, at the beginning of the twentieth century, the concentration of corporate capital had “converted the American people from a freeholding into a wage-earning democracy.” For Croly, wage earning was work stripped of self-rule and dependent on the employer’s whim. It had come to define the economic position not merely of factory laborers but of most employees of corporate and state
institutions. Such wage earning provided no education in autonomy and embodied a critical retreat from democratic ideals. According to Croly, not unlike Brownson and Powderly before him, the nation’s basic predicament was “How can the wage-earners obtain an amount or a degree of economic independence analogous to that upon which the pioneer democrat could count?”

In his 1912 book *The New Democracy*, Weyl responded to this dilemma by focusing on the central achievement of the industrial age, the creation of profound economic abundance—what he called “the social surplus.” Weyl viewed such abundance as “a phenomenon of transcendent importance.” According to him, most of human history had been marked by scarcity and the struggle for subsistence. But modern prosperity meant that enough social wealth existed in a burgeoning industrial society to liberate all individuals from concern with bare necessity. Just as important, it entrenched a “moral idea” in the public imagination: wealth should be employed not solely to eliminate abject poverty but also to promote a “fuller life” for all. This idea of a fuller life, grounded in political self-rule and personal development, constituted the backbone of democracy and only now had become actually achievable for the larger public. Weyl wrote, “Without an excess of wealth no democracy on a large scale” could exist, no matter how “much men might dream dreams or voices cry aloud in the wilderness.”

Thus society’s basic task was twofold: the continued generation of this abundance and, crucially, its redistribution away from centers of excessive wealth and toward the greater community. As with the populist tradition, Weyl argued for an energetic government authority intervening decisively in economic relations, one which “view[ed] . . .  our manifold business life from the standpoint of society and not solely from that of the present beneficiaries or directors of industry.” This redistributive state was necessary because “The creation of a social surplus . . .  does not automatically or immediately give rise to a socialized democracy. It creates merely the opportunity for such a democracy.” In terms reminiscent of the old Omaha Platform, Weyl imagined a variety of means for managing national wealth, from tax policy to government ownership of selected industries. The ultimate goal was the “attainment by the people of the largest possible industrial control and of the largest possible industrial dividend.”

At the most basic level, Weyl hoped that popular oversight would create an expansive social safety net, such that destitution would finally
disappear. Yet he also realized that actual independence—the elimination of arbitrary authority as exercised by political and economic elites—required more than simply freedom from necessity or a stable income. Individuals had to gain control over new, seemingly all-powerful social forces. This involved possessing the cultural skills and material resources required to make sense of their condition and to intervene meaningfully in collective life. For Weyl, social realities in the nineteenth century had made it relatively easy for settlers to gain these skills without extensive government involvement. Homesteading and artisanal production provided a continual training in the habits of character essential for independence. Moreover, given the limited scale of economic and political organization, most decisions that affected an individual’s daily experience were made locally. Not only were these decisions readily apparent and understandable to ordinary citizens; settlers had immediate access to the primary decision-making bodies, such as legislatures and local courts. By contrast, in the twentieth century, dramatic shifts wrought by industrialization and bureaucratic hierarchy had made obsolete the social backdrop that promoted small-scale producerist democracy. As a result, government would have to play more than just a redistributive role; it also would have to revive the cultural resources necessary for self-rule.

According to Weyl, this meant that the social surplus should be employed to provide a universal and free education to all, from kindergarten through university. The goal of such education was not social mobility for a talented few or enhancing the country’s competitive prospects abroad but the thorough democratization of intelligence, by which everyone developed the capacities to recognize their own interests and to pursue personal and public goals. Just as Manning had once hoped that a Society of Laborers would produce a virtuous and elevated laboring constituency, Weyl imagined a new system of education “creating a revolutionary force in the community of astounding power and magnitude.” This democratic knowledge would allow ordinary men and women to reclaim control “in their industrial pursuits, in their political activities, and in their private life outside of industry and politics.”

In these arguments concerning education, Weyl invoked a foundational component of the nineteenth century’s populist tradition: the idea that labor and learning should not be compartmentalized between separate classes, with a majority consigned to a life of hard work and a select minority enjoying the privileges of culture. In the 1840s, Brownson had asserted that liberty as self-rule would be impossible so long as there ex-
isted “a learned class and an unlearned, a cultivated class and an unculti-
vated, a refined class and a vulgar, a wealthy class and a poor.” He main-
tained that the Aristotelian benefits of leisure—time for self-reflection, poli-
tical engagement, and the enjoyment of ideas—should be widely ex-
tended and, in the process, should nullify the “division of society into
workingmen and idlers, employers and operatives.”

Weyl updated these claims by insisting that alongside education, free-
dom under industrial conditions also required the democratization of
leisure. He saw around him employees working virtually endless hours.
Factory laborers, in particular, were denied the opportunity to develop
the basic qualities of character essential for free citizenship, let alone the
time to participate fully in public life. In his view, it was “better” to live
“as ‘sturdy beggar’ or a vermin-infested tramp than a desiccated toiler
who works twelve hours a day, seven days a week, fifty-two weeks in a
year.” To the extent that most individuals were consigned to a life of long
hours and permanent drudgery “without leisure or quiet development,”
they were fundamentally unfree. Thus Weyl argued that only if equipped
with a stable income, a proper education, and enough leisure time for
self-development would individuals in the new economy have the capacity
and the opportunity to exercise meaningful political control. In essence,
Weyl presented the parameters of a Progressive reframing of republican
ideas, focused around the emancipatory possibilities offered by economic
abundance.

In responding to Weyl, Herbert Croly found one key element missing
from this account: actual and immediate self-government. In Progressive
Democracy (1914), Croly defended the importance of direct participa-
tion in economic and political life. In particular, he believed that Weyl’s
approach failed to address fully the problem of dependent work—work
carried out under conditions in which the laborer or employee had lim-
ited control over his or her own activities. Croly worried that Progressive
reform had drifted increasingly toward a primary focus on social insur-
ance alone. Indeed, Weyl and others proposed

to insure [the individual] against unemployment, sickness and old
age, to guarantee to him wholesome conditions of work, and to
make it impossible for a faithful worker to be paid less than a fair
minimum wage. They expect to enable the wage-earner to keep his
head above water and to prevent him from being submerged by
the vicissitudes of his health and work.
While economic security may have been a precondition for freedom, as long as most Americans were denied a participatory role in industrial decision making “the relation of dependence” between employer and employee “remain[ed].” For Croly, “The emancipation of the wage-earner demand[ed] . . . [that] the same comparative control over his own destiny shall be attached to his position as to that of the property owner.”

Croly asserted that over the long haul Weyl’s deemphasis on workplace participation would diminish democratic authority more generally. Despite universal education and enhanced leisure time, if individuals spent most of their lives consigned to executing tasks directed from above they would hardly become free citizens fit for self-rule. As a consequence, forces wary of democratic ideals would inevitably argue that since most people rarely engaged in actual decision making they lacked the necessary expertise for such responsibility. Social ends could be “accomplished with less friction and delay through the agency of an authoritative representative body.” Employers and politicians would therefore press for the creation of a single, unified institution to speak on behalf of the people, without being subject to the vicissitudes of popular disagreement or the chaos of mob rule.

For Croly, this end result meant abandoning republican liberty and compelling ordinary Americans to retreat from arenas of social power. He worried that some Progressives “attach[ed] too much importance to the accomplishment and maintenance of specific results, and too little to the permanent moral welfare of the democracy.” Democracy at root was an experience in collective popular control, one that required individuals to exercise actual economic and political authority and to be habituated to the rigors and responsibilities of this power. Referring to administration from above, he wrote, “The program which is carried out by such means will do nothing to make the people worthy of their advantages. The result will either be popular servility or organized popular resistance or both.” The only way of avoiding these outcomes was to combine “direct democracy” in politics with “an industrial self-governing democracy” at work.

Such industrial democracy required that “freedom must somehow be introduced in the wage-system itself.” Holding on to an ideal of a cooperative commonwealth, Croly asserted that economic independence entailed nothing less than having industrial workers “being responsible as a group of self-governing communities for the proper organization and
execution of the productive work of society.” Given the complexity of industrial life, Croly believed that a powerful new unionism, intricately involved in all the basic decisions of economic production, offered the best available avenue for meaningful self-rule. He hoped that unions would become an instrument for breaking the employer’s monopoly on decision making. In this way, labor representatives and democratically elected legislators would ensure that the community as a whole, rather than a narrow interest, would be instrumentally involved in setting wages, working conditions, and production goals. As a result, industrial labor would not merely carry on the old master-servant relationship, with employers unilaterally dictating the primary contours of work life. Just as important, the actual struggle by workers to create powerful unions would embody an “active effort on behalf of an increasing measure of self-government”; the process of building workplace solidarity and union institutions would become its own unique training ground in republican freedom.18

Clearly Croly’s industrial unionism, large scale and concentrated, had the potential to be a potent tool for challenging the absolutism of employer rule and for pursuing economic redistribution. Yet at the same time it did not seem as well equipped for Croly’s key task, namely, for providing all workers in their daily experience an opportunity to exercise control over critical workplace decisions. This vision had been precisely what the old artisanal model provided, and its loss was what Croly now lamented. Rather than being participatory, however, Croly’s industrial unionism appeared ultimately to be a centralized and largely representative vision, with authority focused at the top in workshop leaders who would bargain over demands and provide an agenda for industrial conflict. As most workers would have a limited direct role in setting the terms of economic production, one could only wonder how concentrated unions would promote the old cooperative ideal. In essence, Croly appreciated the seeming permanence of administrative complexity but did not imagine ways to challenge a rigid division of labor between empowered decision makers and largely passive workers. His focus on unionism, while certainly an aid in breaking employer hegemony, would not alone make the workplace less hierarchical or less dominated by elite rule. Without additional measures, such unionism by itself did not actually devolve power but simply multiplied the number of elites involved in decision making.
Dewey, Kallen, and Democratizing Intelligence and Leisure

Taken together, Croly and Weyl suggested the diverse components of a new republican vision—components that other reformers highlighted and integrated. In works like Democracy and Education (1916) and The Public and Its Problems (1927), Dewey combined Weyl’s ideas about democratizing intelligence with Croly’s focus on actual participation in all collective institutions. In the process, he attempted to respond directly to the problems of hierarchy in the division of labor and to imagine aids to unionism that might alter the elite-driven nature of modern work. Dewey referred to the prevailing social paradigm of corporate power and bureaucratic complexity as the “Great Society,” an impersonal and increasingly authoritarian end product of the machine age and technological development. Yet, like Weyl and Croly, he believed it was still possible to transform the “inchoate public” into a completely realized democratic polity organized around republican principles. As with nineteenth-century defenders of the cooperative commonwealth, Dewey called for continuous popular self-rule, which he hoped would marry the ideal of pluralism with personal, political, and economic autonomy:

From the standpoint of the individual, it consists in having a responsible share according to capacity in forming and directing the activities of the groups to which one belongs and in participating according to the need in the values which the groups sustain. From the standpoint of the groups, it demands liberation of the potentialities of members of a group in harmony with the interests and goods which are common.

Dewey imagined as the driving social force the free citizen, who “finds his conduct as a member of a political group enriching and enriched by his participation in family life, industry, scientific and artistic associations.” Thus the primary goal of politics was to transform the “Great Society” into a “Great Community” where the full potential of human achievement and democratic cooperation would be unleashed.19

Dewey believed that a central means for achieving this goal was not only strengthening unionism but also attacking the increasingly strict divide at work between managerial jobs and those that reduced most employees to the performance of rote mechanical tasks. New economic realities may have made the division of labor an unavoidable feature of collective life, but it was still possible to reduce its inflexibility and to
provide a far greater diffusion of practical responsibility. He hoped that by creating avenues within the daily exercise of work for employees to act creatively and independently, new oligarchies of power would be prevented from taking root. As a consequence, no group of educated elites would be able to claim a monopoly on useful knowledge and practical authority. Dewey thus argued that confronting the pathologies embedded within a hierarchical and corporate division of labor should be at the forefront of any republican agenda:

> The price that democratic societies will have to pay for their continuing health is the elimination of an oligarchy—the most exclusive and dangerous of all—that attempts to monopolize the benefits of intelligence and of the best methods for the profit of a few privileged ones, while practical labor, requiring less spiritual effort and less initiative, remains the lot of the great majority.20

According to Dewey, a truly democratic community had to combine the activity of “producing commodities and rendering service” with the experience of “self-directive thought.” As a consequence, it needed an educational system attuned precisely to these needs. This system had to focus on intertwining “culture and utility” in a manner that provided individuals not only with book learning but with the everyday skills to make decisions in the workplace.21 In essence, Dewey embraced Weyl’s vision of universal education and tied it explicitly to the question of the modern industrial and bureaucratic life. Dewey took as given that even truly transformative social change, what he called a “practical re-formation of social conditions,” would not bring back the Jacksonian world of producerism and local democracy.22 Although that world may have disappeared forever, it was still possible to elevate popular capacities and to infuse work and politics with the experience of self-rule. In this way, the Great Community—a society that refused to cleave individuals “into a learned and an unlearned class, a leisure and a laboring class”—nonetheless could be achieved.23

If Dewey tied arguments about education to a restructured division of labor, philosopher Horace Kallen suggested the radical implications of Weyl’s other hope of democratizing leisure.24 For Weyl, expanding leisure primarily meant reducing the hours spent working, so that individuals had time for personal improvement and political action. Kallen argued that such a perspective missed the implicit goal that had long been at the heart of republican ideas of economic freedom. This implicit goal was
nothing less than transforming labor itself into an extension of leisure. By leisure, Kallen meant those activities that individuals engaged in out of their own intrinsic value to self and society rather than due to the dictates of necessity. For labor to become leisure, he believed that two basic problems had to be addressed. First, this aim required confronting the fact that while some forms of work were essential, they had limited potential for self-fulfillment. In his view, although menial jobs had to be undertaken, social wealth should be employed to reduce the hours that individuals spent performing these jobs to a bare minimum. Even more important, such work should be distributed so that no individual or constituency was consigned to their permanent execution—as historically subordinated groups had long been—and therefore did not have opportunities to engage in self-fulfilling activity.

Second, Kallen held that society also needed to establish “freedom in the factory.” In keeping with both Dewey and the old cooperative ideal, he meant that employees must be able to take part in basic decision making and to engage creatively with the critical tasks and projects before the company. According to Kallen, “Whatever else industrial democracy could mean it could not mean anything less than this participative realization of the entire process of production, its conditions, its means, and its results.” He hoped that by giving individuals control over their work life and by extending the independent time they had for personal development, the boundaries separating labor and leisure would begin to blur. As with the broader nineteenth-century populist tradition, Kallen argued that such a society could emerge only if social skills and knowledge were widely distributed. Equipped with these tools, individuals would have the basic capacities to experiment in the economic arena as well as to collaborate in pursuing new creative and political endeavors. For Kallen this generalized way of life was the final fulfillment of long-standing republican ambitions. It meant that economic “tasks [would be] freely chosen, illumined by understanding, and made personal . . . by conscious participation of each in all, serving to liberate [one’s] powers and skills instead of enslaving them.”

In a sense, Dewey, Kallen, Croly, and Weyl each elaborated the outlines of how industrial and political complexity could remain bound to republican freedom. They all emphasized the centrality of using economic abundance not simply to eliminate the worst forms of social misery but also to create an educated, economically independent, and self-assertive public community. This community would have both the resources to
make decisions at work and in politics, as well as the time to pursue new projects of personal and collective improvement. Although the old conditions necessary for self-rule—farming and artisanal production—may have largely disappeared, this did not mean that self-rule as such had to vanish with them. Still a basic question remained: which groups within society could be counted on to promote this vision of social possibility? Just as with many active in the Populist movement, Weyl and others presumed that democracy required the permanent and energetic involvement of its members. Absent a galvanized and vigilant constituency, the specter existed of a society unleashing the powers of state authority without the popular means to restrain or direct this capacity. As the following pages underscore, the central responses provided by Progressives during this period—the development of a “national” people and the elevation of the consumer—did little to quell such concerns.

**Nationalism and the Consumer Citizen**

In confronting the future of freedom in an industrializing economy, Weyl, Kallen, Croly, and Dewey, akin to 1890s Populists, sought to unite an interventionist state with a mobilized public. Yet they rejected the old focus on the laboring community and hoped to engage not merely a particular element within society but society as a whole. Instead of farmers and wage earners alone, they believed that if properly educated all individuals could stand as a government behind the government, directing state authority. The difficulty, however, lay in how to organize this massive and diverse public such that most Americans came to see themselves as sharing common interests and goals. According to both Weyl and Kallen, the perspective of production had failed to coalesce society or to present such a framework for collective action. The individual’s relationship to work was so various and conflicting that its emphasis only promoted further class conflict and social disorder. Weyl wrote, “The producer . . . is highly differentiated. He is banker, lawyer, soldier, tailor, farmer, shoebblack, messenger boy. He is capitalist, workman, money lender, money borrower, urban worker, rural worker.”

Thankfully, another orientation to the economy existed, which rather than dividing the public emphasized its shared experiences: one’s social role as a consumer. For Weyl, it was when individuals acted jointly from this perspective that they constituted the “people” and pursued the common good. “In America to-day the unifying economic force, about which a majority, hostile to the plutocracy, is forming, is the common interest
of the citizen as a consumer of wealth.” Echoing this sentiment, Kallen similarly called for popular activity organized around this “primacy of the consumer” and directed “to express and sustain the liberties intrinsic to it.”

Where the populist tradition had long appealed to the laboring masses to assert their authority over the economic and political process, Weyl now called on “a million inaudible consumers” to make their voices heard. In his view, Progressivism was the maturation of Americans as consumers and thus the creation of a new political community in which everyone—regardless of producer status—became driving political agents. Weyl wrote: “The consumer, disinterred from his grave, reappears in the political arena as the ‘common man,’ the ‘plain people,’ the ‘strap-hanger,’ ‘the man on the street,’ ‘the taxpayer,’ the ‘ultimate consumer.’ Men who voted as producers are now voting as consumers.”

Both Weyl and Kallen hoped that if Americans thought of themselves as consumers first, they would appreciate how concentrated wealth created destructive new oligarchies, which prevented a proper distribution and use of social surplus—in the process undermining republican freedom. Weyl imagined that an elevated populace, educated in “the wise consumption of wealth,” would employ that knowledge to assert democratic authority over industry and government. According to this view, the emergence of the consumer outlook would facilitate self-rule, by providing the public a common frame by which to understand and challenge structures of inequality and hierarchy. As Kallen wrote, consumer-oriented activity, such as through consumer cooperatives, offered diverse groups the opportunity to gain collective “power over themselves” and thus the capacity to assert popular control over “the lawless power of the corporation.”

Yet this perspective faced a basic challenge. The public’s primary activities as consumers appeared to entail little more than a wise rotation of legislators and the consumption of products. The focus on the rational consumer created a fundamental separation between those who actually wielded power in key institutions and most Americans, who simply reacted in the political and economic marketplace to the former group’s platforms and decisions. One was left to wonder whether the practice of consuming would provide a meaningful ethical and educative grounding in free citizenship. The risk existed that it would instead empty self-rule of any real content by transforming most individuals into passive recipients of decisions made elsewhere.
Of particular concern was the fact that consumers as a whole, precisely because the category included everyone, constituted a remarkably diffuse social group. Weyl himself recognized that a progressive welfare state—as opposed to an actual social movement, political party, or civil association—provided the institution that came closest to representing all consumers. At its worst, this suggested a troubling unity between state and public, in which state actors could claim that whatever they defined as the consumer interest embodied the greater good. For all the talk of democratic control, empowering consumers presented the distinct possibility of substituting the interests of political elites for popularly derived goals. Since the consumer outlook appeared best expressed by state actors, the state could easily replace the consumer as the driving force of decision making. In a sense, the public would exist as a social beneficiary but disappear as a democratic agent. These ideas created the potential for dramatically extending state authority while at the same time producing a far more passive public.

Running parallel to Weyl’s arguments, Croly’s attempt to reshape political identity only heightened such risks. As markets became integrated and Americans came to think of themselves as consumers, Croly contended that another shared perspective had emerged. This perspective joined individuals not on the basis of class, party, or ethnic affiliation but rather on the basis of their commitment to a single, unified nation. He hoped that the American nation, endowed with power and prosperity, over time would become the defining emotional and political attachment for all social members. Like Weyl and Kallen, Croly imagined that the new nationalism, facilitated by cross-regional markets and consumer identities, would strengthen democratic practice by repudiating old sectional outlooks and fostering public cohesiveness. Croly famously wrote in *The Promise of American Life* (1909) that “a people which becomes more of a nation becomes for that very reason more of a democracy.” As James Morone remarks, Croly’s “constituency was a single national people, mobilized in opposition to the concentration of private power.”

Yet Croly’s call to nationalism presupposed a defense not just of energetic government action but also of an increasingly hierarchical state structure. For Americans to identify as members of a nation, there had to exist a nationalized politics, in which government and the economy were both centralized in specific institutions. Croly wrote, “the national advance of the American democracy . . . demand[s] an increasing amount of centralized action and responsibility.” In his opinion, this belief was a simple
recognition of the United States’ transformed social landscape; central-
ization was “the natural consequence of the increasing concentration of American industrial, political, and social life.” “The growing centraliza-
tion of American activity,” Croly concluded, “demand[ed] more rather than less centralization.”31 For all his talk of self-government, the larger implication of this trend was an inevitable diminution in the relevant sites for economic and political decision making. It meant a further separation of most individuals from the actual exercise of authority in their daily lives.

Croly hoped that despite this separation, democratic control would still be ensured through the practices of “direct democracy.” He and Weyl both defended a series of institutional reforms aimed at strengthening the power of citizens. As Morone lists them, these included the “direct election of senators, primaries, referenda, recall, initiative, constitutional amendments, public review of Court decisions.” One should note that each of these institutional reforms also had been defended by radical Populists, as instruments by which rank-and-file activists were able to shape political outcomes. The Populist Party, with the help of agrarian and labor associations, hoped to organize the sentiment of farmers and industrial workers and then to employ new procedural mechanisms to impose the collective will on recalcitrant social forces. Similarly, Croly imagined these devices as providing the lever for democratic engagement, allowing the people to continuously and “resolutely pursue[] a vigorous social program.” The referendum and initiative were ultimately two “of a group of political institutions, whose object is fundamentally to invigorate and socialize the action of American public opinion.”32

However, Croly’s national public was even more diffuse than Weyl’s and Kallen’s society of consumers. It remained unclear exactly how this body would organize itself and thus on what basis it could “socialize” its political activity. In rejecting the concrete community of laborers, and in failing to embrace any actually existing social group (as opposed to the fictive national and unitary popular will), Croly left his theory without an actual public to galvanize. The heart of his direct democracy, just as for Populists, was an energetic collective agent. Yet, in refusing to focus on a clear community engaged in actual activities of protest and reform, he in essence denied the existence of any agent within society that could direct political decision making. This wariness of the actual social forces at large went hand in hand with a wariness of existing political organizations. The union clearly had a crucial role in the workplace, but neither it
nor parties should serve as political intermediaries in his nationalized vision. In a sense, Croly remained suspicious of the capacity of ordinary Americans to control such organizations and of whether these groups would promote a unified popular will. Therefore direct democracy meant eliminating the barriers between a centralized government and the people writ large and casting aside those partial associations that had previously cohered collective life.

The consequence, however, was to reduce the American people into an undifferentiated mass and to strip real political constituencies of the institutional bases by which they asserted their own authority. Croly rejected the belief that “an authoritative representative body”—such as Congress or, more likely, the president—should shape public opinion and determine the collective will. He imagined a bottom-up political process of constant pressure and popular self-assertion. But his image of the people and his skepticism of its existing modes of public expression left little else as real political possibilities. If constituencies were dissolved and associative ties diminished, what else but a powerful and centralized state would dominate the political discourse? Under such circumstances, procedural reforms would become tools for government to pursue its own interpretation of the popular will almost regardless of the people. While Croly held on to the dream of republican citizenship, in practice his politics suggested the basis for something quite different—a centralized political authority that substituted its own agency for that of social constituencies. Without a specific and mobilized social group, it would be difficult for anything other than this “authoritative representative body” to assert power.

Thus it was no coincidence that both Croly and Weyl provided an ideological foundation for Theodore Roosevelt’s 1912 platform, aptly named the “New Nationalism.” Croly’s “national democracy” fit surprisingly well into Roosevelt’s own stewardship theory of the presidency, in which “the President . . . is the steward of the people, and . . . he is bound to assume that he has the legal right to do whatever the needs of the people demand, unless the Constitution or the laws explicitly forbid him to do it.”33 If all that remained of collective power were two poles, the president and an imagined national people, only the former had the practical capacity to speak on behalf of the whole. In other words, only the president would know what the people in all their complexity might want and therefore in what direction state power should flow. Moreover, while Croly viewed “nationalism” as domestic popular action aimed at
challenging the new “plutocracy,” this focus on centralization and American prestige easily spilled over into a defense of U.S. global authority. For individuals like Roosevelt, national pride and identification enhanced not only strong presidential prerogatives but also their decisive use abroad to maintain and project American power. In a sense, Croly and Weyl unintentionally participated in the development of a very different vision of collective life than the vision they originally espoused. This account centralized decision making among small numbers of elites and employed concepts of nationalism to create an identity between the public interest and state actions at home and abroad.

As for Dewey, he took to heart the danger posed by centralized industry and systems of mass communication but seemed unable to imagine either the political constituencies or the social forces that would challenge entrenched hierarchies. While he maintained that “The Great Community . . . is conceivable,” in the same breath he added, “but it can never possess all the qualities which mark a local community.”34 Wary of the implications of unleashing either consumerism or national sentiment, Dewey abandoned the goal of locating the drive for republican freedom in a defined group. Thus, when calling for the creation of a Great Community, Dewey failed to specify precisely to whom he was speaking or to identify what social movement should emerge to construct this democratic ideal. The abstractness of his appeal to the public was in large part the product of a deep-seated antipathy to social discord or violence in any form. In Liberalism and Social Action (1935), Dewey recognized the “existence of class conflicts, amounting at times to a veiled civil war,” but refused to accept the idea that society was divided by fundamentally distinct material interests. Instead, he argued that the notion of cooperation was not only the ideal of social democracy but also the guiding principle of history, promoting progress and technological improvement. Although “coercion and oppression [may exist] on a large scale,” human experience was the unfolding of a “cooperatively organized intelligence.”35

In making this argument, Dewey necessarily rejected an entire tradition of American social criticism, dating back to William Manning’s The Key of Liberty, which asserted just the opposite. For Manning and others, social conflict was a permanent feature of collective life, because the material interests of some groups—for instance, Jackson’s moneyed aristocrats—were not consistent with the goals of economic independence and popular participation. Recognizing such conflict, moreover, allowed
Manning and his intellectual successors to see the creation of a cooperative commonwealth as directly tied to the fate of an organized social movement. For them, this movement was grounded in the experience of work and therefore sought to unify the laboring community in all its diversity. Dewey, however, not only rejected this constituency but refused to look to those real, everyday sites of contestation that might have provided him with a relevant collective agent. In neglecting to identify differentiated and potentially active groups within the larger nation, his philosophy presented a politics without any social means for its fulfillment. In a sense, Croly, Weyl, Kallen, and Dewey all suggested the outlines of a modern reframing for republican ideals. But with the collapse of agrarian revolt, they had greater difficulty with imagining which constituencies could be called upon successfully to pursue these ideals. Taken together, they thus presented the picture of a strengthened and muscular state without a mobilized public directing it toward clear goals.

_Progressive Administration, the Decline of the Party, and Women’s Suffrage_

In many ways, the increasing uncertainty about democratic agency expressed a mood prevalent in the early twentieth century. Not only did the period see the rise of industrial hierarchy, the administrative state, and, not unrelatedly, mass consumption; it also witnessed the steady dismantling of those instruments that historically had sustained popular political activity—especially patronage parties. Although the extension of suffrage to women indicated a new and potentially powerful political grouping, this numerical increase in the voting public failed to counter the general trend toward diminished participation. If anything, more and more thinkers and policymakers began to argue that the very idea of productive control and popular political decision making should give way to efficient and beneficent administration.

After 1900, government reform efforts took as a key task the goal of combating corruption and nepotism as well as party control over the electoral process. Following Croly’s logic, parties in general were seen as impediments limiting the ability of citizens to express their political wishes directly. Therefore, greater state authority over the party system was believed to be an essential means of strengthening political meritocracy and transparency. Commenting on the plethora of reforms, which included the secret vote and government printing of the ballot, Chester Lloyd Jones wrote in 1913:
The most striking development affecting parties in the last half century had been the increasing degree to which their activities have become subject to regulation by law. The printing of ballots, the canvassing of votes, the regulation of the time and procedures of caucuses, primaries, and conventions, even the choice of their own committees, has been more and more taken from the parties and put under public supervision.36

The long-term consequence of such regulation was an extensive reduction in mass participation. In part, this can be explained by the defeat of Populism as a social movement, which left in its wake a demobilized political base. S. O. Daws, one of the founders of the Farmers Alliance, noted as early as 1887, “If the Alliance is destroyed, it will be some time before the people have confidence in themselves, and one another, to revive it, or organize anything new.” Still, Progressive-era reforms also played a central role in popular demobilization. As one example, Mark Kornbluh notes that “The Australian ballot [the secret ballot] made it significantly more difficult . . . for illiterate and non-English speaking voters to participate in elections. Such voters had no trouble casting a party-printed ticket, which always included party symbols . . . but they could not read a consolidated ballot.” Moreover, as previously discussed, nineteenth-century parties had been principal mechanisms for integrating diverse social segments—such as immigrants, farmers, and industrial workers—into the political process. With parties and partisanship greatly diminished, the opportunities for these groups to participate diminished as well. No doubt some Progressives had hoped such measures would purify the electorate of marginalized groups. Along with having that consequence, the reforms also made the process in general far less amenable to popular intervention.37

In a sense, electoral changes were simply one piece of the larger emergence of a new bureaucratic state. While members of the People’s Party had sought to employ an energetic government on behalf of the laboring community, they also had fought against the rising tide of centralization and concentrated state power (especially in the executive). Yet, as their vision receded, the new administrative apparatus, strengthened by Progressive reforms, came to regulate more and more of economic life. The bureaucratic administration extended into multiple arenas, with the creation of the Interstate Commerce Commission, the Food and Drug Administration, the Federal Reserve Board, and the Federal Trade Commission,
among many others. More important, while such commissions were ostensibly under legislative control, these bodies enjoyed extensive independence from any electoral or participatory check. The expansion of bureaucratic power reduced the practical value of elections, and thus the decline of mass participation went hand in hand with a decline in the levers of meaningful influence.

This development was particularly ironic given that the greatest reform of the Progressive era was the Nineteenth Amendment, which in 1920 extended the right to vote to women. Thirty years earlier, Populists had also called for such a constitutional amendment and imagined laboring women as an untapped base for political mobilization through the Alliance and the People’s Party. After the collapse of Populism, many urban reformers and political elites, wary of class and ethnic politics as well as of partisanship generally, reached just the opposite conclusion about the potential role of women voters. “They expected that native-born, middle-class women would participate at higher rates than women from immigrant cultures, thus enabling reformers to defeat regular party organizations whose strength was lodged in the working-class and immigrant electorate.” In reality, suffrage appeared only once the new administrative state had already become deeply entrenched, and the everyday impact of the vote was already in retreat. Suffragist Suzanne La Follette commented on the institutional shifts, “It is the misfortune for the woman’s movement that it has succeeded in securing political rights for women at the very period when political rights are worth less than they have been at any time since the eighteenth century.”

While institutional shifts and changing social contexts undoubtedly conspired to reduce the meaning of suffrage, this reduction was also aided by the changing dynamics within the women’s suffrage movement itself. Not only did women receive the vote at a time when elections carried less political leverage than at any point in the previous century, but the driving voices in the suffrage movement increasingly turned away from the goals that motivated earlier feminists. As with those in the Populist movement, these goals had linked the struggle for suffrage with the capacity of marginalized women to press for economic emancipation and political self-rule. According to Charlotte Perkins Gilman, for suffrage to reshape gender roles and experiences, it had to be tied to efforts that provided women the same economic independence as that enjoyed by white males. This entailed challenging the material dependency of women on men, enforced through the prevailing sexual division of labor both
within and outside of marriage. This division left women bound to the home in a sphere of domesticity, which denied them the possibility of controlling their own labor.

Consequently, while the vote was a precondition for republican liberty, Gilman asserted that it alone would not end practical subordination unless connected to a broader reform agenda. In *Women and Economics* (1898), she wrote:

> The main line of progress is and has been toward economic equality and freedom. While life exists on earth, the economic conditions must underlie and dominate each existing form and its activities; and social life is no exception. A society whose economic unit is a sex-union can no more develop beyond a certain point industrially than a society like the patriarchal, whose political unit was a sex-union, could develop beyond a certain point politically.

Gilman hoped to connect the women’s vote to specific policy ends, concerned with equalizing pay and “socializing the household industries.” The latter would give women the opportunity to participate fully in economic and political life, through state-supported assistance with child rearing and housekeeping—assistance that also distributed these burdens across both genders. In this context, “The home would cease to be to us a workshop or a museum, and would become far more the personal expression of its occupants—the place of peace and rest, of love and privacy—than it can be in its present condition of arrested industrial development.” For feminists like Gilman, the movement for women’s rights was part of the general democratic effort to eliminate all forms of dependency—paternal or otherwise—that imposed relations of inferiority and control on subject groups.40

Yet, by the time the Nineteenth Amendment was passed, women’s enfranchisement had occurred in the context of a far more truncated suffragist position. Over time, feminist efforts had become directed primarily by privileged elites, who in order to achieve the right to vote had no problems abandoning larger social ambitions. Suffragists did not simply acquiesce to ideas of a purified electorate; in fact, they linked their calls to efforts that would disenfranchise less worthy social elements, through literacy tests, property requirements, and black exclusion. Expressing the prevailing sentiment, Carrie Chapman Catt, president of the National American Women’s Suffrage Association, conceded in her 1901 presidential address that hesitancy to extend the vote to white women was in part
due to the “ill-advised haste” with which states in recent decades had enfranchised “the foreigner, the Negro, and the Indian.” Agreeing with the arguments favoring a purified electorate, Catt reasoned that “Perilous conditions, seeming to follow from the introduction into the body politic of vast numbers of irresponsible citizens, have made the nation timid.”41 By 1910 it took an iconoclast like Emma Goldman to reiterate the previous egalitarian vision of suffrage as bound to a universal and transformative social project. She bemoaned how the suffrage movement had become “absolutely detached from the economic needs of the people.” She saw in its sole focus on formal political rights “the narrowness of the existing conception of women’s independence and emancipation.”42

Therefore, while the vote no doubt provided women with political voice, both suffragist views and the growth of the administrative state limited its power—by checking the goals of and opportunities for popular intervention. In essence, despite the addition of a massive block of newly enfranchised citizens, the period witnessed the public’s steady removal from avenues of political decision making. While Croly may have hoped that administrative growth would expand and focus popular involvement, the ultimate consequence was that the people receded from democratic engagement. In this context, the center of public activity moved to the new national marketplace for mass consumer goods. According to a Muncie, Indiana, newspaper, “The American citizen’s first importance to his country is no longer that of a citizen but that of a consumer.”43 Weyl had argued that the consumer outlook could produce a unified collective interest and provide a shared basis to engage in politics and to press for social demands. He may have welcomed a strong state, but he also assumed that state power would remain checked by vigilant and wise citizenship. Instead, the power of mass consumption shifted attention toward private concerns. It might have fostered a shared perspective, but the perspective appeared far more politically apathetic than Weyl had expected or than had existed throughout the nineteenth century. In addition, the rise of consumerism raised profound questions about the public’s ability to make rational, intelligent decisions and thus about the viability of democracy in any form, representative or direct. Consumers seemed easily swayed by marketing ploys and new fads and entranced by the lowest common denominator. Nothing emphasized this fact more than the new mass media, as journalism traded in sensationalism and low-content human-interest stories.
Walter Lippmann, who had once co-edited the *New Republic* with Croly and Weyl, captured the emerging attitude in political life. Given the realities of administrative and social complexity, as well as of apparent popular incapacities, it was absurd to “hang[] human dignity on the one assumption about self-government.” Instead, Lippmann insisted that

Man’s dignity requires a standard of living, in which his capacities are properly exercised. . . . The criteria which you then apply to government are whether it is producing a certain minimum of health, of decent housing, of material necessities, of education, of freedom, of pleasures, of beauty, not simply whether at the sacrifice of all these things, it vibrates to the self-centered opinions that happen to be floating around in men’s minds. In the degree to which these criteria can be made exact and objective, political decision, which is inevitably the concern of comparatively few people, is actually brought into relation with the interests of men.44

Freedom no longer amounted to collective control over the basic sites of decision making; rather, it comprised security from economic want. Such security, instead of being a precondition for achieving economic and political independence, was ultimately an end in itself. For Lippmann politics segued into policy—a functionally distinct domain for experts. Participation was reduced to a diminished vote, and the primary arena of public concern now became the marketplace, which satisfied one’s private passions and prejudices. In a sense, Lippmann articulated growing intuitions about the need to break firmly with old republican narratives and to imagine both politics and freedom through a new framework of economic security and efficient administration. If thinkers like Croly had attempted to adapt republican ideas to modern conditions, Lippmann suggested that commitments to productive control and popular decision making had to be cast aside as either utopian fantasies or unhelpful forms of nostalgia.

From Settler Empire to Humanitarian Imperialism

This effective abandonment of the American vision of liberty as an exercise in continuous self-rule—which had motivated generations of individuals since before the Revolution—left the experience of social membership with a gaping void. If work and direct political participation
had provided the ethical foundation for free citizenship under settler-
ism, what would take their place in the new polity? A stable income and
mass consumption appeared unlikely to instill the same responsibility
and autonomy that once rooted collective life. Faced with this predic-
ament, thinkers and politicians turned to the other premise of American
settlerism—the project of empire—for a solution. If property and labor
could no longer ethically entrench full social membership, perhaps the
shared enterprise of global expansion would serve as the necessary
substitute.

In lamenting the closing of the American frontier and the disappear-
ance of those sturdy pioneer democrats, Frederick Jackson Turner re-
minded readers that the basic feature of settler society was not just eco-
nomic independence but also constant territorial expansion. Turner wrote
of the national experience, “Movement has been its dominant fact, and,
unless this training has no effect upon a people, the American energy will
continually demand a wider field for its exercise.” Speaking even more
pointedly of the centrality of empire, Turner remarked in a 1910 com-
mencement address at Indiana University that conquest was the settler’s
guiding principle:

The first ideal of the pioneer was that of conquest. It was his task
to fight with nature for the chance to exist. . . . It has been continu-
ous to our own day. Facing each generation of pioneers was the
unmastered continent. . . . The rifle and the ax are the symbols of
the backwoods pioneer. They meant a training in aggressive cour-
age, in domination, in directness of action, in destructiveness.

Confronting a twentieth century marked by commercialism and social
conflict, Turner suggested an alternative means by which to defend “the
expansive character of American life.” With society teetering on the
precipice of decadence and consumer apathy, a broad array of intellectual
als and political elites followed his lead. They saw in settlerism’s imperial
agenda the possibility of reconnecting social membership to self-discipline,
industry, and a sense of unified, national purpose.

In defending the value of “a strenuous life” (against the likes of Walter
Weyl), Theodore Roosevelt, Oliver Wendell Holmes, and Josiah Strong
presented a drastic overhaul of the very meaning of American empire,
aligning what had been a settler colonial project far more consistently
with the institutions and assumptions of European imperialism. However,
the globalization of American power at the beginning of the twentieth
The Two Faces of American Freedom

...century was neither a solely economic venture nor an exercise in pure power politics. Roosevelt, Holmes, and Strong also paved the way for an emerging vision of American inclusion, one profoundly steeped in Puritan millennial aspirations. Where radicals in the populist tradition from Skidmore to Neville had hoped to make self-rule a broadly accessible social experience, the new American globalism took as its goal the creation of a world where all equally could enjoy the benefits of permanent peace. These ideological commitments were embodied in the territorial acquisitions following the Spanish-American War. They were also expressed through a major shift in legal jurisprudence that legitimated international expansion, regardless of whether constitutional protections would be extended to new lands.

The Strenuous Life and the Imperative of Empire

On April 10, 1899, Theodore Roosevelt gave a speech before the Hamilton Club in Chicago, in which he began:

I wish to preach, not the doctrine of ignoble ease, but the doctrine of the strenuous life, the life of toil and effort, of labor and strife; to preach that highest form of success which comes, not to the man who desires mere easy peace, but to the man who does not shrink from danger, from hardship, or from bitter toil, and who out of these wins the splendid ultimate triumph.

Roosevelt looked upon the rise of mass consumption with derision, seeing in the desire to democratize leisure a basic rejection of the hard work and discipline that had perpetuated American settlerism and colonization. According to him, “When men fear work or fear righteous war, when women fear motherhood, they tremble on the brink of doom; and well it is that they should vanish from the earth, where they are fit subjects for the scorn of all men and women who are themselves strong and brave and high-minded.”

He worried that a frontierless America was one without the shared commitments that made collective life meaningful. For Roosevelt, social membership had to be more than either a diminished vote or the provision of material needs. It required a galvanizing missionary zeal, which fostered heroism and inspired individuals to subordinate their own private interest for the greater good. “No country can long endure if its foundations are not laid deep in ... material prosperity ... but neither was any nation ever yet truly great if it relied upon material prosperity

264
alone.” He reminded the public of the example provided by great warrior-
statesmen such as Lincoln and Grant, who “showed by their lives that . . .
they recognized that there were yet other and even loftier duties—duties
to the nation and duties to the race.” Thus Roosevelt sought to revive
two essential aspects of the old settler imagination. He considered Amer-
ica to be a fundamentally Anglo project, despite the realities of immigra-
tion and ethnic pluralism. Although himself of Dutch background, he
maintained that the country was founded on the principles of English
liberty and that both Britain and America shared imperial destinies,
which provided the “English-speaking race” with a basic civilizing mis-
sion. In fact, like many Americans at the time, he saw a deep cultural af-
finity connecting all of Britain’s settler populations, especially those of
the United States and South Africa. In both lands, colonists had over-
come threatening native groups and staked out new territory for the ex-
tension of free institutions. He called on the Anglo community at home
to throw off the weight of commercial decadence and to reclaim this
shared settler heritage and mission. Roosevelt therefore defended the
centrality of colonization for collective life and argued that although
the continental frontier may have closed, the world itself suggested a
new, far greater frontier. He acknowledged that it might be impossible
for Americans to settle other continents as it once did North America,
but citizens could still do “our share of the world’s work” and “strive in
good faith to play a great part in the world.”

Roosevelt considered the consequences of shrinking from the call to
global empire as dire, because other, more warlike nations would inevi-
tably challenge American isolationism. Given technological advances, the
oceans could no longer provide a safe barrier from the conflicts and dis-
order abroad. To sink into a fog of luxury and disinterest would leave the
nation subject to chaos outside its borders. In presenting the grim exam-
ple of China, a once great empire now carved up by competing European
powers, Roosevelt warned:

We cannot, if we would, play the part of China, and be content to
rot by inches in ignoble ease within our borders, taking no interest
in what goes on beyond them, sunk in a scrambling commercial-
ism; heedless of the higher life, the life of aspiration, of toil and
risk, busying ourselves only with the wants of our bodies for the
day, until suddenly we should find, beyond a shadow of question,
what China has already found, that in this world the nation that
has trained itself to a career of unwarlike and isolated ease is bound, in the end, to go down before other nations which have not lost the manly and adventurous qualities.\textsuperscript{48}

Thus global expansion was not only the natural extension of settler empire; it was also necessitated by international realities and the inevitable conflicts between competing nations.

In making these arguments, both Turner and Roosevelt stressed an American militarism that, despite long-standing antipathies to maintaining a standing army, nonetheless had deep roots in settler society. It was through violence that Anglo colonists expanded their empire and maintained a system of social hierarchy, which separated privileged insiders from indigenous, slave, or Mexican outsiders. In essence, the strenuous life could have two parallel meanings: the hard work of homesteading and economic autonomy or the permanent warfare of colonization. With the former in retreat, Roosevelt presented the latter as the remaining American path to unity and free citizenship.

By highlighting the importance of war in the national experience, Roosevelt therefore indicated how one’s role—as a soldier or as a worker—in extending American authority abroad offered a new ground for shared identity. This notion was never more eloquently emphasized than by Oliver Wendell Holmes in his 1895 Memorial Day address at Harvard, titled “The Soldier’s Faith.” Like Roosevelt, Holmes rejected “the longing” of “philanthropists, labor reformers, and men of fashion” to be “comfortable” and “shine without much trouble or danger.” Not only did commercialism enervate human activity, but it also promoted a fiction that the United States was safe beyond the oceans. The ever-present possibility of war, which demanded global action and continuous preparation, should provide a warning to Americans that “our comfortable routine is no eternal necessity of things, but merely a little space of calm in the midst of the tempestuous untamed streaming of the world.” Given such danger, the soldier’s faith was the last, best hope of protecting the nation and instilling a masculine commitment to vigor and loyalty. Holmes described this faith as that sense of purpose, “which leads a soldier to throw away his life in obedience to a blindly accepted duty, in a cause which he little understands, in a plan of campaign of which he has no notion, under tactics of which he does not see the use.”\textsuperscript{49}

While this defense of militarism may have spoken to the violent nature of life on the settler frontier, it nonetheless embodied the very antith-
thesis of republican freedom. Rather than rational and autonomous action coupled with a constant vigilance directed at state power, Holmes reverentially described the value of blind obedience. For him, this new colonizing project would be built on devotion to a national purpose, almost regardless of what constituted that purpose. In essence, Roosevelt and Holmes were struggling to find an alternative foundation for free citizenship, an ethical basis that would give value to full membership and inculcate the willingness to sacrifice personal ends for collective goals. In this search they reversed Harrington’s great republican claim that—rather than military experience—property ownership could instill individuals with the independence and discipline necessary for public life. Now discarding economic autonomy, Holmes and Roosevelt returned to warfare as the educative arena for true American citizenship.

Even anti-imperialists and self-avowed pacifists like William James appreciated the problem posed by social membership devoid of value or a sense of shared responsibility. James wrote, “The war-party is assuredly right in affirming and reaffirming that the martial virtues, although originally gained by the race through war, are absolute and permanent human goods.” Not unlike Harrington, James asserted the need for a “moral equivalent of war,” which would reenergize a demobilized public and shift collective energy away from the marketplace and purely private endeavors. James’s solution, which later provided the inspiration for the New Deal’s Civilian Conservation Corps, was the creation of a national service.50 James hoped such a program would send American youth “to coal and iron mines, to freight trains, to fishing fleets in December, to dish-washing, clothes-washing, and window-washing, to road-building and tunnel-making, to foundries and stoke-holes, and to the frames of skyscrapers.” “Instead of military conscription,” James described national service as “a conscription of the whole population to form for a certain number of years a part of the army enlisted against Nature.”51

While both militarism and James’s “moral equivalent” sought to develop within Americans a higher national calling, neither were authentic visions of self-rule. If the ethical basis of republican citizenship had been an everyday experience in independence and collective decision making, Holmes, Roosevelt, and James all presented no alternative method for fostering such independence. James was clearly worried about the lack of thoughtful reflection embodied by militarized society, but his solution was essentially to militarize the economy and imagine industrial workers as their own army. In searching for “martial virtues,” Americans such as
Holmes and James appear to have lost sense of the very purpose of those qualities. The old settler ideal did not consider these virtues as ends in themselves but rather held them as valuable to the extent that they promoted liberty as self-rule. But with a strong account of self-government taking more and more of a backseat, the call for discipline merely reinforced the hierarchical tendencies of collective life and became its own justification. This was clearly not James’s intention but rather a consequence of employing a militarized discourse to describe both membership and what was valuable in civilian life. Thus James and “the war-party” seemingly merged, presenting complementary rather than competing arguments. Just as imperial adventures abroad would embody “the strenuous life,” a regimented and industrious labor force at home could help the nation unleash its economic potential. Each approach provided a nationalistic ethos, which de-emphasized the old participatory focus and instead stressed American dominance, whether at war or in the factories.

Moreover, such nationalism fit very comfortably into a resurgent millennialism, which not unlike its Puritan forebear imagined the United States as enjoying a historically redemptive mission. One should recall that during the mid-nineteenth century, with republican ideals under threat due to the rise of wage labor, settlers retreated into a xenophobic politics that embraced Manifest Destiny and the drive for continental expansion. Now, similar fears over the future of free citizenship and the meaning of liberty produced an analogous turn to millennialism. In one of the best-selling books of the late nineteenth century, *Our Country: Its Possible Future and Its Present Crisis* (1885), Congregationalist pastor Josiah Strong combined apprehension of American commercialism with a call for reformation and a return to the great promise of Anglo colonization. In many ways, the book was an old-fashioned Puritan jeremiad, which exposed the weakness and sin of the body politic while at the same time reminding the faithful of the coming utopia. In chapter after chapter, Strong described the perils threatening the United States, which included Catholicism, Mormonism, intemperance, socialism, wealth, and the rise of the city. All undermined the persistence of a settler society, premised on Anglo-Saxon supremacy, Puritan religion, and economic equality among social insiders. According to Strong, the United States had been overrun by southern European immigrants, many of whom were Catholic, and who by crowding the cities swelled the “dangerous classes” and spread “ignorance” and “vice.” Moreover, industrial growth had produced
a perilous gulf between the rich and the poor and a “gross materialism” that promoted “enervation, corruption, and destruction.”

In the past, American settlerism had been threatened primarily by external foes: indigenous enemies and the British metropole. Now the foes were both external and internal. Abroad, the world braced for “a final competition between races,” in which the United States would be confronted inevitably by warlike and hostile nations—whether or not it sought peace. At home, the settler composition of society was in retreat and would have to be defended from impure and ethnically dissimilar elements as well as from an all-pervading decadence. However dire, Strong saw these crises as essentially parallel to what faced the early Anglo colonists, those “first permanent settlers who impress themselves and their character on the future.” Regardless of historical changes that “produced important modifications,” Strong imagined a reenergized Anglo-Saxon community as following the example laid by its ancestors. Puritans had believed that continental expansion would eliminate the dangers to freedom and create a millennial republic of peace. Strong argued that this goal was still within reach but should be altered in critical ways due to new social realities. Despite controlling the continent, the United States was no closer to peace or to a Protestant utopia and now saw its vigor sapped by industrialism and the massive immigration of culturally unfit communities. Under these conditions, only if the United States as an Anglo-Saxon nation asserted its global preeminence would the ultimate hope of combining liberty and security be achieved.

Following the old Puritan settler argument, empire was a religious duty handed down to Americans as an ethnically chosen people. Yet Strong’s millennial vision was importantly distinct in one key respect. As he wrote, “Thus, while on this continent God is training the Anglo-Saxon race for its mission, a complemental work has been in progress in the great world beyond. God has two hands. Not only is he preparing in our civilization the die with which to stamp the nations, but . . . he is preparing mankind to receive our impress.” For tranquility to envelop the world, American empire had to spread Anglo-Saxon liberty to the far corners of the globe and to ethnically distinct peoples. The original assumption of settler colonization was that nonwhite outsiders could not enjoy the same freedoms as privileged insiders, and therefore continental empire would eliminate all foreseeable enemies and create an isolated republic of peace. In Strong’s account, although empire was a project of racial hegemony, for its success non-Anglo-Saxon groups, especially non-Europeans, had to
be included at some level—only then would they give up their warlike disposition and enjoy the fruits of civilization. Strong remarked, “Is there room for reasonable doubt that this race . . . is destined to dispossess many weaker races, assimilate others, and mold the remainder, until, in a very true and important sense, it has Anglo-Saxonized the world?”

Ultimately, and perhaps unwittingly, this adjustment to settler empire set the stage for a decisive break with the old account. It indicated how future Americans would combine the commitment to global power with one to universal rights. Following Strong, Theodore Roosevelt pursued both the particularist and universalist logic embedded in this alternative millennial vision for American empire. In an editorial published in 1899, titled “Expansion and Peace,” Roosevelt too described the United States as not only grounded in English traditions of liberty but also specially situated to spread such liberty throughout the globe. This American endeavor to pacify the globe was thus also a call to incorporate backward peoples into a civilized world of freedom and stability. Unlike Strong, however, Roosevelt stripped permanent peace of its most overtly religious connotations. Instead of a utopian effort to create the reign of God on earth, he saw tranquility as the higher purpose around which a vigorous and militarized society could focus its energy. Moreover, he contrasted the commercial life of decadent comfort, the “easy peace” he decried, with the noble (and apparently endless) struggle to transform a disordered world into one both pacified and free. Roosevelt wrote, “Peace is a great good; and doubly harmful, therefore, is the attitude of those who advocate it in terms that would make it synonymous with selfish and cowardly shrinking from warring about the existence of evil.” War was central to this undertaking, because as Lord Coke and English colonists had once claimed, no peace could be permanent between the civilized and the savaged. Tying global expansion to the settler trek across the continent, Roosevelt asserted:

The growth of peacefulness between nations, however, has been confined strictly to those that are civilized. . . . With a barbarous nation peace is the exceptional condition. On the border between civilization and barbarism war is generally normal because it must be under the conditions of barbarism. Whether the barbarian be the Red Indian on the frontier of the United States, the Afghan on the border of British India, or the Turkoman who confronts the
Siberian Cossack, the result is the same. In the long run civilized man finds he can keep peace only by subduing his barbarian neighbor; for the barbarian will yield only to force.\textsuperscript{55}

By reclaiming the millennial politics of early settlers, Roosevelt sought to invest the new empire with a vision that not only unified the public but also gave social membership value. Free citizenship now entailed participating in this global struggle to replace barbarism with civilization. At home, Americans would see themselves as part of a great national project and would consider their hard work in factories or in the barracks as essential for the United States to fulfill its global destiny. Moreover, this destiny also justified industrial growth and material abundance. Rather than merely providing idle comfort, such prosperity was the driving engine for global expansion and the proof of American supremacy.

Roosevelt did not shy away from emphasizing the centrality of violence and coercion to pacifying the globe and to conquering barbarism. He wrote, “Every expansion of civilization makes for peace. In other words, every expansion of a great civilized power means a victory for law, order, and righteousness.” Roosevelt argued that any lasting order would be “due solely to the power of the mighty civilized races which have not lost the fighting instinct, and which by their expansion are gradually bringing peace into the red wastes where the barbarian peoples of the world hold sway.” However, just as for Strong, alongside Roosevelt’s national chauvinism there also existed a universalist premise. American expansion would not exterminate barbarous peoples but rather would provide an example of stable rule such that culturally dissimilar nations could over time become members of the civilized community. Roosevelt may have argued that “It is only the warlike power of a civilized people that can give peace to the world,” but he held out hope that all groups could enjoy the benefits of an American-generated tranquility. Although permanent peace may require the strong arm of U.S. power, it was nonetheless a general good. By globalizing the settler commitment to pacification, both Roosevelt and Strong presented their own politics of inclusion. Where Skidmore or Brownson had wanted all groups in the United States to be incorporated as free citizens and to enjoy productive control, Roosevelt instead imagined a world order in which all peoples achieved the benefits of lasting stability and Anglo-American civilization.\textsuperscript{56}
Roosevelt’s editorial and his ruminations on the nature of expansion were prompted by the Spanish-American War, which left the United States with a wide-ranging overseas empire, extending from the Caribbean to East Asia. Excluding the Alaska Purchase in 1867 and the uninhabited Guano Islands, before the 1890s all American territories had been contiguous. However, the turn of the century saw a flurry of expansionist policies. In 1898 Hawaii was officially annexed—five years after American sugar planters had staged a revolt with such hopes in mind. That same year, on December 10, the United States signed the Treaty of Paris, which formally ended hostilities with Spain. Initially begun over the future status of Cuba, Article I of the Treaty held that Spain relinquished sovereignty over the island and gave the United States occupation authority under international law. Article II handed over the sovereignty of Puerto Rico and Guam to the United States, while under Article III Spain also ceded the Philippine Islands for the price of $20 million. Moreover, in the wake of the war, the United States acquired eastern Samoa in 1900 through treaty with Great Britain and Germany and, in 1903, the Panama Canal after an American intervention in Colombia.

This expansion embodied a clear break with the experience of settler colonization, particularly as asserted in *Dred Scott*. For early colonists, the primary motive driving empire had been new land for white settlement. As such, no new possessions were to be incorporated on a permanent footing of inequality. The old imperial narrative rejected lasting legal distinctions between metropole and territorial periphery, instead imagining a relatively decentralized project of settler conquest and control. This did not mean that conquered populations were treated as equals and thus integrated into settler society. For outsider groups, above all Indian tribes, settlers followed the example of British imperium and established modes of stratified subjectship that protected settler supremacy as well as land interests. Now, however, the United States found itself with a variety of possessions none of which could be settled by white Americans, and whose local populations did not fit historic criteria for ethnic and cultural assimilation. Under such circumstances, imperial growth appeared to require a distinct framework—one that presupposed the need for indefinite territorial and colonial dependency.

For politicians in Washington, conflict with Spain did not initially threaten old assumptions or presuppose a new account of empire. Few
had presumed that the war would end with wholesale annexation. This reality hit home only when the Senate was faced with whether to approve the Paris Treaty, which left to Congress the decision of how best to rule new territories. As critics quickly appreciated, such plenary authority raised the potential that, in contrast with settler presumptions and the approach taken by Taney in *Dred Scott*, these possessions could well be governed indefinitely as dependencies. Although the treaty was ultimately ratified, anti-annexationists remained deeply wary of the emerging paradigm, particularly given the insurrection unfolding in the Philippines.

It was in this context that Roosevelt wrote his editorial, providing a vigorous defense both of expansion and of developing a new account of empire. For Roosevelt, defending the war and its consequences was of special personal import. He had strongly supported the conflict from the beginning, and the war itself had helped to make him famous. At the outbreak of hostilities, Roosevelt resigned from his position at the Department of the Navy and led a small regiment of soldiers in Cuba known as the Rough Riders, ultimately earning the Medal of Honor for his actions. Now faced with the outcome of war—military occupation and far-flung territories—Roosevelt refused to question the logic of annexation. Speaking of the Philippines, he argued that withdrawal was not a feasible option. It would leave the islands under the sway of General Aguinaldo and create such chaos and disorder that a future intervention inevitably would be necessary. Roosevelt wrote of his anti-annexationist opponents:

*If the men who have counselled national degradation, national dishonor, by urging us to leave the Philippines and put the Aguinaldan oligarchy in control of those islands, could have their way, we should merely turn them over to rapine and bloodshed until some stronger, manlier power stepped in to do the task we had shown ourselves fearful of performing.*

Importantly, Roosevelt presented two intertwined arguments in support of global imperialism. On the one hand, he maintained the need to reject the *Dred Scott* view that the Constitution should follow the flag. The imperative of international peace required keeping dependent colonies and establishing territorial modes of authority inconsistent with full constitutional protection. Settler empire had to give way to the pressing demands of American global dominance and domestic security. However, Roosevelt also asserted that imperialism was in its own way simply a means to the greater end of pacification. Thus American control would
be temporary, and ultimately all nations would enjoy stable government under their own leadership. Dependencies, while essential in the national effort to impose global stability, were not to be thought of as permanent possessions. “This country will keep the islands and will establish therein a stable and orderly government, so that one more fair spot of the world’s surface shall have been snatched from the forces of darkness,” Roosevelt wrote, adding, “Fundamentally the cause of expansion is the cause of peace.”

Following Roosevelt’s logic, supporters of annexation also came to accept arguments for global expansion in the face of new international challenges. In a famous interview in 1899 with a delegation of Methodist clergymen, President McKinley further articulated the need for altering the basic parameters of settler empire. In explaining his decision to maintain the Philippines as a colonial dependency, he commented:

“I walked the floor of the White House night after night until midnight; and I am not ashamed to tell you, gentlemen, that I went down on my knees and prayed [to] Almighty God for light and guidance more than one night. And one night late it came to me this way—I don’t know how it was, but it came. (1) That we could not give them back to Spain—that would be cowardly and dishonourable; (2) that we could not turn them over to France or Germany—our commercial rivals in the Orient—that would be bad business and discreditable; (3) that we could not leave them to themselves—they were unfit for self-government—and they would soon have anarchy and misrule over there worse than Spain’s was; and (4) that there was nothing left for us to do but to take them all and to educate the Filipinos, and uplift and Christianize them, and by God’s grace do the very best we could by them, as our fellow-men for whom Christ also died.”

McKinley saw the “Philippines Question” as providing no easy solutions. He accepted the settler emphasis on republican freedom as a project shared by Anglo colonists and other co-ethnic participants and so believed that constitutional equality could not be extended to an unassimilable nonwhite community. But he also maintained that without an American presence in the Philippines, the United States would face a host of potential threats to peace. If France or Germany claimed possession, America inevitably would be hedged in by European powers and drawn into greater entanglements. Perhaps worse, independence would create
anarchy and make the promise of tranquility even more distant. Confronted by a changed world, McKinley argued for a new and pragmatic imperial politics that promoted rather than curtailed the use of U.S. power abroad.

**Constitutionalizing Global Expansion**

The sense that the United States’ global emergence required revising the basic assumptions of settler empire eventually found its way into the legal debates of the time. Beginning in 1901 the Supreme Court finally addressed the question of Puerto Rico’s constitutional status. In a series of landmark decisions collectively known as the *Insular Cases*, the Court rejected the *Dred Scott* approach and critically altered the constitutional basis for expansion. It did so in the wake of McKinley’s presidential reelection and at a moment when most politicians viewed the early settler account as no longer tenable. The requirements of global order, not to mention Roosevelt’s and Strong’s millennial aspirations, suggested a new imperial paradigm in which the maintenance of colonial possessions appeared to be essential.61 The most important of the *Insular Cases* was *Downes v. Bidwell*, which provided the legal framework for how new territorial possessions would be governed.62 The case itself involved Congress’s power to impose special import duties on goods from Puerto Rico, given the Constitution’s Article I, Section 8, requirement of uniform duties throughout the United States. The Court split 5–4 in voting to uphold the constitutionality of the measure, with no single majority opinion filed.63 Instead, Justice Henry Brown’s opinion announced the conclusion of the Court. In it he contended that *Dred Scott*’s rejection of Congress’s plenary power to govern territories was mere dicta and that such power existed as an “incident of national sovereignty” only limited by “personal rights which are formulated in the Constitution and its amendments.”64 Recall that Taney had made those arguments against the backdrop—in the mid-nineteenth century—not only of slavery but also of extensive congressional oversight of territorial governance on the frontier. Wary of unchecked federal power and reflecting the views of frontier politicians, Taney sought to prevent Congress from employing the old imperial prerogative inside the domestic community and thus subjecting white settlers to a coercive authority properly wielded against natives and slaves. By contrast, Brown now reasserted the legality of such discretionary oversight and, therefore, the legitimacy of exercising an imperial prerogative even within the territorial nation.
Still, Brown struggled to limit the extent of this authority and to ensure that it did not apply to privileged insiders. In the process, he reiterated the classic settler view that the imperial prerogative was appropriately directed only at nonwhite and conquered populations. Brown maintained that the provision for uniform duties was applicable under the Constitution to the geographic United States and did not include Puerto Rico. In reaching this conclusion, Brown emphasized the cultural incompatibility between colonized natives and the American ethnic community:

We are also of the opinion that the power to acquire territories by treaty implies not only the power to govern such territory, but to prescribe upon what terms the United States will receive its inhabitants, and what their status shall be in what Chief Justice Marshall terms the “American Empire.” There seems to be no middle ground between this position and the doctrine that if these inhabitants do not become, immediately upon annexation, citizens of the United States, their children thereafter born, whether savages or civilized, are such, and entitled to all the rights, privileges and immunity of citizens. If such be their status, the consequences will be extremely serious. Indeed it is doubtful if Congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions and modes of life, shall become at once citizens of the United States.

Brown also claimed that fears of tyrannical power abroad were overdrawn because, “there are certain principles of inherent justice in the Anglo-Saxon character,” which would protect new colonies from oppressive treatment and “need no expression in constitutions or statutes to give them effect.”

In essence, Brown revised the basic settler relationship between stratified subjectship and territorial governance. For settler empire, since Anglo (and other European) colonists would eventually claim land on the frontier, any period of congressional oversight had to be limited and the new territory eventually incorporated as a state on equal footing. At the same time, such oversight nonetheless could be applied indefinitely to nonwhite communities—those imperial subjects organized by whichever structures of authority were most conducive to order. Now, however, white settlement was not an option with overseas possessions, and consequently the premise of equal territorial treatment no longer held. This meant that—just
as its nonwhite population could be ruled as stratified subjects—the territory as a whole could be shaped by a lasting plenary power to fit congressional needs.

Justice Edward White’s concurrence, joined by Justices George Shiras and Joseph McKenna, drew from an article previously published in the *Harvard Law Review* by Abbott Lawrence Lowell, which proposed an incorporation theory of territorial acquisition. Over time, this concurrence became the constitutional law generally promulgated by the *Insular Cases.* For White the issue of an appropriate constitutional approach to new global possessions raised two basic questions. First, how should the United States govern conquered communities who—due to clear ethnic differences—could not be fully integrated within the political body? This was the question that Brown had straightforwardly answered by defending prerogative rights and revising the settler relationship between imperial subjectship and territorial governance. But at the same time there existed a second key difficulty. White agreed with Roosevelt that the purpose of empire was not the creation of permanent dependencies. Rather it was the use of colonial rule to produce stability and to provide conditions for indigenous self-government. Thus, along with the question of how to rule imperial subjects, the Court faced the challenge of establishing constitutional arrangements that provided a workable framework for the end of American tutelage and for eventual independence.

White argued that treaties of annexation established either incorporated or unincorporated territories, the latter of which left to congressional determination the ultimate status of the new possession. This allowed the political community to make judgments about which conquered lands should be treated as integral to the United States and worthy of full constitutional equality and which should be held indefinitely as colonial dependencies. As a result, it created a legal regime by which the United States could hold unincorporated territories until the need for imperial supervision waned and local sovereignty could be reestablished on grounds consistent with American interests and international order. No doubt thinking of the Filipino example, White reasoned, “Would not the war, even if waged successfully, be fraught with danger if the effect of occupation was to necessarily incorporate an alien and hostile people into the United States?” Given the clear consequences for internal stability and ethnic identity, White concluded:
It must follow, therefore, that where a treaty contains no conditions for incorporation, and, above all, where it not only has no such conditions, but expressly provides to the contrary, that incorporation does not arise until in the wisdom of Congress it is deemed that the acquired territory has reached the state where it is proper that it should enter into and form a part of the American family.67

As for the Puerto Rican case at hand, he asserted that as an unincorporated territory, while certain fundamental rights (unstated in the Constitution) may not be transgressed, Congress had the discretionary power to govern the dependency and to impose nonuniform tariffs: “Since it [Puerto Rico] was subject to the sovereignty of and was owned by the United States, it was foreign to the United States in a domestic sense, because the island had not been incorporated into the United States, but was merely appurtenant thereto as a possession.” White further contended that the issue of whether to incorporate new possessions should be deemed a political question and that a limitation of congressional authority hamstrung the nation’s ability to pursue its goals on the world stage. In his view, the political branches best understood the requirements of international order and which framework—equal statehood or colonial dependency—rightly applied to a particular territory. In other words, if the judiciary were to declare conquered land “incorporated,” this would undermine Congress’s ability to decide later that permanent inclusion and full constitutional protections were inappropriate:

Suppose Congress should determine that the millions of inhabitants of the Philippine islands should not continue appurtenant to the United States, but that they should be allowed to establish an autonomous government, outside of the Constitution of the United States. . . . If it be that the question of whether territory is immediately fit for incorporation when it is acquired is a judicial, and not a legislative one, it would follow that the validity of the conditions would also come within the scope of judicial authority, and thus the entire political policy of the government be alone controlled by the judiciary.

Thus White held that the realities and needs of global expansion necessitated both developing dual structures of territorial governance and
providing Congress the full capacity to make judgments about how to impose these structures.68

According to Christina Burnett, arguments about incorporation created a federal process for “territorial deannexation.”69 They allowed White to maintain the premise of constitutional protections within the real “American family” of equal states and to hold colonial dependencies abroad during a period of necessary but hopefully finite tutelage. In some ways, the adaptations made by both Brown and White were not that distinct from settlerism’s politics of duality, which separated between a protected realm of free citizenship and a colonial one of stratified subjectship. Yet, despite this consistency, both justices saw the Dred Scott approach, with its single framework for territorial governance, as too inflexible; it was unable to meet new global needs and to ensure peace at the edges of a far-flung empire. Therefore, in contrast to Dred Scott, the new legal regime greatly broadened the scope of imperial prerogative. It did so, in particular, by entrenching the notion that Congress could designate which American territories were dependent colonies and which were constitutionally free land. Such authority necessarily eliminated Taney’s hope that external discretion would never apply internally, as the federal government now explicitly enjoyed the right even to decide what counted as internal.

This fact was not lost on members of the Court who dissented from the Downes majority. Chief Justice Melville Fuller, in an opinion that received the most votes, asserted that the matter of incorporation was beside the point. In his view, Congress could not establish civil and administrative rules for governing Puerto Rico as an American territory and then claim that the rest of its acts were not limited by the Constitution. Of White’s theory Fuller wrote: “That theory assumes that the Constitution created a government empowered to acquire countries throughout the world, to be governed by different rules than those obtaining in the original States and territories, and substitute for the present system of republican government, a system of domination over distant provinces in the exercise of unrestricted power.”

Similarly, Justice Harlan saw the majority as rejecting the belief that the national government could exercise only enumerated powers. By presuming that the Constitution was flexible enough to justify whatever government actions were deemed necessary for the promotion of overseas expansion, the majority undermined the basic constraints that republican institutions placed on political authority. According to Harlan:
Monarchical and despotic governments, unrestrained by written constitutions, may do with newly acquired territories what this Government may not do consistent with our fundamental law. To say otherwise is to concede that Congress may, by action taken outside of the Constitution, engraft upon our republican institutions a colonial system such as exists under monarchical governments. Surely, such a result was never contemplated by the fathers of the Constitution.

For both Harlan and Fuller, the dual approach to territorial governance signaled the application of external discretionary power to the internal functioning of republican politics and suggested that privileged settlers could potentially find themselves facing a coercive imperial prerogative.70 Despite these concerns, the Court in *Downes* nonetheless constitutionalized a new vision of empire, which allowed for the indefinite possession of colonial dependencies. In doing so, the *Downes* Court created a startling state of affairs: it placed the capacities of the federal government on an equal footing with those exercised by imperial Europe. By a single vote, it held that the national government could legitimately claim all powers necessary for the application of global authority, including creating distinct regimes of territorial governance depending on political judgments about order and security. Justice White and others, by establishing methods for “deannexation,” no doubt proclaimed America’s disinterest in global domination. They reiterated arguments that empire was primarily aimed at pursuing international peace and presupposed that tutelage would lead eventually to full self-governance for colonized peoples. Yet, at the same time, theories of incorporation provided no sunset provision for imperial rule and therefore potentially could last forever.

The great premise of settler colonialism had been that, rather than promoting metropolitan hegemony, U.S. expansion went hand in hand with decentralized and autonomous self-rule by free citizens. Empire had served to fulfill republican ambitions by providing the conditions for property ownership and economic independence. But under the revised constitutional structures of the early twentieth century, there was little difference between either the global ambitions or the expansionist legal frameworks guiding the United States and its European rivals. New dependencies—despite talk of their temporary status—appeared indistinct from classic European colonies, useful primarily for economic extraction and the projection of power. This had clearly been the goal for
Teddy Roosevelt, who imagined a strong, centralized bureaucracy with the discretionary power to fight wars abroad and to govern the peace as it saw fit. Yet the closeness of the Supreme Court vote indicated a persistent uncertainty with the path taken. Would the new imperial order promote international stability and a sense of national purpose, or would it reduce the United States to the turmoil and class conflict that marked so much of European politics? It was unclear whether an imperial prerogative, extended and legitimized, could be kept from intervening in domestic internal affairs.

The Inclusive Politics of American Expansion
Perhaps the most surprising development in the arguments over American empire was how the debate implicated notions of social inclusion and race. Radical Populists had connected their critique of imperialism to a rejection at home of militarism and unchecked state power. As Justices Fuller and Harlan demonstrated, these views still held a powerful purchase on the national imagination. Yet Watson, Neville, and others also had combined this fear of centralized despotism with an inclusive and broad vision of social membership. Their anti-imperialist stance had been tied to two distinctive breaks with the settler idiom: first, faith in the capacity of nonwhites to be full American citizens and, second, respect for foreign peoples—particularly in their right to noninterference.

However, the disintegration of Populism as a social movement increasingly meant that mainstream critics of global empire fell back on old settler xenophobia. New territories should not be annexed, because according to politicians and intellectuals nonwhites lacked the fundamental capacity to appreciate an English-derived liberty. Writing in the Harvard Law Review, Carman Randolph rejected the constitutionality of holding colonial dependencies in these familiar settler terms. Witnessing the chaos of the Filipino occupation, Randolph saw annexation of distant lands as a threat to the United States’ ethnic composition as well as to the sustainability of democratic self-rule at home. He wrote:

The United States . . . ought not to annex a country evidently and to all appearances irredeemably unfit for statehood because of the character of its people and where the climactic conditions forbid the hope that Americans will migrate to it in sufficient numbers to elevate its social conditions and ultimately justify its admission as a State. And when a project for annexing territory is coupled with
a disclaimer of any intention of admitting it as a State now or hereafter, when this disclaimer is necessary in order to secure a favorable consideration, the project is opposed to the spirit of the Constitution. 71

Randolph viewed the Philippines as so culturally foreign and the population so numerous as to undermine any hope of assimilation into the national community. Statehood would invite social conflict and war, while annexation as a dependent colony would eliminate whatever remained of the normative divide between the United States and an autocratic Europe. America would find itself ruling over an empire of diverse foreign peoples, none of whom had the heritage or attributes to appreciate settler freedom.

University of Michigan Professor J. Neal Steere, a persistent and influential opponent of global expansion, wrote of the Philippines, “I think if we annex the islands, with our form of government and our institutions, we will have an endless amount of difficulties. The Indians themselves are in a state of pupilage, with no experience in self-government, and are in no state to become citizens, less so than were the Africans in the South after the Civil War.” 72 For Steere, both Native Americans and freed slaves were outsider groups, which presented a permanent challenge to the ethnic coherence and internal democracy of the American community. Similarly, the inherent inferiority of nonwhite foreign populations raised grave concerns about the new imperial politics. In his view, greater expansion meant the inevitable “mongrelization” of a historically Anglo settler society. This change, not unlike black incorporation or immigration by “unfit” communities from southern Europe and Asia, threatened the ethnic basis of social inclusion.

Confronted by anti-annexationist arguments premised on race and xenophobia, defenders of global expansion over time came to stress the universal attributes of empire. This was in large part also due to the focus on permanent peace and its millennial aspirations. For the United States to pacify the globe successfully, war making and coercive control could not be lasting features of international relations. For the United States to hold imperial tutelage would likely end, and lesser nations would become self-governing and stable members of the world community—a fact Justice White helped to constitutionalize as a basis for holding colonial possessions. Of course, this hope of indigenous sovereignty did not mean that expansionists were unprepared for tutelage to fail and thus for imperial control to
remain a near permanent requirement of global pacification. Still, the logic of the new empire—its focus on civilizing non-Europeans—as well as the stringent ethno-nationalism of opponents shifted the emphasis toward a more inclusive international vision.

In Teddy Roosevelt’s famous 1901 speech to the Minnesota State Fair, in which he called on the United States to “speak softly and carry a big stick” in global affairs, he also made clear that colonialism was simply a means for achieving a peaceful and free world. Roosevelt wrote of the experience in the Philippines:

The Tagalogs have a hundredfold the freedom under us that they would have if we had abandoned the islands. We are not trying to subjugate a people; we are trying to develop them and make them a law-abiding, industrious, and educated people, and we hope ultimately a self-governing people. In short, in the work we have done we are but carrying out the true principles of our democracy.73

Whereas earlier he had emphasized the centrality of violence for instilling manly virtues in a decadent and commercialized society, Roosevelt now placed more weight on America’s historic mission. Militarism as an end in itself fell into the background, and the country’s role in fostering a stable order of self-governing and free republics formed the philosophical centerpiece.

This shift was spurred by two developments, which were apparent to defenders of expansion. The first was that the United States had appeared on the global stage at a decidedly late moment, after the most valuable colonial possessions already had been claimed. While the country still sought its share of the spoils, the new American empire would necessarily pale in comparison to that of European rivals. This fact limited the usefulness of direct colonial possessions as a symbol of national power or as a means for asserting American global dominance. In addition, the experience in the Philippines provided a disturbing backdrop for future imperial adventures. Although Roosevelt spoke glowingly about the prospect of bringing “freedom” to the Filipinos, the clear reality was one of popular unrest and brutal guerrilla war. Such hard truths questioned the advisability of becoming ensnared in expensive and costly colonial wars.

All these forces—the emerging universalism of America’s commitment to permanent peace, its late entry into the scramble for colonial possessions, and the difficulty of imposing direct control over the
Philippines—eventually indicated an alternative focus for the nation’s imperial ambitions. The old settler empire had sought new territory for Anglo and co-ethnic colonization, with the promise of expanding white land ownership and thus free labor. In its wake, turn-of-the-century imperialists hoped that through the struggle for colonial possessions the United States would reclaim its warrior spirit and gain a sense of national purpose and identity. However the realities of empire as well as the rhetoric of liberty and global tranquility suggested a new mode of international engagement. Rather than directly controlling territory, the United States would assert constant economic and military power abroad. It would open new markets for American domestic goods and intervene wherever chaos threatened the possibility of peace. Such global authority would not require extensive colonial dependencies and would be justified in the name of stability and global self-government. It would also draw from the discourse of tutelage the notion that American supervision was central to the proper exercise of local self-rule, as the United States provided a benevolent hand steering weaker nations in peaceful and prosperous directions.

Crucially, this transition in imperial understanding made the previous debates over annexation moot. Both sides by and large could agree on the aim of American power, which involved imposing order on a disordered globe, and on its means, consisting of economic expansion as a general rule and the application of military force where necessary. During the debates following the Spanish-American War, individuals as disparate as Andrew Carnegie and Samuel Gompers had attacked territorial annexation. Now, however, each defended “commercial expansion” and the spread of American global power. As Carnegie commented, “One of the reasons why I oppose imperialism—the acquisition of the Philippines for instance—is commercial expansion.” According to him, “Without distant possessions, the Republic, solid, compact, safe from the zone of war disturbance, has captured the world’s markets for many products, and only needs a continuance of peaceful conditions to have the industrial world at its feet.” Similarly, Gompers, in a speech to peace advocates, described the position of the American Federation of Labor:

We do not oppose the development of our industry, the expansion of our commerce, nor the power and influence which the United States may exert upon the destinies of the nations of the earth. On the contrary, we realize that the higher intelligence and standard of
life of the American workers will largely contribute toward attaining the highest pinnacle of industrial and commercial greatness; and these achievements in the paths of peace will glorify the institutions of our republic.

Both Gompers and Carnegie embraced the larger project of pacification but saw maintaining expensive foreign colonies as unnecessary to fulfilling this goal. For them, American empire meant a modified form of political hegemony—the extension of commercial and military power in the service of promoting international stability and thus domestic peace. 74

In many ways, Gompers and Carnegie saw the future of American global power as an expansion of the long-standing Monroe Doctrine, introduced in 1823 by then-president James Monroe during his seventh annual State of the Union Address to Congress. Under the doctrine, any attempts by European states to colonize land in the Americas or to develop spheres of influence would be seen by the United States as acts of aggression justifying intervention. This foreign policy approach sought to undermine two checks on the extension of American power. The first was the continuing commitment of European empires to sustain an economic and political monopoly over Latin America. The second consisted of efforts by local governments to close their doors to U.S. business or to limit external supervision of their economies. As James Tully notes, this U.S. defense of free trade presupposed a set of international rights and duties. American leaders like Monroe presumed that all Western states enjoyed a cosmopolitan right of commerce with non-Western societies, and that non-Western societies had a correlated duty of hospitality to open their doors to foreign companies and trade. 75

The point of this right and duty was not simply to expand markets for American products but also to civilize non-Western peoples by entrenching American legal, political, and economic institutions in neighboring countries. 76 As a result, the right to free trade went hand in hand with a right both to military intervention and to economic compensation if local governments violated the duty of hospitality and closed their doors to American companies. One should note that as the nineteenth century progressed, open borders did not operate in both directions. While U.S. commerce was free to flow into foreign countries, nonwhite communities who were viewed as fundamentally unfit for settler membership were denied U.S. admission. Thus Americans moved toward the exclusion of
Asian immigrants just at the time that political and business elites argued for prying open previously closed Chinese markets to U.S. trade.

During much of the nineteenth century, this account of economic expansionism stood side by side with the more dominant picture of empire as settler colonization. Yet, with the end of the frontier and in the context of destructive efforts at creating formal dependencies (especially in the Philippines), the Monroe Doctrine increasingly articulated the rise of American global assertiveness. It came to be associated with an “open door” foreign policy and especially with Secretary of State John Hay’s 1899 and 1900 notes on U.S. relations with China. It also underscored a critical new logic for American interventionism. Since free trade required specific institutional arrangements in non-Western countries, continual interference to transform indigenous societies into mirror images of the United States was justified. America therefore had both a right and a responsibility to replace local modes of authority with institutional structures marked by centralized political and economic power, private property, and wage labor.

Once again, Roosevelt was among the first to grasp the full implications of this new construction of both empire and the old Puritan quest for permanent tranquility. In his State of the Union message of December 6, 1904, in which he announced the Roosevelt Corollary to the Monroe Doctrine, he straightforwardly extended the doctrine across the entire Western Hemisphere. More important, he presented the American right of intervention as a wide-ranging international police power, one that protected peaceful commerce and the institutional development of weaker neighbors. According to Roosevelt, the United States stood as the regional safety net, ensuring that local practices conformed to democratic governance and respect for private property. In the process, he emphasized the universal right of all nations to enjoy basic liberties as well as electoral self-rule but tied such rights to the broadening of American economic and military power.

Without American interventionism, the world would remain perilous and unstable, a persistent threat to U.S. security, economic prosperity, and the millennial hope of a pacified globe. In the basic language of American tutelage, Roosevelt remarked, “It is not true that the United States feels any land hunger or entertains any projects as regards the other nations of the Western Hemisphere save such as are for their welfare. All this country desires is to see the neighboring countries stable, orderly, and prosperous.” American intervention was therefore solely a product
of the need to ensure such order and to protect the United States from
chaos abroad. Roosevelt continued:

Chronic wrongdoing, or an impotence which results in a general
loosening of the ties of civilized society, may . . . require interven-
tion . . . however reluctantly, in flagrant cases of such wrongdoing
or impotence, to the exercise of an international police power. If
every country washed by the Carribean [sic] Sea would show the
progress in stable and just civilization which . . . so many of the
republics in both Americas are constantly and brilliantly showing,
all question of interference by this Nation with their affairs would
be at an end.77

Roosevelt presented aggressive action in foreign affairs as the necessary
price of promoting democracy and collective peace. Only through Ameri-
can hegemony—namely, the extension of its global influence and re-
gional control—would the world be safe enough for Americans at home
to enjoy tranquility and prosperity.

Following Roosevelt’s lead, Woodrow Wilson pursued the logical im-
plications of an inclusive commitment to global peace and self-rule. In
his 1916 address to the Railway Business Association, Wilson made clear
that the country’s global ambitions did not include more colonial posses-
sions. If Roosevelt had once thought of direct control as an important
instrument for democratic tutelage, Wilson saw it as an inappropriate
means, declaring, “There is no spirit of aggrandizement in America.
There is no desire on the part of any thoughtful and conscientious
American man to take one foot of territory from any other nation in
the world.” However, this did not mean that military intervention was
no longer critical to the project of pacification. In the same speech
Wilson spoke in laudatory terms of the Spanish-American War: “The
world sneered when we set out upon the liberation of Cuba, but the world
sneers no longer. The world now knows, what it was then loathe to be-
lieve, that a nation can sacrifice its own interests and its own blood for
the sake of the liberty and happiness of another people.”78 For Wilson,
just as for Roosevelt, American global dominance and the “big stick” of
military coercion were essential to the flourishing of a peaceful, civilized
world.

Wilson’s activities in the Dominican Republic provide the best exam-
ple of how the emerging account of American hegemony linked an asser-
tive international police power to the old millennial aspirations. Wilson
viewed the 1914 revolt against the Dominican president, José Bordas Valdés, as creating disorder and bloodshed at the American doorstep, not unlike events in Cuba before war with Spain. In August of that year, he sent a commission to restore order on the basis of the “Wilson Plan,” a set of instructions he himself drafted. The plan created a tenuous peace for the next year and a half and was premised on two key assumptions of the new American position: first, instability anywhere was a potential threat to American security; second, unless foreign nations became self-governing democracies, peace would never be permanent.

As a consequence, the plan offered a more precise account of what American political elites meant by freedom and democratic government when they described the ends of foreign policy. For militarist defenders of American empire like Strong and Roosevelt, liberty had always remained a slippery term. Clearly it no longer carried the strong republican implication of participatory control over all the relevant sites of decision making, be they economic or political. Yet both Strong and Roosevelt continued to emphasize the centrality of democracy to Anglo-American civilization and thus to liberty. Over time, however, democratic self-rule became synonymous with electoral legitimacy. In setting the Dominican Republic on the path to liberty, Wilson saw the main stipulation of his plan as requiring the country to hold presidential and congressional elections—both overseen by American “representatives.” Only “if the United States Government is satisfied that these elections have been free and fair and carried out under conditions which enable the people of the republic to express their real choice” would America recognize the new government and refrain from interfering further with the island’s internal affairs. In the United States, the rise of bureaucratic administration had steadily recast political self-rule as principally the act of voting. Under these circumstances, democratic liberty became the individual’s meaningful ability to choose his or her representatives rather than any commitment to direct and continuous participation. As typified by Wilson, these changes meant that the activity of spreading liberty abroad became more and more closely tied to precisely such electoral politics. As Wilson saw it, creating self-sustaining representative systems was the central means for promoting a peaceful world of free nations.

This commitment to electoral legitimacy by no means challenged the interventionist premise of American foreign policy. To the extent that foreign nations failed to live up to the representative ideal, or whenever else disorder loomed, the United States necessarily had to assert its super-
visory authority and impose military order, as the Dominican case made clear. In May 1916 the Wilson Plan collapsed amid popular revolt. In response Wilson sent American Marines to restore order and launched an extended military occupation of the country. In essence, the long-term goals of democracy and peace required constant American interference and if necessary even occupation. The millennial end may have been a pacified globe, but until that end was achieved, the United States would be compelled to impose an intrusive and coercive state power on recalcitrant neighbors. In appealing for the ratification of the League of Nations and championing the principles of his Fourteen Points, Wilson underscored the “sacredness of the right to self-determination, the sacredness of the right of any body of people to say that they would not continue to live under the Government they were then living under.” At the same time, however, Wilson saw the last and best instrument for defending this universal right to be American state power and global guidance.81

In the end, the vision promoted by Wilson and Roosevelt suggested a remarkable break with settler empire as well as a new ethical foundation for American citizenship: participation through hard work and military service in the global effort to spread peace. It also reinforced the Progressive move toward administrative centralization. As the Insular Cases made clear, an aggressive American foreign policy required bestowing the federal government with far greater discretionary power and unleashing the old imperial prerogative even within the boundaries of the territorial nation. While Downes v. Bidwell may have located such power in congressional hands, the practice of increased interventionism and the example of decisive leadership provided by Roosevelt and Wilson indicated that this authority was best asserted by the presidency. In effect, the new imperial politics laid the groundwork for an expansive executive, which—following Roosevelt’s stewardship theory—would act flexibly abroad to quell disorder and impose democratic stability. Thus an increasingly unified administrative apparatus had come to replace the relatively decentralized institutions of settler expansion. If the United States did not possess a colonial empire the size of Britain’s or France’s, it nonetheless developed an analogous bureaucratic framework in pursuing its own global ambitions.

The fact that American foreign policy combined this increased centralization with a politics of universal right and greater inclusiveness was not by accident. Just as with Britain before it, the precondition for imagining how diverse peoples could enjoy the benefits of liberty involved a
drastic reduction in the meaning of liberty itself. Ultimately, this entailed transforming the ideal of democracy from authentic republican self-rule to the regular rotation of politicians through elections. In other words, Roosevelt and Wilson placed the activity and responsibilities of freedom on a lower plane, such that the latter’s “sacred” right of self-determination now carried with it far less import. For both presidents, respecting this “sacred” right was even consistent with extensive periods of occupation, in which American control would promote the habits of representative government.

One should remember that a reduction in the value of freedom had helped precipitate the entire global thrust in the first place. Precisely because social membership appeared devoid of substance and incapable of promoting an ethics of responsibility or participation, Holmes, Strong, and Roosevelt had sought the answer in a new American empire. With the development of this empire, the United States was now confronted by an emerging set of realities. What it promoted abroad was a greatly truncated account of freedom, which emphasized electoral processes with little sense of how such processes could give voice to the real aspirations of local peoples or could embody ideals of participation. In the quest for permanent peace, the actual concerns and political realities of foreign nations were inevitably subordinated, with indigenous communities primarily treated as instruments for the extension of American power and blank slates for projects of electoral design. In other words, this mode of universalism was assimilationist rather than plural. It took for granted the uniqueness and preeminence of an Anglo-American vision and saw the spread of rights as eliminating the cultural backwardness of local populations. One could argue that such universalism was by its nature incapable of taking seriously the particular contexts of the very communities it sought to uplift. Not coincidentally, then, the new millennialism relied heavily on the application of coercive power against weaker neighbors. Moreover, this application fed into the gravest concern of old People’s Party activists; empire abroad would promote despotism at home and the centralization of political power into fewer and fewer domestic hands.

_Bourne’s Alternative: A Nonimperial and Inclusive Internationalism_ Although a commitment to international police power and regional hegemony may have increasingly defined the nation’s constitutional and political orientation, it was not the sole view held by Americans at the
time. Both isolationism and a more substantively inclusive internationalism than that advocated by either Teddy Roosevelt or Woodrow Wilson emerged as alternative visions of America’s place in the world. The former, however, became ever more prominent in the post–World War I era, while the nonimperial internationalism espoused by social critics like Randolph Bourne remained very much at the margins.

In the wake of World War I, anti-annexationist arguments from the debates over Filipino and Puerto Rican acquisition fed into a strengthened isolationism at home. Such a position, particularly within the Republican Party, ultimately defeated Wilson’s efforts at incorporating the United States into the League of Nations; its champions pressed during the 1920s and 1930s for a general retreat from an aggressive global stance. This isolationist response presented its own variation on the classic millennial quest for permanent peace. Playing on previous settler concern with external threat, many opponents of the League presumed—not unlike the Constitution’s founders—that domestic tranquility required separation from European entanglement and wariness of foreign bodies that might challenge American internal sovereignty. These views were powerful enough to forestall Wilson’s immediate hope of the United States taking a clear leadership role in the postwar era, with the country directing the peace and generating a stable international order. In fact, it would take Pearl Harbor and World War II for Wilsonian sentiment to gain a permanent political victory and for the general drift toward global interventionism to proceed unconstrained by a strong isolationist block.

Akin to the anti-annexationist position twenty years earlier, one should note that isolationism in the interwar period also helped to underscore the seeming connection between nativism and critiques of empire. In the hands of individuals like Senator William Borah of Idaho, who combined anti-imperialism with harsh anti-immigrant rhetoric and policy arguments, or white supremacists like the latter-day Tom Watson, questioning American power often appeared to operate in tandem with defenses of racial purity and exclusion. There were those in Congress, such as Wisconsin senator Robert La Follette, who did combine opposition to both World War I and the League of Nations with a rejection of nativism. Yet, even La Follette, who opposed extensive immigration restrictions, voted for the 1917 literacy test for new arrivals and remained largely silent as nativist sentiment gained dominance.

Still, at the edges of political debate there remained voices that both embraced the emancipatory hope of republican freedom and steadfastly
connected anti-imperial arguments to an inclusive social vision. In doing so, these radical Progressives sought to disassociate the growing tie in public consciousness between universal ideals and American interventionism. Perhaps no one fleshed out this project more fully than social critic Randolph Bourne. Writing in the context of World War I, Bourne described the linkages between the decline of economic and political self-rule at home and the rise abroad of an aggressive nationalism and its related commitment to projecting global influence.

To begin with, he depicted expansionism and national war fever as creating domestic legal institutions that centralized and extended the administrative state in ways that fundamentally compromised free citizenship. In his posthumously published text, “The State,” Bourne argued that the basic principles behind this new statecraft were those derived from medieval relations of obedience and obligation that bound kings to their subjects. He viewed the state’s history as a political institution as

the effort to maintain these personal prerogatives of power, the effort to convert more and more into stable law the rules of order, the conditions of public vengeance, the distinction between the classes, the possession of privilege. It was an effort to convert what was at first arbitrary usurpation, a perfectly apparent use of unjustified force, into the taken for granted and the divinely established.

According to Bourne, although the premise of American settlerism had been a fundamental disjunction from this vision of political authority, the simple fact was that, almost imperceptibly, American statecraft—and in particular the presidency—had become a fitting successor to the European monarchy and the English Crown.84

In keeping with Populists and many other Progressive reformers, Bourne believed that the essence of liberty still lay in republican self-rule, what he referred to as “a democratic cooperation in determining the ideals and purposes and industrial and social institutions of a country.”85 In order for such cooperation to direct collective practices, one clearly needed an energetic government to intervene in commercial life. However, Bourne contended that the new statecraft did more than intervene on behalf of popular demands; it increasingly monopolized decision making entirely and gathered around political elites ever more coercive forms of power, which could be employed to maintain their authority.
In contrast to Herbert Croly, Bourne argued that what perpetuated these trends was precisely the new focus on American nationalism. Expansionary policies underscored that the idea of the “nation,” rather than being a powerful force to undermine concentrated wealth, had been captured by political and corporate elites. The concept allowed these actors to re-present popular struggles at home as threats to the common good and to describe American interventionism abroad in patriotic terms of prosperity and collective honor. In the process, nationalism justified the continual extension of precisely those discretionary powers that aided international police actions and domestic suppression. For Bourne this both checked self-rule and further transformed the United States into a polity indistinguishable from its European rivals. In his opinion, “To seek no other goal than the weary old nationalism—belligerent, exclusive, inbreeding, the poison of which we are witnessing now in Europe—is to make patriotism a hollow sham, and to declare that, in spite of our boastings, America must ever be a follower and not a leader of nations.” In essence, Bourne reiterated the classic republican analytical tie between war making and the domestic emergence of military despotism. He viewed the prevailing modes of national identification as strengthening public unity through “coercion” and “militarism”—let loose “for domestic economic exploitation of the workers or for predatory economic imperialism among the weaker peoples.”

Yet Bourne appreciated that a repudiation of such nationalism could not mean a return to old sectional divides or purely local attachments. He too believed that a new political identity was needed to confront prevailing social problems and to cohere collective life. However, this identity had to challenge rather than strengthen the rise of militarism and coercive state practices. Not unlike Skidmore before him, for Bourne the solution was an identity that saw republican ideals in truly universal terms. In articulating this position, Bourne called for a “Trans-National America,” internally inclusive and opposed to a global politics of supervision and police power, which treated outsiders as dependent means for the pursuit of nationalist ends. He reminded his readers that the United States, due to the legacies of slavery and immigration, had produced an ethnically diverse community unparalleled in modern history. “In a world which has dreamed of internationalism,” he wrote, “we find that we have all unawares been building up the first international nation.”

For Bourne, this hope of an “international nation” had a series of key implications. To begin with, it rejected the framework of racially restricted
immigration and opened the borders to all peoples regardless of race or cultural background. Rather than an Anglo settler asserting his own social supremacy, an American “would no longer [be] the colonial of one partial culture, but of many. He is the colonial of the world.” Bourne thus imagined a collective future in which “Colonialism has grown into cosmopolitanism, and [the colonial] motherland is no one nation, but all who have anything life-enhancing to offer the spirit.” In his view, only this orientation of universality and cultural openness would protect against bellicose nationalism. Crucially, such openness also rejected the idea of immigration as a melting pot, in which Anglo settlers remained the cultural standard and other communities were included to the extent that they conformed to a “homogeneous Americanism.” Instead, Bourne imagined the United States as a “world federation in miniature,” in which ethnic pluralism was respected, because only then would all groups be treated as equals. This defense of the “heterogeneous” was not meant as a glorification of parochialism or a belief that ethnic identity should be paramount. While Bourne maintained that ethnicity was essential to how individuals made sense of their own condition, he imagined these diverse backgrounds as the building blocks for a new American culture that transcended all nationalisms.88

Like Weyl, Bourne saw the tremendous generation of social wealth in the United States as providing the country with an unparalleled opportunity. This was because the national economy offered sufficient domestic resources to incorporate plural ethnic communities on an equal footing; as a result, the historical moment opened the possibility of creating within American borders an “international citizenship.”89 By this, Bourne meant developing a politics at home in which individuals saw themselves as global rather than national partisans—precisely since they remained culturally bound to societies from every corner of the world. He believed that this internationalist outlook would undermine American interventionism, in particular its use of military and political coercion to pry open the markets of weak states. To the extent that the United States was itself a world federation, its members would identify with the social position of those outside its territory. Moreover, Bourne hoped that this identification would be sustained by policies of dual citizenship and free movement between countries—the former facilitating the inclusion of new immigrants, the latter strengthening ties between these immigrants and their native communities.
Thus a nonimperial identity would emerge in place of the old political convictions. Crucially, for Bourne, this rejection of empire was just as thoroughly a rejection of isolationism and nativist sentiment; it rested instead on the diffusion of borders and the cultural integration of America with the world at large. In effect, Bourne sketched a vision of a U.S. metropole, economically prosperous and dynamic, which relied on no peripheries—traditionally marked by colonized subjects or satellite states—to maintain its position. Both noninterventionist and universally inclusive, American identity would reject “any narrow ‘Americanism’ or forced chauvinism.” As a consequence, it would disarm political and economic elites of a central tool—parochial nationalism—in the extension of state prerogatives.

For all its similarities with previous traditions of radical populism, Bourne’s vision of a nonimperial metropole had one ultimately fatal difference. In the late nineteenth century, individuals like the egalitarian Watson were not simply moral critics but also participants in a social movement. The power of their arguments rested in part on the potential for mobilized farmers and wage earners to impose these positions on collective life, through concerted activity inside and outside the electoral arena. Twenty years later, however, voices of opposition to the new statecraft and its global pretensions no longer stood at the forefront of a galvanized public. Bourne saw himself as an outsider, an “aloof” reminding leading intellectuals of a lost American promise. He very consciously understood his project as swimming against the tide, one that was potentially impossible to turn back. In a sense, while Bourne may have railed against the implications of nationalism and discretionary state power, each had become grounding features of collective life, and opposition to them was neither systematic nor sustained by the same degree of mass popular politics. Although Bourne’s ideas suggested a universalist alternative to those of Wilson and Teddy Roosevelt, they represented an outlier perspective much less potent, for instance, than nativist isolationism.

As the 1930s began, transformations in the meaning of social membership, freedom, and empire hinted at the emergence of a new mode of politics. On one level, this political framework would be more inclusive, extending the promise of rights to outsiders long subordinated under the settler narrative—in both domestic and foreign relations. However, such changes went hand in hand with a greatly limited vision of democratic
possibility and a growing defense of interventionist global power. It also meant the final interpenetration of imperial prerogative authority within domestic politics and therefore the steady decline in the meaning and value of American membership. In the years since the end of the agrarian movement, economic independence had been re-situated as economic security, political self-rule had become electoral choice, and settler colonization increasingly seemed reconfigured as global primacy. By the time the New Deal and its aftermath established these principles as the foundation for the new constitutional order, little remained of the old narratives themselves, let alone their deeper premises. Today this new order continues to dictate our thinking about the basic conditions for democratic practice as well as the purposes driving foreign policy.

The New Deal and the Plebiscitary Presidency

While the clear drift of American politics after the turn of the twentieth century had been toward greater administrative and executive power at home and abroad, nothing facilitated this development more than the Great Depression. Following the stock market crash of 1929, the United States plunged into deep economic crisis, which by 1932 had cut the gross national product by a third and prices by half, and had left millions of Americans without basic necessities, including housing, food, and clothing.92 Given such dire circumstances, Franklin Delano Roosevelt assumed the presidency armed with extensive flexibility in how best to confront the crisis. Providing an example of this latitude, Morone reminds readers that “Roosevelt received $3 billion in discretionary funds in a two-year period for which the entire federal budget was $11.2 billion.”93 This discretionary power helped consolidate Progressive-era administrative reforms and entrench the presidency as the political center of American government. In the process, it finally provided a successor to old settler ambitions and frameworks, replacing the basic terms of debate as well as the prevailing notions of freedom and empire. Ultimately, the New Deal cemented the emerging bond between social membership and both economic security and global pacification.

Perhaps most startlingly, bureaucratic expansion during the New Deal transformed the meaning of the “people” and the account of popular sovereignty at the root of national politics. In this section, I detail the constitutional framework that eventually developed and the liberal arguments that promoted these new institutional arrangements. Croly’s
“authoritative representative body” had come to pass in the guise of presidential leadership, with the executive enjoying a direct relationship to the public at large. In the years since the New Deal, this relationship has allowed the presidency to define and direct social ends and to become the dominant political agent in collective life. In essence, FDR fostered a lasting politics of substitution, in which the executive today pursues security and permanent peace in the name of the people—but often without any clear connection to a mobilized or self-assertive social constituency. Thus, although silenced in practice as a meaningful political agent, the people are still perpetually invoked as the primary source of legitimacy justifying this new brand of presidential government.

The Legal and Institutional Framework of Executive Power
The New Deal was first and foremost noteworthy for its dizzying array of government programs and bureaucratic agencies, which the Roosevelt administration implemented in order to spur economic improvement. A political pragmatist, Roosevelt referred to these programs as part of an enterprise of “bold, persistent experimentation,” driven by no economic theories besides the reformist desire to confront urgent social problems.94 Such experimentation created a new administrative landscape premised on expanding the reach of bureaucratic power and centralizing government activity in the executive. While the New Deal clearly pursued the logic of Progressive administration, in its scope and constitutional implications it far surpassed previous state and federal efforts.

In fact, I contend that three events during the New Deal continue to provide the parameters for our current mode of presidential government. At the time, each event was viewed either as a political failure or as relatively marginal; however, these events taken as whole established the institutional basis for the new constitutional order. The first was the remarkable assertion by the Supreme Court that the presidency held an elevated status vis-à-vis other branches of government. In United States v. Curtiss-Wright Export Corp., Justice George Sutherland delivered a majority opinion, which suggested that the president enjoyed inherent executive authority to conduct foreign affairs as a direct consequence of the government’s sovereign power to defend its interests.95 The case itself concerned the owners of an American company, who were indicted for conspiring to sell guns to Bolivia. As requested by Roosevelt, a Joint Resolution of Congress had delegated to the president the power to prohibit arms sales to either Bolivia or Paraguay, which were
at the time engaged in a bloody border war. After Roosevelt’s proclamation to that effect, the defendants were charged with violating the executive order.

Following Theodore Roosevelt and Woodrow Wilson, Franklin Roosevelt’s proclamation was an attempt to quell perceived instability abroad and to employ whatever coercive tools were needed to shape the outcome of regional disputes. In arguing their case, the defendants saw the congressional delegation of authority as an abdication of legislative responsibility and an unconstitutional transfer of lawmaking powers to the executive. While these arguments were clearly supported by the text of the Constitution, they failed to account for developing global realities, in which a commitment to permanent peace, for instance, necessarily carried with it more expansive presidential authority. Congressional delegation was simply an acceptance that international police power could be wielded effectively only by a strong and flexible executive, one able to respond immediately to threats to order. Acceding to the prevailing logic, Sutherland declared Congress’s delegation of lawmaking authority constitutional:

We are here dealing not alone with the authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as “the sole organ of the federal government in the field of international relations”—a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.96

By implication, Sutherland concluded that the Constitution was almost infinitely flexible in matters of foreign affairs, granting the presidency broad powers to pursue its political ends and thereby entrench American regional and global power.

In doing so, Sutherland extended and revised the logic of *Downes v. Bidwell*. In *Curtiss-Wright’s* sweeping dicta, he defended the expanded scope and legality of the old imperial prerogative, which he argued did not depend for its legitimacy on textual authority or “affirmative grants of the Constitution.” This plenary “power of external sovereignty [had been] passed from the Crown . . . to . . . the United States” at independence, and was housed directly in the office of the president as opposed to Congress—which the *Downes* opinions had implied—or even the two branches jointly.97 As a result, Sutherland explicitly linked FDR’s actions
to those of the Crown, and suggested that the prerogative rights enjoyed by the British monarch in external matters largely adhered to the American president as well.

In the process, the Court in Curtiss-Wright legally validated an institutional arrangement, increasingly commonplace, that still had been contested at the time of Downes. In matters of foreign affairs, the executive now enjoyed wide latitude premised on judicial deference and congressional delegation. Even more crucially, Sutherland justified the constitutionality of specifically tying the presidency to the powers of the British Crown by proclaiming the unique role of the executive in collective life—especially in fulfilling the hope of permanent peace and international stability. He wrote of foreign affairs, “In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation.”98 Rather than being merely one branch of government, the executive possessed a direct relationship with the American people, and it alone was capable of successfully pursuing the national interest and any commitment to global influence and assertiveness. Precisely because no other institution could claim either the “representative” capacity or the flexibility to impose America’s international power, judicial deference was the only legitimate response.

The next two events took place in 1937 and, perhaps surprisingly, were notable defeats for Franklin Roosevelt’s administration. In fact, 1937 often marks what historians view as the collapse of FDR’s domestic agenda, the moment when the president exceeded his popular support.99 To begin with, FDR attempted to resolve the judicial impasse over the New Deal through a court-packing initiative, in which the president would nominate a new Supreme Court justice whenever a sitting one reached seventy years old—some six additional appointments at the time. Confronted by the crisis, the Supreme Court reversed its position on minimum wage regulation to uphold the constitutionality of a Washington state law in West Coast Hotel Co. v. Parrish.100 The move, by signaling greater judicial receptivity to the New Deal’s larger economic agenda, destroyed the court-packing initiative’s momentum in Congress. Yet although Roosevelt’s effort failed and produced a noticeable drop-off in his popular approval, it nonetheless created the precedent for what Bruce Ackerman calls “transformative judicial appointments,” the self-conscious use of court nominations to impose constitutional change on a recalcitrant judiciary.101 Over time, these transformative appointments,
as employed by Roosevelt and his successors, became a central tool in allowing the presidency to construct a federal judiciary more compatible with its own ideological agenda. It also further reinforced the shift in institutional power toward the executive. Not only did the judiciary become more deferential, but presidents could pick and choose judges to pursue their own political commitments.

The final New Deal event that shaped our current mode of presidential government was Roosevelt’s effort to centralize the expanding powers of the national state within the presidency and to make the executive branch the focal point for lawmaking. In 1937 FDR established the President’s Committee on Administrative Management, whose reform proposals were sent to Congress in January 1938. Widely denounced as “the dictator bill” by opponents, these reforms included greatly increasing the White House staff, making all independent commissions and administrative boards responsible to the president through one of the twelve cabinet agencies, centralizing the federal government’s civil service by establishing a single administrator appointed by the president, and transferring the primary auditing function from Congress to an auditor-general located in the executive. In the end, the proposed reorganization bill was narrowly defeated in the House of Representatives, and Congress eventually passed a watered-down version in 1939.

However, once again, political failure provided the precedent for a transformation in executive structure and authority; the principle elements of the committee’s plan remain standard modes of presidential power today. Whereas the 1939 Congress expanded the White House staff to six senior aides, currently some 2,000 people with policymaking responsibilities work under the Executive Office of the President. Moreover, for FDR as for later presidents, the executive’s growth and administrative centralization presupposed the widespread delegation by Congress of its own legislative powers in matters no longer limited to foreign policy. Theodore Lowi writes that since 1937, “Every new program Congress added in accord with its commitment to expanded government was delegated for implementation to the executive branch. These laws were deliberately written in the broadest and vaguest of terms in order to provide the largest amount of discretion possible to the president in making the actual policies.” In fact, executive reorganization meant more than simply taking over routine administrative tasks; it involved asserting presidential leadership over the entire lawmaking process, from initiation and passage all the way through to implementation.
Taken together, such New Deal politics ushered in the rise of a “plebiscitary presidency.” Organized around expansive discretionary power, judicial deference, and congressional delegation, the executive became so instrumental to American governance that as Richard Neustadt wrote in 1960, “Everybody now expects the man inside the White House to do something about everything. Laws and customs now reflect acceptance of him as the great initiator, an acceptance quite as widespread at the Capitol as at his end of Pennsylvania Avenue.” What made such authority plebiscitary was a twofold development. On the one hand, American politics witnessed the growth, as pointed out by Sutherland, of a direct and unmediated relationship between the president and the people. According to Stephen Skowronek, “The plebiscitary presidents routinely appeal over the heads of the elites of the Washington establishment, hoping to use their public standing to compel that establishment into following their lead.” This vision of the president as the national representative emerged along with an emphasis on voting as the quintessential embodiment of American membership, and thus along with the election as the key political moment when the “people” writ large expressed approval or disapproval of presidential leadership. As a consequence, the presidency, armed with its own “independent political apparatuses” and “mass communication technologies,” provided the focal point for the nation’s political energy.

Under the New Deal, the presidency became both the primary instrument for collective change and the single agent held responsible for government action—good or bad. This institutional transformation of settler empire into a highly bureaucratic system of presidential government carried with it a fundamental ideological shift. In the wake of economic crisis, intellectuals and politicians suggested their own solutions to the collapse of settler society, which were increasingly less concerned with either the decline of popular power or the rise of centralized hierarchies. Instead, these solutions combined Progressive-era faith in administrative management with a commitment to global power and permanent peace, each organized and directed by the old imperial prerogative.

**FDR, Lynd, Arnold, and the Argument for Liberalism**

Among the initial signs that New Deal reformers had absorbed Walter Lippmann’s wariness of the public and his embrace of administrative expertise was the name they gave to their political ideology: liberalism. FDR very self-consciously refused to call himself a “Progressive,” which
for all its affinity to New Deal politics still suggested Croly’s old commitments to direct democracy. The term also remained burdened by the failure of past government efforts to go far enough in shaping economic growth and redistributing social wealth. Instead, FDR reclaimed the term “liberal” from nineteenth-century proponents of limited government and a self-regulating commercial society. In doing so, Roosevelt reimagined liberalism as the solution not just to the current economic crisis but also to the end of settler politics and the closing of the frontier.

Roosevelt outlined his vision of liberalism by describing the historical goals of settler freedom. In his 1932 Commonwealth Club campaign speech in San Francisco, FDR spoke of the western frontier as “free land,” which had ensured that American material prosperity went hand in hand with distributive equality. He stated, “During this period of expansion, there was equal opportunity for all and the business of government was not to interfere but to assist in the development of industry.” Crucially, Roosevelt’s image of the settler past revised the basic purposes of territorial expansion. For him, “equal opportunity” meant an equal chance to achieve an American standard of living and avoid the vicissitudes of economic turmoil. Little, however, remained of previous commitments to economic independence or actual productive control. His redefinition of “personal competency”—a concept that had been central to Jeffersonian ideals of republican self-rule—underscored this fact. Describing and reinscribing Jeffersonian freedom, FDR remarked, “By ‘personal competency’ he [Jefferson] meant the right of free thinking, freedom of forming and expressing opinions, and freedom of personal living each man according to his own lights.” “Free thinking” was indeed crucial to Jefferson’s account, given the importance of reasoned deliberation and personal autonomy for free citizenship. But FDR ignored the second, critical definition of a competency in the republican idiom: the ability of small farmers and artisans to gain economic self-sufficiency through free labor and to dictate the terms of their work life.

By altering the historical goals of settler society, Roosevelt set the stage for his own liberal account of freedom. He argued that as the benefit of membership, all Americans were granted an equal right to share in the nation’s wealth and through work the right to be safe from destitution. According to Frances Perkins, FDR’s labor secretary, the word Roosevelt most often used was “decent,” and thus his basic philosophy—to the extent that one existed—was ultimately “to make human life on this
planet . . . more decent.” As FDR himself declared in his Commonwealth Club speech:

Every man has a right to life; and this means that he has also a right to make a comfortable living. He may by sloth or crime decline to exercise that right; but it may not be denied him. We have no actual famine or dearth; our industrial and agricultural mechanism can produce enough and to spare. Our government formal and informal, political and economic, owes to every one an avenue to possess himself of a portion of that plenty sufficient for his needs, through his work.108

Rather than being a site for self-rule, employment was recast as the means by which individuals gained financial security. In fact, self-rule as participatory control was seemingly evacuated from the public realm. If it remained at all under liberalism, daily decision making persisted within the sphere of Roosevelt’s “personal competency.” Instead of a collective and democratic endeavor of constantly asserting the popular will, liberal autonomy expressed the capacity to live as one chose in private—free from any coercive interference. Thus direct control passed from being the social practice of wielding public power to the private endeavor of “personal living.”

However, for Progressives like Dewey, this focus on private noninterference and especially on eliminating the worst vicissitudes of economic life was fundamentally inadequate. Although a crucial precondition, baseline security ultimately provided only a necessary condition for freedom rather than constituting its actual and entire content. Writing about New Deal frameworks in 1939, Dewey sought to remind policymakers that “‘Security’ is a means, and although an indispensable means it is not an end.” In essence, FDR’s quite noble focus on “decency” had lost sight of what the appropriate end of public action should be: creating an assertive democratic community, one able to claim control at work and in politics. Writing of the relationship between security and liberty, Dewey argued, “The means have to be implemented by a social-economic system that establishes and uses the means for the production of free human beings associating with one another on terms of equality.” He worried that FDR’s approach had disconnected the project of social welfare from the ambition of creating knowledgeable and engaged citizens. For Dewey, if security became elevated to the guiding collective commitment, nothing
necessitated that it would remain bound to democratic authority. Far more likely—when transformed from a means into an end—it would liberate elites to claim power on behalf of the public and to entrench more firmly “some form of coercive control from above and outside.” Therefore, Dewey maintained, if arguments about eliminating insecurity were left to stand alone, they would never offer a compelling replacement for settler independence and self-rule.

This fact was not entirely lost on FDR or other New Dealers. As Holmes and James asked decades earlier, could comfortable living by itself supply citizenship with a shared project, one that unified social membership and in which Americans could meaningfully participate? In part, FDR addressed this problem of hollowness by hoping to reinvigorate Teddy Roosevelt’s old response, rooted in American international police power. Haltingly, FDR began to synthesize his distinctive vision of internal membership with a Wilsonian defense of greater global authority. Given the continuing strength of isolationist sentiment during the interwar years, FDR very consciously sought to tread lightly in making these arguments. Although he supported the League of Nations during his failed vice-presidential bid in 1920, by the time of his 1932 election he pointedly rejected American membership in the League. Still, this shift did not mean a general rejection either of American international cooperation or of commitment to alternative vehicles besides the League. Rather, it indicated a heightened awareness of whether international organizations were properly configured and whether the domestic political conditions were right.

In “Our Foreign Policy: A Democratic View,” FDR indicated how American “efforts to establish and maintain the principles of peace” provided liberalism with a clear mission, which he believed could both fulfill national ideals and instill citizenship with meaning. The article, published in 1928 in Foreign Affairs Quarterly, was written by FDR for Al Smith’s campaign for the presidency; it offered a telling preview of both Roosevelt’s own “Good Neighbor Policy,” as well as his belief in America’s appropriate international role. Not unlike Wilson or even Teddy Roosevelt, FDR defended the need for the United States to act decisively in the interests of collective peace, and therefore to ensure that all potential threats abroad were eliminated. Yet he also recognized the disconnect between the ideal of self-determination and practices of occupation, not to mention the Latin American perception of hypocrisy. In response, he focused on the importance of multilateral means when pursuing American
international interests. Rather than rejecting military occupation or political intervention as inherently inconsistent with local self-determination, he argued instead for building coalitions and for ensuring regional support prior to intervention.

Regarding the Dominican case, FDR wrote, “We have done a fine piece of material work, and the world ought to thank us.” Instead, however, Latin American neighbors “do not thank us, on the contrary they disapprove our intervention almost unanimously. By what right, they say, other than the right of main force, does the United States arrogate unto itself the privilege of intervening alone in the internal affairs of another Sovereign Republic?” For Roosevelt, in order to solve the problem of local opposition, the United States should operate in the future primarily with the collective backing of the international community. This meant building regional and global institutions that would promote security through joint rather than unilateral initiatives. Foreshadowing American leadership at the United Nations less than two decades later, FDR believed that the promotion of national interests required more than simply military coercion; it also necessitated that foreign countries hold the United States in high esteem and be willing to participate in American endeavors. This did not mean that the United States should avoid interfering in the local affairs of other countries, only that when doing so it should act as part of a coalition. Referring to “one of our sister nations,” Roosevelt reasserted the importance of American tutelage and concurred that “disorder and bad government may require that a helping hand be given her citizens as a matter of temporary necessity to bring back order and stability.” As a principle, however, such efforts should be pursued in association with neighboring states, because “with the cooperation of others we shall have more order in this hemisphere and less dislike.”

For scholars of the New Deal, it is conventional wisdom to think of FDR’s liberal foreign policy—particularly with respect to Latin America—as a marked break from the imperialist past. According to one commentator, “In historical and political legend the Good Neighbor Policy has been represented as a great, new departure in inter-American relations; the triumph of non-intervention and respect for self-determination.” Yet these arguments overemphasize the shift from unilaterism to multilateralism, because both approaches are ultimately policy tools. In essence, Roosevelt’s liberalism highlighted the importance of “soft power” in pursuing American global objectives and the need for international support in order to ensure permanent peace. This, however, did not mean an end
to interference, only a more sophisticated method. As FDR’s defense of multilateral intervention illustrates, one can act cooperatively to pursue coercive ends, just as one can pursue such ends while rejecting international support. For Roosevelt, the larger project of global pacification remained paramount and necessarily required regional hegemony and constant global supervision. Concerned with America’s public image abroad, FDR hoped that using more cooperative means would reduce the harshness of American interventionism. Still he did not question the underlying importance of those goals. In a real sense, such liberal interventionism, armed with Curtiss-Wright’s discretionary executive power, reaffirmed the centrality of global assertiveness to American national identity.

Obscured by the focus on economic security at home and permanent peace abroad was the historic commitment to self-rule as a guiding social principle. This disappearance did not occur by chance but rather resulted from how New Dealers viewed the capabilities of the American public. For newly empowered social scientists, academics, and reformers, events since the Populist movement spoke to the value of administrative efficiency as well as the possibility that ordinary citizens would fall victim to demagoguery and prejudice. In 1939’s Knowledge for What? Robert Lynd crystallized the view among social scientists that making industrial capitalism compatible with economic equality would require investing social power in the hands of expert administrators. In the 1920s and 1930s, Helen and Robert Lynd wrote two classics of American sociology, Middletown (1929) and Middletown in Transition (1937), which explored life in Muncie, Indiana, and described the popular hope of enjoying an “American standard of living.”114 Witnessing the crisis and social dislocation caused by the Depression, Robert Lynd argued in his 1939 work “That laissez faire or even a policy of confining ourselves to casual minor repairs in the machinery will not meet the situation.”115

Lynd held that the rise of unregulated capitalism had been fostered by an outdated nineteenth-century faith in the capacity of ordinary citizens to direct collective life without organized planning or technically informed leadership. This faith was predicated on the false empirical assumption that individuals behave rationally and have the basic knowledge to confront complex problems. Repeating Lippmann’s arguments from a decade earlier, Lynd wrote, “So great is our reliance upon the rational, omni-competence of human beings, that we largely persist . . . in the earlier habit of leaving everything up to the individual’s precarious
ability to ‘use his head.’” For Lynd one of the great threats to the sustainability of democratic practice in the United States resided in the overemphasis on democratic modes of decision making, which produced only chaos and inefficiency. According to him, “undiscriminating adherence to the forms of democracy operates to cripple the expert performance of essentially democratic functions.”

Lynd went so far as to say that for democratic politics to persist, elected politicians in the United States would have to master propaganda as a means for spreading information about social policies. Since most Americans did not possess the capacity to understand complex economic and political problems, elites would have to employ systems of mass communication to simplify basic questions and present clear narratives of social life. Referencing the threat of fascism, Lynd continued:

In a world bristling with dictators wielding all the arts of propaganda, democracy will no longer be able to survive a laissez-faire attitude toward public opinion. It must take the offensive in its own behalf and use these new and potent instruments for the ends of democracy. Already in the United States the “management of public opinion” for private ends is highly developed. We must either discover a way to democratize this process, or give over the pretense of being a democracy.

According to Lynd, belief in administrative government and the importance of directing public opinion resulted from a basic claim about the technical expert. Lynd saw the reformist impulse of the New Deal as the progressive spread of truth to social institutions and asserted that “There is evidence that liberal attitudes are correlated with intelligence, and there is a great deal of evidence of the correlation of conservatism with property ownership.” Therefore, as liberal social scientists and professionals took over decision making from ordinary citizens and private business, knowledge would itself become the guide for collective life. Defending the need for an extensive and hierarchically managed welfare state, Lynd concluded, “There is no way our culture can grow in serviceability to its people without a large and pervasive extension of planning and control to the many areas now left to casual individual initiative.”

Other New Dealers may have been reticent to embrace propaganda or social planning so unequivocally. However, Lynd articulated a driving feature of the new reformism. He expressed the now prevalent view that
an outdated belief in the autonomy and rationality of citizens—and thus their ability to direct economic and political institutions—hindered social improvement. For Lynd and similar critics of capitalism, this assumption of autonomy was at the center of laissez-faire economics and had promoted the capture of government by private wealth. But in rejecting the “omni-competent” individual, Lynd necessarily also rejected the republican vision of emancipated and self-assertive free citizens. This involved abandoning the republican effort, highlighted by Manning, Brownson, and Weyl, to democratize intelligence through instruments like universal education or the Society of Laborers and to create a public capable both of understanding its interests and of directing its own collective fate. For Lynd, citizens were no longer conceived in these terms of robust agency but were instead presented as objects of social policy. According to this image, although the larger public benefited from intelligent administration, it had to be shaped and constructed to recognize shared needs and respond positively to cultural progress. In fact, in Lynd’s hands, generalized education was not a method primarily for elevating the body politic as a whole. Its central purpose lay in creating a meritocratic political and economic leadership, by helping to select the talented few whose excellence justified their rule and promoted social progress.

As Lasch has suggested, no New Dealer better illustrated this vision of the American citizen—regardless of ethnicity or previous standing in the settler community—as the subject of an enlightened and socially responsive government than Thurman Arnold. A law professor at Yale and later the head of the Antitrust Division at the Justice Department, Arnold in a series of books in the late 1930s, *The Symbols of Government* (1935), *The Folklore of Capitalism* (1937), and *The Bottlenecks of Business* (1940), powerfully defended the New Deal agenda, including Roosevelt’s most radical measures, such as court packing, wealth redistribution, and extensive economic regulation. For Arnold, the basic principle driving New Deal liberalism was a humanitarian one, committed to the goal of eliminating poverty and providing workers with a stable income. As he maintained in *The Symbols of Government*, humanitarianism was not interested in either the moral qualities of those aided by charity or what individuals themselves thought of the policies. Instead, social welfare was the equivalent of medicine, and the relationship between government and the public was not unlike the one tying the hospital to its patients. All individuals desired economic security, and it
was up to the state to provide this end as a matter of basic morality. Extending the medical analogy, Arnold wrote, “Humanitarian ideals are not defined by logic. It was the duty of the ambulance to get the men to the hospital, not to discuss jurisprudence. . . . Once we designate a man as ‘sick,’ whether mentally or physically, we proceed to cure him, and are shocked at any discussion as to whether he morally or logically deserves to be cured.”  

Moreover, industrial complexity meant that the public did not know how to produce humanitarian ends, and it was thus the responsibility of the administrator to develop the appropriate “techniques” irrespective of popular opinion. Following Lynd, Arnold polemically argued that ordinary Americans were no more capable of recognizing how best to achieve humanitarianism than patients in a mental institution. And given this fundamental lack of capacity, Arnold maintained that the insane asylum should serve as the model of humanitarian government. He wrote of the asylum:

In such a government the physicians in charge do not separate the ideas of the insane into any separate sciences such as law, economics, and sociology; nor then instruct the insane in the intricacies of these three sciences. Nor do they argue with the insane as to the soundness or unsoundness of their ideas. Their aim is to make the inmates as comfortable as possible, regardless of their respective moral deserts.

For Arnold, to the extent that the public existed at all as a relevant political body, it was solely as the recipient of state largess and the beneficiary of liberal humanitarianism. This did not mean that democracy had no place in American politics. Arnold’s vision of democracy amounted to an elected government ensuring social welfare, with democratic voice understood to be the popular discontent that materialized when goods were not provided. This account, of course, made democracy and humanitarianism indistinguishable and left no place for actual participation or any real exercise of public power.

Arnold’s discussion of the Philippines further underscored his emphasis on all individuals, free citizens or stratified subjects, as ultimately the “wards” of an expansive state. It therefore suggested a telling fact about the New Deal framework: less and less separated the philosophical position of colonized outsiders from that of social insiders, since discretionary state power should shape the experience of both groups. The old
dichotomies that checked the imperial prerogative and limited its internal application should be discarded. In matters of foreign policy, Arnold argued that “humanitarian imperialism” was the driving principle, carrying with it the commitment to extending material well-being to all nations and thereby ensuring permanent peace. Comparing government programs in Chicago and the Philippines, he concluded that policies in the latter were far more successful in fulfilling liberal ends. Arnold wrote, “The humanitarian work done in these islands by the United States is amazing. Disease was reduced, social work carried on, living conditions made better, until the population doubled under improved conditions.”

This success derived from the fact that, in pursuing U.S. global influence, American politicians were far less concerned with the actual ideas and beliefs of foreign populations. Instead of presuming a false equality between American values and those of the local community, politicians treated the Philippines as a “national asset” and organized government action to improve that asset as much as possible:

The imperialistic ideal coupled with our natural humanitarian impulses permitted us to treat these primitive people better than our own. We were not afraid of ruining their character because we did not think of them as equals who had characters to ruin. Therefore, we were able to do many sensible things for the comfort and peace of our little brown brothers.

Rather than idealizing the individual capacities of Americans at home, the United States should make humanitarian imperialism a general basis for social policy, both domestic and foreign. Rejecting the fiction of omni-competent citizens, Arnold argued that government must treat the public as a “national asset”—the proper object of aggressive and morally committed state intervention. In other words, Arnold effectively contended that only a fully realized imperial prerogative power, operating both at home and abroad, could fulfill liberalism’s moral ambitions.

Despite the chauvinism of Arnold’s argument, at root he implied that all individuals regardless of ethnicity were essentially equal, because everyone sought material well-being and tranquility—universal social goods. Moreover, all people, regardless of background, shared a common ignorance of how best to foster such goods. White Americans at home were no better equipped than Filipinos in Southeast Asia to govern themselves, and thus both communities required enlightened state supervision—the benevolent application of imperial prerogative. Given these facts, gov-
ernment bore the responsibility of creating the institutions and programs that promoted liberalism. Arnold’s views were broadly inclusive, as his humanitarianism was global in perspective and made no ethical distinction based on nationality, race, or religion. All were worthy of being protected from destitution, and all should be subjected to a guiding state power.

Security and the Implications for Popular Politics

Despite criticisms of both the institutional rise of a plebiscitary presidency and the intellectual defenses of “humanitarian imperialism,” FDR himself saw the new constitutional order as the true fulfillment of democracy. When faced with Republican Party accusations that he sought dictatorial powers during the debate over the executive reorganization bill, Roosevelt took pains to release the following presidential pronouncement: “A. I have no inclination to be a dictator. B. I have none of the qualifications which would make me a successful dictator. C. I have too much historical background and too much knowledge on existing dictatorships to make me desire any form of dictatorship for a democracy like the United States of America.” For FDR, executive authority was the necessary means for carrying out a clear popular mandate to confront the economic crisis and promote material progress. He repeatedly spoke of the threat posed to social welfare by “economic royalists” and unregulated capitalism and argued that presidential power would liberate “the people” by “protecting the citizen in his right to work and his right to live.” Defending heightened and centralized administration, he remarked, “Better the occasional faults of a Government that lives in the spirit of charity than the consistent omissions of a Government frozen in the ice of its own indifference.”

For Roosevelt, the presidency’s democratic content lay not only in the fact that government action served the interest of the public but also in that it directly responded to actual mobilization. Through electoral politics, but especially through labor strikes and street demonstrations, the people writ large organized to demand social measures that improved their basic conditions. Demobilized and passive in the decades following the agrarian movement, the 1930s witnessed the emergence once more of energetic mass politics. Such mobilization took two key forms: the activities of the unemployed and of unionized workers.

The Depression generated nearly wholesale joblessness as unemployment figures rose from 429,000 in October 1929 to over 15 million, or
one-third of the labor force, in 1933. Without work, men and women were left absolutely destitute, facing eviction and foreclosure and unable to feed their families. In the past, poor relief largely had been a haphazard enterprise, usually provided locally and through private charities. These methods were woefully ill equipped to deal with the economic crisis, and, as a result, the unemployed took to the streets in marches, rent riots, and even mob looting. Cities, already nearing bankruptcy from new municipal relief efforts, teetered on the edge of actual collapse. As for those who still had jobs, they too faced serious financial pressures due to a precipitous fall in wages. In response, industrial workers developed a large-scale new union movement to defend their interests, which in 1934 involved 1.5 million people in strikes. This movement was centered in the emergent Congress of Industrial Organizations (CIO) and like the efforts of the unemployed called above all for social and economic protection. One of its most popular leaders, Sidney Hillman, spoke extensively of the “quest for security,” the creation of a standard of living complete with employment and basic welfare services. Hillman, echoing the views of many union activists, declared that such security embodied the “central issue in this life of modern man.”125

For all the long-term effects of the New Deal’s focus on security, it is therefore crucial to note that in the depths of the crisis this was precisely what the public wanted from its politicians. As a consequence, in keeping with broad demands, FDR oversaw a variety of legislative measures aimed at assisting those inside and outside the labor force. New federal insurance schemes provided for the aged and the jobless, while massive public works programs gave millions employment. As for those already employed, minimum wage laws ensured against the most extreme pay cuts, and, above all, the National Labor Relations or Wagner Act strengthened the capacity of unions to press for higher pay and better conditions. The bill, passed in 1935, created a new labor relations board with enforcement capacities to preside over employee elections, prohibit employer interference, and compel companies to negotiate labor contracts with elected union representatives.126 Such collective bargaining was in many ways the central goal of the union movement, which saw the legislative actions as finally eliminating the near-absolute power management enjoyed over the terms of work. Since the rise of industrial wage labor a century earlier, employers had benefited from a radically unequal bargaining position, in which they could dictate the conditions of employment in ways that at times mimicked feudal master-servant relationships. Now, through collec-
tive bargaining, workers—in the form of their union representatives—were given the opportunity to participate alongside business and state actors in shaping their own employment.127

These achievements were dramatic popular victories, experienced on the ground by many Americans as decisively improving their daily lives. When the Supreme Court handed down its landmark decision in NLRB v. Jones & Laughlin Steel Corp. (1937), which defended the legality of the Wagner Act, workers across the country engaged in spontaneous celebrations, with those in Aliquippa, Pennsylvania, site of a massive plant owned by Jones & Laughlin Steel, “piling into cars and parading through town, horns blaring.”128 Yet, as the economic crisis abated, the ultimate implications of the new order became more apparent. To begin with, the goal of economic security itself had been left profoundly incomplete, in large part because of the resistance of Southern Dixiecrats to providing universal coverage in ways that challenged white supremacy. For instance, farm workers—often black or Mexican in the Southwest—were entirely left out from protection by the Wagner and Social Security Acts, and full employment measures never made it through Congress.129

More fundamentally, the programmatic vision of security pursued during the New Deal was itself subtly distinct from that imagined by Weyl and others. According to Weyl, for economic wealth to provide an adequate basis for creating elevated and self-assertive citizens, these citizens needed to enjoy more than minimum compensations such as those provided through the new measures. Rather, Americans required a basic income that was high enough to eliminate one’s primary focus on combating necessity. As Dewey wrote in his critique of the New Deal, security properly understood was about “establishing the social conditions which [would] make it possible for all who are capable to do socially productive work,” and this problem had neither “been solved” nor “systematically faced.”130

Just as troubling, the New Deal emphasis on security—even when more expansive—had the effect of perpetuating the basic hierarchies of modern bureaucracy, further separating ordinary Americans from actual decision making. Despite its vital role in checking corporate absolutism in the workplace, this was evident even with the Wagner Act. In keeping with Croly’s earlier arguments, the CIO and industrial unionists saw collective bargaining as introducing democratic self-governance into wage labor. For John Lewis, president of the United Mine Workers, such “industrial democracy” heralded the end of “company unions, controlled and
dominated by the management itself.”131 Still, while these measures were essential to improving labor’s relative bargaining power, they did not actually address the critical problem of how elite-driven industrial work had become. In fact, to the extent that leaders in business, labor, and the state monopolized negotiation and decision-making processes, new frameworks underscored the degree to which most individuals were removed from actual sites of power.

Recall that for radical Progressives, the ultimate purpose of reform was to make economic independence compatible with modern conditions and thus to provide most Americans with the knowledge and opportunity to control their own institutions. For Dewey and others, the solution was threefold: it meant challenging the rigidity of the division labor, democratizing intelligence, and democratizing leisure. Through a universal education system oriented toward giving individuals the cultural resources and practical skills to address workplace realities, individuals would gain the knowledge to be more than rote enforcers of external directives. As a result, responsibilities could be made more diffuse, with fewer people engaged solely in executing tasks. Hedged in through the provision of economic security and the extension of free time, work itself would be both organized democratically and focused toward creativity and self-actualization. In this context, collective bargaining would then serve as a powerful bulwark, limiting the reemergence of corporate dominance and utilizing the collective strength of employees to sustain a proper balance of power. But without the driving vision of elevated and free citizens, Dewey believed that the likely consequence of unleashing state authority would be the further centralization of power and diminution of ordinary responsibility. Concerned with these implications, he asked New Deal policymakers, “What gain has been made in giving . . . the great mass of individuals, an opportunity to find themselves and then to educate themselves for what they can best do in work which is socially useful and such as to give free play in development of themselves?”132

Without a proper emancipatory vision, or the institutional mechanisms to sustain popular decision making, it was inevitable that practical authority would become focused in fewer and fewer administrative hands. At the top, the presidency would present itself as the single institution best able to guide state involvement and to serve as the basis for concerted political action. And as social movements receded with the end of the Depression and the onset of World War II, collective life began to approximate these worries. The demobilization of mass constituents and
the lack of practical outlets for public participation made it increasingly difficult for organized groups to compete with presidential claims to popular representation. In this context, the presidency’s contention to be the sole organ capable of acting flexibly in times of crisis and of speaking on behalf of the whole nation appeared more and more plausible. With popular participation largely evacuated from both political and economic decision making, large numbers of Americans came to accept as self-evident this view that only an expansive executive could institute and embody shared goals. If anything, mechanisms like state-mediated collective bargaining highlighted these developments. Under its corporatist framework, labor and business were both treated as partial interests to be weighed against each other, with the federal government—and the president at the core—representing the public generally and making judgments about how to balance competing claims.\textsuperscript{133}

Ultimately, the politics of security fit comfortably with the elevation of plebiscitary institutions. Although FDR’s focus on presidential leadership took as given the centrality of the popular will for legitimate government, the people were typified by “the average man,” Weyl’s and Kallen’s ordinary consumer of work and goods who, according to Roosevelt, deserved “an equal opportunity in the market place.” Given social segmentation and diversity, only an energetic executive had the ability to shape these consumers into a coherent body and to pursue policies in keeping with public interests. Such presidential authority, however, left no meaningful space for the republican politics of actual self-rule and continuous participation. To the extent that long-term social movements persisted at all, New Dealers rejected those views once held by Manning and Skidmore that considered such mobilized constituents as actually presenting an ideal of freedom and speaking on behalf of the whole community. For lawyers like Felix Frankfurter, who were crucially involved in defending labor legislation and in arguing for its constitutional legality, union organizing did not embody the self-assertion of the people writ large, because labor was simply one group among many. Rather, unions were considered valuable as allies in promoting social welfare, and their strength in numbers demonstrable proof of popular support for the executive.\textsuperscript{134}

\textit{New Deal Constitutionalism and Presidential Sovereignty}

Today the precise implications of executive power for American constitutionalism remain largely obscured. Legal scholars persist in maintaining
that New Deal changes were consistent with the old Federalist image of checks and balances. According to Bruce Ackerman, for the Constitution’s original framers, the great concern was that the House of Representatives would claim an authority to speak on behalf of the whole community, given its direct electoral basis and the British tradition of legislative supremacy. Thus, inherent in Federalism was an attempt to disconnect democratic legitimacy from pure majority rule. While the House may have been a place where “popular movements . . . first make their tumultuous presence known,” it alone could not articulate the public will. As Ackerman notes, Madison and Hamilton maintained that “Senate and President should serve as bulwarks of deliberation, demanding that the hotheads submit their proposals to cool analysis from competing perspectives.” 135

According to this view, as a result of the New Deal the president—and not the House—came to express the country’s “principal populist impulse,” those fads and opinions publicly supported at a given moment in time. For Ackerman, this shift did not negate Federalist ideals but merely produced a modern spin on the basic framework of checks and balances. Instead of mobilizing popular sentiment, today Congress provides a legislative constraint on executive proposals, offering “a bulwark for skeptical doubts about the latest Presidential pronunciamento.” Finally, the Supreme Court exists as a preservationist institution, which defends the prevailing constitutional status quo against assaults by the electoral branches. Although the presidency may aspire to speak on behalf of the people, it remains bound by institutional limits—one piece within the Federalist puzzle rather than the dominant expression of the democratic will. 136

Despite this presentation of a modern separation of powers, I argue that the constitutional order instituted by the New Deal in essence eliminated the old Federalist arrangements. Rather than posing Congress as a skeptical bulwark, New Deal legality presupposed congressional transfer of key lawmaking responsibilities to the executive. As for the judiciary, a jurisprudence of deference presumed the continuity between presidential prerogative and ordinary constitutionalism. Still, it was not only that the executive absorbed important functions of the competing branches or reshaped Congress and the courts in its own image. The idea of a direct representative relationship between president and people—at the heart of Roosevelt’s democratic vision of the new social welfare state—fundamentally undermined the Federalist theory of democracy, particu-
larly the notion that no existing body or branch of government enjoyed sovereign power.

In this sense, New Deal democratic theory was actually an intellectual successor to the populist tradition, in its belief that an actual political agent could speak on behalf of the whole. Thus it is not surprising that the closest historical parallel to the vision of presidential power constitutionalized during the New Deal was the Jacksonian one from a century earlier. Not unlike with Roosevelt, political opponents accused Andrew Jackson of grasping after despotic powers, such as through efforts to replace officials in the incipient federal bureaucracy with Democratic Party loyalists. In 1834, in the midst of disagreements over the second national bank, Whig opponents famously passed a Senate resolution accusing Andrew Jackson of unconstitutionally assuming presidential authority. In his response, Jackson asserted his popularly mandated right to hire and fire members of the executive branch, like the secretary of the treasury, because “the president is the direct representative of the people.”

Yet, despite these clear intellectual roots, what emerged during the New Deal was nonetheless fundamentally distinct. For starters, Jacksonian populism was deeply wary of government action and committed to limiting the growth of both federal authority and an administrative civil service. Through instruments like the rotation of appointed officials and by fostering the development of a “spoils system,” Jackson hoped to check the rise of an independent and unelected bureaucracy that would not be controlled by popular power. As I discussed earlier, one paradoxical consequence was that the spoils system helped to integrate the federal government into collective life, especially by providing party supporters with access to jobs. But at the same time, Jacksonian innovations also undermined the creation of a strong and efficient apparatus that could be employed by the president as a centralized tool of state authority. It limited the executive’s capacity to reach over Congress and to produce and execute its own legislative agenda. Moreover, even to the extent that Jackson asserted presidential prerogatives, such legislative absorption was not his aim. Critically, Jackson did not apply his reforms (such as term limits) to Congress, and Whig antipathy often turned on matters within the executive branch, such as Jackson’s right to dismiss appointees.

But perhaps just as important, the Jacksonian theory of presidential representativeness was built on an argument about the democratic legitimacy of the party. Martin Van Buren, who played a central role in
transforming the Democratic Party into a national institution, argued that by organizing citizens across the country the party had come to represent the people as a whole. Under the Jacksonian view, the president—while at the party’s head—was in the final analysis an instrument of this institutional structure, one that mobilized the people as active political agents. In fact, with the end of Jackson’s presidency, the lasting legacy of the period was less presidential assertiveness and more the entrenchment of a nationalized party politics, which ultimately dominated the rest of the nineteenth century.

Before and after Jackson there were clearly presidents who played crucial and defining roles in molding popular consciousness. Both Jefferson and Lincoln highlight the persistence of presidential leadership in American life. Yet in the nineteenth century no president had the administrative bureaucracy at FDR’s disposal or the communicative instruments afforded by mass media to speak broadly to the public. Moreover, the patronage party mediated the direct link between the executive and the people, such that by the late nineteenth century the actual elected president was often of limited relevance to the governing orientations of the major parties and to policies pursued in Washington. Despite periods of presidential leadership, no constitutional and administrative framework had previously existed for a plebiscitary presidency—one that absorbed the functions of competing branches or continuously engaged in efforts to reshape those branches in its own ideological image.

In essence, what made the New Deal order unique was that this embrace of direct representation meant that the presidency was now for the first time organized as an instrument for exercising “constituent power.” Emmanuel Sieyès famously described constituent power as the sovereign authority that creates and thus precedes any instituted government. Such power was both democratic and legitimate because it expressed the national will, the people as a whole. Therefore, government and its constituted powers were justified only to the extent that they remained “faithful to the laws imposed upon [them]. The national will, on the other hand, simply needs the reality of its existence to be legal. It is the origin of all legality.” At their core, New Deal notions of constitutional flexibility and executive discretion provided the president with the capacity to reform foundational principles—to act outside the bounds of ordinary legality in order to regenerate legal norms. Certainly, presidential power was not utterly unconstrained. But in the time between the Populist movement and the New Deal, executive leadership and administrative hierarchy
had become routinized as central modes of political activity. The result was a legal regime that has, in the years since the 1930s, allowed the presidency to alter basic distributions of authority as well as foundational constitutional principles. Most important, this exercise of constituent power by an instituted branch of government cannot be described as purely illegal or usurpatory. Under the New Deal framework, it enjoys democratic legitimacy, because plebiscitary politics presumes an unmediated link between the executive and the people.

At the intellectual core of New Deal democracy was the belief that the president pursued popular ends and would not engage in an act of political substitution, in which he served his own interests or those of “economic royalists” in the name of the people. In the context of social crisis and mass mobilization, when an impoverished public demanded redistribution and basic necessities, this argument carried obvious weight. Yet, without the popular assertiveness of the 1930s, how would the executive know which actions were truly authorized by the people and thus legitimate? The arguments of liberal intellectuals, such as Lynd and Arnold, offered a telling answer. The purpose of state power was to fulfill the quest for economic security and permanent peace, as government had the responsibility to provide all citizens freedom from both want and external threat. These goals existed regardless of popular opinion, because they embodied a set of humanitarian commitments fundamentally moral in nature. For both Lynd and Arnold, the public had a democratic right to protest against the inadequacy of government action, but ordinary Americans did not have the basic knowledge to govern directly. As a result, even if mobilization disappeared and the public could no longer be counted on to provide an actual political mandate, the executive could still act in its name. As long as thoughtful politicians and administrators—meritocratically selected through institutions of higher education—continued to pursue liberal ends, such humanitarian government would remain legitimate.

In a sense, however, allowing the executive to choose the means for liberal ends made political substitution unavoidable, since much of the substance of social disagreement would inevitably concern how best to achieve broad goals such as a just distribution of wealth. And as the United States moved further away from the convulsive economic crises of the 1930s, the liberal ends themselves also receded in importance. The commitment to “security” steadily lost its economic component and, as a consequence, what remained of its Populist and Progressive connections
to economic independence and self-rule. Today the term almost exclusively relates to the global project of pacification: the state’s ability to protect the physical safety of citizens and ultimately to assert power abroad. As a result, alongside the effort—still far from complete—to address problems of inequality and want, New Deal presidential authority also left Americans with the reality of a discretionary state and a lasting skepticism of popular capacities. It provided the example of a wide-ranging executive acting on behalf of the people at home and abroad, and in the process constructing the political community in its own image—with ordinary Americans the objects rather than the agents of their government. Today this has meant the fulfillment of what Taney and other settler politicians once dreaded: the everyday use of imperial prerogative as an instrument for directing political life. And in the years since the New Deal, the plebiscitary presidency has become less and less tied to any actual social constituency. Instead, New Deal constitutional changes make it increasingly feasible for the presidency to exercise constituent power (its imperial prerogative) in a virtual vacuum. This problem is only exacerbated by the tendency of citizens to retreat into private concerns, and by the ever-growing machinery of campaign managers and public opinion experts that undergird electoral and policy-making processes and often operate from above to shape popular support.

Conclusion: Modern Subjectship and the Decline of the Free Citizen

For Anglo settlers resisting the rise of a globalizing British Empire, republican citizenship was the great promise of colonial independence. Ethnically and religiously defined, free citizenship provided all settler insiders with liberty as self-rule. Full inclusion meant the right to participate in political decision making and to enjoy economic autonomy. It repudiated long-standing monarchical structures, which established pre-political and immutable ties between subjects and kings. Under these structures, in return for pledging allegiance to the Crown, the imperial metropole provided basic protections. While such protections may have been calibrated depending on property ownership, place in the empire, or status as native born, all individuals were ultimately on the same continuum of royal authority. For settlers, this stratified subjectship had become fundamentally incompatible with Anglo supremacy as well as with their long-standing expectations of territorial expansion and participa-
tory freedom. Under British rule, settlers found themselves facing centralized powers similar to those directed at conquered natives. Regardless of ancestry or Protestant faith, all seemed subject to London’s imperial whim. At a deep level, Britain’s empire of the late eighteenth century—with its greater respect for local customs and its interest in maintaining imperial security—was far more tolerant and humane than settler colonization had been. But this toleration came at a steep price. Rather than providing everyone, irrespective of background, with the benefits of republican freedom, London whittled away at the remaining sites of relative autonomy.

One hundred and fifty years later, the settler society forged by Anglo colonists had slowly transformed into an apt political successor to that far-flung empire. The United States had become a dominant global presence in its own right, claiming an international police power and seeking stability, economic wealth, and permanent peace. For intellectuals like Thurman Arnold, at home and abroad American statecraft should be hierarchical and discretionary, its legitimacy based on the extent to which politicians provided social members with physical well-being. The settler commitment to participation, direct popular control, and economic independence seemingly had disappeared. In fact, the rejection of republican self-rule provided the foundation for a more socially inclusive politics. As Arnold concluded, all groups sought the humanitarian end of material prosperity and, given modern complexity, were all fundamentally incapable of achieving these ends without strong state guidance. Thus the state had an ethical responsibility to make cultural and material progress widely enjoyable, in both its domestic politics and global dealings. According to him, the benefits of membership should not be granted as a matter of individual “virtue and wisdom,” based on a theory of moral desert. Precisely such a theory had separated the industrious and rational settler from the savage native and in doing so had justified Anglo supremacy. Instead, Arnold reasoned that due to popular incapacities, no one was truly wise enough to govern him- or herself, and thus “moral delinquency” could no longer be a basis for exclusion.141

Given this belief in the necessity for generalized state supervision, it was thus no coincidence that West Coast Hotel Co. v. Parrish (1937) served as the legal case that ushered in New Deal constitutionalism and ensured judicial deference to government regulation of the economy. Justice Robert’s “switch in time that saved nine” not only sustained new wage laws but also did so in a context that underscored the developing
modes of authority tying the state to political members. The case itself concerned the special status of women as subjects of government protection, an issue that had been addressed thirty years earlier, during the height of *Lochner*. In the earlier case of *Muller v. Oregon* (1908), the Supreme Court effectively determined that regulations that interfered with a woman’s freedom of contract were legitimate. Like Native Americans and freed slaves, women were properly conceived of as wards of the state—outside the framework of free citizenship and republican liberty. More specifically, the Court upheld a statute limiting the workday to ten hours for women in factories, arguing, in keeping with *Bradwell* and *Minor*, that women were inherently incapable of asserting their own political and economic independence. As Justice David Brewer wrote for the Court:

Looking at it from the viewpoint of the effort to maintain an independent position in life, she is not upon an equality [with men]. Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained.  

After the passage of the Nineteenth Amendment, the Court reversed itself in *Adkins v. Children’s Hospital* (1923), maintaining that the amendment extended full membership to women and ended dependent status. Rather than being paternal subjects or wards of the state, women too were free citizens who enjoyed the equal right to freedom of contract. The case concerned a District of Columbia law, which established a minimum wage for women but explicitly not one for men as well. Justice Sutherland’s opinion on behalf of the Court read in part:

We cannot accept the doctrine that women of mature age, sui juris, require or may be subjected to restrictions upon their liberty of contract which could not lawfully be imposed in the case of men under similar circumstances. To do so would be to ignore all the implications to be drawn from the present day trend of legislation . . . by which woman is accorded emancipation from that old doctrine that she must be given special protection or be subjected to special restraint in her contractual and civil relationships.

For Sutherland, since women were now seen as capable of both free labor and collective self-rule, paternalism had no constitutional justification. It
reduced free citizens to the status of dependents, considered incapable of autonomous action and economic assertiveness. Like *Lochner*, the *Adkins* decision defended free labor orthodoxy and maintained a clear ideological link to the republican goal of independence, even under the transformed economic conditions of wage labor. It rejected government regulation because such powers were appropriately maintained solely over social outsiders and colonized populations.143

Yet during the height of the New Deal, when the Supreme Court reached the exact same question of a minimum wage for women, it employed the language of paternalism to defend fundamentally new conclusions about the legitimacy of such power over both insiders and outsiders. In directly overruling *Adkins*, Chief Justice Charles Evans Hughes wrote in his majority opinion for *West Coast Hotel Co.*:

> What can be closer to the public interest than the health of women and their protection from unscrupulous and overreaching employers? And if the protection of women is a legitimate end of the exercise of state power, how can it be said that the requirement of the payment of a minimum wage fairly fixed in order to meet the very necessities of existence is not an admissible means to meet that end?144

In 1908 the dichotomy between external prerogative and internal limitation remained relatively clear. Women, in ways similar to nonsettler populations, were wards whose dependent status justified expansive discretionary power. By marking out the legitimate domain for prerogative authority, the Court in *Muller* emphasized the divide between free citizen and stratified subject and the inappropriateness of placing privileged settlers under the command of extensive government control. In reaching the same conclusion during the New Deal, Chief Justice Hughes embodied the remarkable ideological shifts since the beginning of the century. Hughes presented the historical dependence of women not as an exceptional status to be contrasted against republican citizenship but as typical of the general position confronting all Americans.145 Regardless of gender or race, citizens faced assorted economic and social crises that could be addressed only by state supervision. Instead of imagining full membership as a condition insulated from external prerogative, the reverse had developed. The benefit of social inclusion lay precisely in state protection. In a sense, the forms of power that were once associated only with “wards” had now become inseparable from the ordinary operation
of legal and political authority. In the process, the distinction between free citizen and stratified subject—between republican self-rule and centralized despotism—that had so galvanized early American settlers dissolved into air.

However, if this dichotomy collapsed, it did not mean that all groups found themselves treated as equals. Instead, the new constitutional order in many ways replicated the internal class and ethnic hierarchies of the old European model, articulated centuries earlier by Edward Coke. It also reproduced the sharp delineations between royal subjects and foreign aliens, which in the U.S. context separated citizens worthy of state security from noncitizens facing extensive immigration controls. The consequence for twentieth-century American politics was twofold. On the one hand, the United States became a far more meaningfully inclusive polity, extending various rights of membership (like suffrage) to previously subordinated communities. Over time, it also came to question—ideologically if not always institutionally—a basic premise of settler identity: the notion that nonwhite groups were not true social insiders. Yet the constitutional order still sustained profound racial, class, and gender disparities, creating formal and informal inequalities between specific categories of citizens. Rather than eliminating subordination as such, different communities fell in different places on the continuum of stratified subjectship. At the bottom, the most marginalized continued to face formal discrimination or to be confronted by habitual and coercive modes of state power. In this way, the emerging order combined inclusion with the persistence of previous prejudices and methods of colonial rule. And akin to the old British Empire, elevated status in the polity had far less to do with whether one experienced authentic self-rule. Instead, high status became bound to one's ability, especially given a particular class and racial background, to enjoy and enforce—often informally—privileges in the market, in politics, and through the legal system.

In the past, the vision of inclusion promoted by those like Thomas Skidmore and Randolph Bourne had meant universalizing republican liberty. It sought to defend participatory control against threats posed by economic and political hierarchy and saw the extension of free citizenship as the struggle to raise the status equally of all. Over time, while the order produced by the New Deal generated its own politics of inclusion, such inclusion took place across a drastically revised ideological and institutional landscape. The emerging polity was constitutionally organized around a plebiscitary presidency, which enjoyed remarkable administra-
tive authority at home and a nearly limitless capacity to promote American power abroad. The public as an active and continuous participatory presence had been recast as the recipient of security protection from economic and foreign threats. Politicians courted the “people”—still the basis of presidential legitimacy—while at the same time nullifying the practical capacity of most Americans to wield power. This diminution of popular authority left the executive increasingly alone as the driving political agent in collective life. The result was a politics of substitution, in which the popular will quietly morphed into those policies implemented by an energetic executive.

The implications would have been readily apparent to America’s settler founders. In ever more expansive ways, state power became organized on principles drawn from the pacification of historically subject populations. And while efforts at inclusion extended the boundaries of social membership, hierarchies nonetheless persisted between various groups, strengthening new and old structures of economic and political privilege. Without the emancipatory vision of free citizenship, all that seemingly remained of the nation’s colonial roots was its framework of imperial subjectship. The result was that as the twentieth century unfolded, the ordinary American—white or black—could look with awe at U.S. military and diplomatic might as well as at the industrial achievements of its domestic economy. He or she could feel pride and a sense of collective purpose in the working of American institutions. Yet, on a daily basis, few opportunities existed for that same individual to guide the application of U.S. supremacy, let alone to redirect its fundamental purposes. Although each person may have been a social member of this global political power, the autonomy and independence that settlers had once tied to both expansion and economic production had long vanished. If anything, empire had become the master rather than the servant of freedom, and the once powerful argument that liberty could not be traded for imperial security was reduced to a remnant of the distant political past.
CONCLUSION: DEMOCRACY AND INCLUSION IN THE AGE OF AMERICAN HEGEMONY

Today the New Deal, as an expression of FDR’s very real popular mandate and the policies he pursued to confront economic crisis, has faded into memory. Yet the larger political order constructed during the period continues to drive prevailing commitments and institutions. And just as Bourne prophesied nearly a century ago, the long-term consequence of the focus on security, global preeminence, and muscular state power has been an erosion of that divide separating monarchical authority from the account of republican self-government that grounded American independence. At present, plebiscitary politics takes place against a backdrop in which basic decision making is fundamentally centralized at the top in state and corporate entities, with most Americans enjoying few of the practical experiences that were meant to mark free citizenship. Perhaps most surprising for those like Powderly or Croly would be that the very measures that they defended—minimum wage laws, collective bargaining provisions, regulatory mechanisms—in the hands of New Deal and post–New Deal administrators heralded a repudiation of the larger reformist vision. This reformist vision had seen security as only a means to the end of substantive self-rule and energetic government as tightly bound to the popular activities of assertive and mobilized constituencies.

Equally disconcerting, such developments at home have been combined with an entrenched commitment to expanding American global authority—precisely what Watson believed would inevitably reduce republican citizens to subjects of an imperial state. In one sense Watson’s worries were exaggerated, since the United States has no doubt refrained from pursuing permanent colonial possessions. Still the project of global pacification, with its roots in Protestant millennialism, remains an essential component of today’s political landscape. Moreover, recent genera-
tions have largely affirmed the early twentieth-century tie between domestic peace and the American imposition of global stability.

If anything, the unabated growth of this international power illustrates the continued centrality of these themes for national politics. One could argue that, in the years since the New Deal, with practical control receding from the grasp of ordinary citizens, American global standing has gained heightened symbolic meaning. Collective identity is now deeply intertwined with the idea of the United States as an international force for peace. Furthermore, one’s participation in American global power (even if only remotely through U.S. birth and citizenship) embodies a rare political moment for individuals to enjoy a sense of shared purpose and achievement. As Teddy Roosevelt and Oliver Wendell Holmes imagined a century ago, the idea that social membership involves a larger, ethical project has become intricately linked to the fate of American superpower status. And as Teddy Roosevelt also recognized, the expansion of international authority has in turn underpinned the domestic framework of plebiscitary politics. The sense of a constant U.S. preoccupation with foreign crises emphasizes the need for a flexible and centralized executive, one that can speak on behalf of the popular will and respond immediately to foreign events. Therefore, while the United States has avoided developing a traditional empire, the historic republican worry with the actual politics of empire has proven accurate. The extension of American power and the increased economic and political hierarchy of domestic practices have emerged in tandem, providing mutual reinforcement for the basic contours of collective life. This ultimately suggests that constitutional problems with an unchecked presidency are not primarily legal difficulties. They are symptomatic of political judgments that view foreign instability as a permanent justification for U.S. intervention, and can be solved fully only by addressing those underlying judgments.

Perhaps one of the most damaging effects of governing arrangements is how they have reshaped the dominant meaning of equality and thus the popular drive for political inclusion. In a sense, one can read the nineteenth-century social movements of farmers and wage earners as at root concerned with gaining the benefits of full membership. For these settlers, membership meant collective self-rule and required both economic independence and actual control over political decision making. Mass mobilization in the service of these goals provided a continual source of pressure challenging both the rise of economic and political dependencies
as well as the subversion of popular institutions by elite rule. In the years since, however, the project of equality has concentrated increasingly on distributing more meritocratically the country’s few positions of corporate and governmental power. It has focused on reducing those formal barriers that hinder the ability of individuals from particular backgrounds to achieve professional or elite status. In other words, rather than democratizing all of collective life, inclusion has become a means for incorporating previously subordinated communities into leadership roles. The result—although clearly a profound reversal of settler norms—has been mostly to alter the composition of socially privileged groups rather than to undermine privilege as such. Thus the country can even have a nonwhite person or a woman as president without any expectation that this individual will challenge the basic parameters of economic hierarchy at home or of American interventionism abroad.

In essence, while inclusion has become the central reform initiative of the last half century, its primary thrust has been stripped of the old republican vision of freedom. At a basic level, the goal of reform activity has been to take apart the stratifications separating different classes of citizens, and by eliminating formal discrimination to create a condition of uniform legal equality among all Americans—regardless of race or gender. Certainly these efforts are perhaps the greatest democratic victories of the twentieth century and have radically changed U.S. culture and the place of nonwhites and women within it. Yet, for all these dramatic shifts, the dominant legacy of reform has not been to transform the prevailing order but instead to rationalize it. Equality often has meant simply blunting the harshest implications of the state’s coercive power over marginalized groups and providing elite access for a privileged few drawn from them. As a consequence, the tendency has been to buttress domestic and global arrangements by involving nonwhite and female professionals in their operation and expansion.

Even with such developments, however, the present moment is not without its resources for confronting both the internal decline of free citizenship and the globalized commitment to pacification. And these resources are closely tied to the politics of inclusion and its implications in the post–New Deal order. This is because the previous vision of more robust equality has never entirely died. In fact, recent reform efforts have had a second and competing trajectory, although this trajectory is often obscured at present. For radical reformers, inclusion required overcoming the general reduction in the meaning of citizenship and thus recovering
the historic project of independence—only now expanded to incorporate everyone. In the process, this meant fundamentally dismantling the structures of authority at home and abroad that undermined self-rule and made free citizenship impossible. At its most expansive, the American civil rights movement of the 1950s and 1960s in particular combined arguments about internal freedom and external power, while at the same time claiming a popular capacity to speak for the common good. This often-submerged legacy of the movement hints at the continued potential for thinking systemically about today’s problems. It also provides the connective historical link between nineteenth-century mass mobilization and reform projects in the present day, which similarly would seek to defend a universal and nonimperial ideal.

Despite the demise of settler empire, the American practice of international police power and global primacy persists in treating outsiders as instruments for the achievement of national ends. In the nineteenth century, these ends took the form of rich internal accounts of liberty and political possibility. Now, however, they increasingly appear to be domestic security as such and the indefinite protection of American status. In effect, the United States’ orientation to the world combines some of the most problematic ideological features of the settler past without its emancipatory aspirations. It continues to view outsiders—including immigrants within our borders—as part of a dependent periphery, to be used for the extension of national wealth and dominance. Yet these practices have become detached from the meaningful provision of economic and political self-rule for Americans. In a sense, the key challenge for the present is to invert such developments, to revive accounts of self-rule, and to dissolve their connections to external subordination at home and abroad—to make freedom truly universal. These final pages employ arguments from the civil rights period to draw out the contemporary implications of this project and to suggest current possibilities for connecting efforts at inclusion with a broader revision of the substance and goals of collective membership.

The Two Civil Rights Movements
Since the entrenchment of the New Deal order, the civil rights movement has embodied the most sustained effort to revive both the vision of liberty as self-rule and to connect this vision with a critique of empire. Today this legacy is almost entirely forgotten, in large measure because the
mid-twentieth-century struggle for black equality always had two conflicting dimensions. On the one hand, efforts to end racial segregation and formal legal discrimination sought to incorporate blacks fully into American projects of hegemony abroad and security at home. They emphasized social mobility for middle-class blacks and inclusion for some into arenas of corporate, professional, and political power. These features are perhaps most tellingly illustrated by the legal prong of black attempts to end racial inequality. The best-known civil rights litigation of the 1950s involved segregated primary schools, but the earliest test cases of the National Association for the Advancement of Colored People (NAACP) focused on postgraduate professional study—especially law school. One of the first serious victories in the NAACP legal strategy was 1938’s *Missouri ex rel Gaines v. Canada*, which held that Missouri violated equal protection guarantees by failing to provide in-state law school education for black students. A decade later, *Sweatt v. Painter* (1950) went further, holding that individuals could in no way be denied access to law school on the basis of race. For these NAACP lawyers, equality was crucially about winning for blacks the opportunity to achieve professional status and to participate at the highest echelons of corporate and political leadership.

In the mid-1960s, in the wake of tremendous popular unrest and mobilization across the American South, President Lyndon Johnson pressed Congress to end legalized segregation and to provide all blacks with voting rights. In many ways, these reforms embodied a choice by white politicians at the national level to protect New Deal liberalism by removing the eyesore of southern segregation and by making regional practices consistent with those prevailing elsewhere in the country. In other words, such reforms sought to preserve American domestic economic and political stability while strengthening U.S. moral standing internationally. This essentially preservative role was shared by many in the black middle class, who had long viewed the civil rights struggle in terms of liberal inclusion and elite social mobility. In fact, much of the traditional leadership within the black community was opposed to combining a critique of legal discrimination with either more extensive domestic reform initiatives or with challenges to U.S. global power, particularly in the context of Vietnam. For instance, Whitney Young, the head of the Urban League, warned activists at the NAACP’s 1966 convention that the League would denounce any groups that tied issues of “domestic civil rights with the Vietnam Conflict.”
The long-term victory of these voices within the civil rights movement not only has set the terms for today’s discussions of race but also has shaped the very meaning of those previous struggles and therefore our political inheritance as Americans. In particular, it has meant that goals of black equality in the United States are largely disconnected in the political imagination from broader independence struggles in Asia, Latin America, and Africa. Racial equality is understood as a specifically American project of integration, one that primarily consists of providing worthy elements within the black community with an equal opportunity to achieve professional and middle-class respectability. There is no doubt that this project has brought with it clear benefits, especially the steady reduction of those everyday forms of humiliation—from name calling to formal discrimination and random violence—that historically marked the black experience. Yet the focus on incorporating black elites into the structures of American authority has also come at a clear cost. It has involved nothing less than ignoring our most recent collective attempt to create a truly inclusive community premised on democratic self-rule—to imagine inclusion as a call to elevate everyone to the status of free citizens.

For many civil rights activists, the goal of popular mobilization and the hope embedded in the project of black emancipation lay precisely in the fulfillment of this vision. At the end of his life, W. E. B. Du Bois warned civil rights leaders that simply eliminating legal segregation would not alter the position of economic and political subordination confronting most blacks. Shortly before leaving for exile in newly independent Ghana, Du Bois told a college audience in North Carolina that although the United States was “definitely approaching . . . a time when the American Negro will become in law equal in citizenship to other Americans,” this represented only “a beginning of even more difficult problems of race and culture.” Ending formalized inequality was only a prerequisite for creating a community grounded in the substantive freedom of its members. Such freedom required challenging corporate and governmental hierarchies, which denied most individuals, regardless of race, economic independence and daily control over their work life. Only if these hierarchies were dislodged would Americans finally “restore the democracy of which we have boasted so long and done so little.”

Moreover, Du Bois directly tied this project of freedom at home to confronting empire in all its manifestations, including the persistent and informal modes of external control wielded by powerful states. Du Bois
understood the black experience in the United States as a particular variant of Europe’s larger colonial legacy and thus believed that any meaningful commitment to eliminating the vestiges of colonialism meant supporting its elimination everywhere. It was no accident that Du Bois chose to live the remainder of his life in Nkrumah’s Ghana, as a symbol of anti-imperial unity. Du Bois hoped that blacks in the United States would take the lead in reshaping America’s position in the world and in making common cause with colonized peoples throughout the globe to alter their conditions of political and economic dependence. In the words that echoed the United States’ own postcolonial founders, he imagined a truly free Africa, which “refuse[d] to be exploited by people of other continents for their benefits and not for the benefit of the peoples of Africa” and that would “stress peace and join no military alliance and refuse to fight for settling European quarrels.”

One leader who not only heard Du Bois’s call but struggled to situate it as the basis of an organized social movement—capable of standing as a government behind the government—was Martin Luther King Jr. Today King is widely viewed as the patron saint of civil rights activism, conceived largely as an effort to end legal discrimination and to provide upwardly mobile blacks with an equal opportunity to achieve social power. However, his actual views and those of many of his supporters were far more expansive. In King’s final book before his death, *Where Do We Go from Here?* (1967), he explicitly joined his vision of liberty to the universal republican ideals of radical Populists and Progressives. King argued that the black condition in the United States was that of “educational castration and economic exploitation” and that overcoming racism required more than merely ending formal segregation; it entailed “a radical restructuring of the architecture of American society.” According to him, black subordination drew sustenance from the same forces that concentrated wealth and political control in fewer and fewer hands while justifying the permanent global extension of America’s military footprint. In his view, the “evils of racism, poverty and militarism” were deeply intertwined and had to be overcome by actions that addressed both American international police power and the domestic elimination of popular authority.

The first challenge for King was not to assert a particular programmatic agenda but rather to reclaim collective agency, eroded by the rise of centralized corporate and state institutions. He hoped that the civil rights movement would develop new organizational means by which a
constituency within society could be permanently mobilized to wield democratic control. He argued that without such a social base, government would “elude our demands” and that whatever measures it passed would be for “use as supplicants” rather than products of a self-actualizing public will. According to him, for democracy to exist in practice, there had to be more than regular elections; individuals had to participate directly in shaping collective life. As King wrote, “We must develop, from strength, a situation in which the government finds it wise and prudent to collaborate with us.” In a sense, he hoped that civil rights groups and their supporters would replace the nineteenth-century laboring community as the stand-in for the public writ large. Rather than relying on the presumed virtue of those in power, or “wait[ing] passively until the administration had somehow been infused with . . . blessings of goodwill,” such mobilized agency would direct politics to conform to ideals of self-rule. Like the old collectivity of farmers and wage earners, this new constituency had the potential to connect its particular interests—in economic and political freedom—to the interests of all. It thus could serve as a voice of popular power, compelling state and economic elites to impose needed structural changes.

Like Weyl, King outlined these changes by beginning from the recognition that American society was marked by tremendous abundance; in fact, the black position in the United States was that of “poverty amid plenty.” As such, it was time to abandon prevailing efforts “to compress our abundance into the overfed mouths of the middle and upper classes until they gag with superfluity.” Instead, social wealth should be employed not simply to free individuals from the most extreme forms of immiseration but also to establish the conditions for everyone to enjoy creative and meaningful work. In calling for the abolition of poverty, especially through measures such as a guaranteed income for all, King did not see the provision of economic security as an end in itself. Rather, he imagined it as an essential requirement for a society committed to making labor an activity of personal fulfillment—or, as Kallen would have phrased it, to transforming labor into leisure. To this end, he quoted at length from Henry George’s Progress and Poverty (1879), a classic text of the nineteenth-century’s robust populist tradition:

The fact is that the work which improves the condition of mankind, the work which extends knowledge and increases power and enriches literature, and elevates thought, is not done to secure a
living. It is not the work of slaves, driven to their task either by the lash of a master or by animal necessities. It is the work of men who perform it for their own sake, and not that they may get more to eat or drink, or wear, or display. In a state of society where want is abolished, work of this sort could be enormously increased.

For King, as for Henry George before him, freedom entailed both economic self-rule and practical political control through mobilized and assertive social constituencies. For King, as for Henry George before him, freedom entailed both economic self-rule and practical political control through mobilized and assertive social constituencies.7

Moreover, precisely because of the historic black position of exclusion, King saw any project of emancipation as admitting no color line or national barrier. At home this required imagining the civil rights movement as properly a poor people’s movement that incorporated blacks, impoverished whites, and immigrant communities (particularly from South and Central America). Since each group found itself denied both the benefits of economic independence and basic political authority, according to King, “only through their combined strength” would it be possible “to overcome the fierce opposition we must realistically anticipate.”8

Internationally, King’s commitment to self-rule meant following in Skidmore’s and Bourne’s footsteps and seeing the interconnections between inequality at home and continuing practices of global expropriation. In King’s view, “Equality with whites will not solve the problems of either whites or Negroes if it means equality in a world stricken by poverty and in a universe doomed to extinction by war.” In the context of the Cold War, he considered the ideological power of communism as in large measure a product of Western efforts to sustain systems of formal and informal rule across much of the globe. King wrote, “Communism is a judgment on our failure to make democracy real and to follow through the revolutions that we initiated. Our only hope today lies in our ability to recapture the revolutionary spirit and go out into a sometimes hostile world declaring eternal opposition to poverty, racism, and militarism.”9

In practice this meant two basic transformations in American foreign policy. First, it entailed repudiating the emerging modes of global authority, which, just as Nkrumah had worried, undermined the formal sovereignty of newly independent states and reduced large swaths of the global south to the de facto control of external forces. King saw the legacy of the Monroe Doctrine in Latin America as “tremendous resentment
of the United States,” resentment motivated by permanent U.S. interference with local economic and political practices:

The life and destiny of Latin America are in the hands of the United States corporations. The decisions affecting the lives of South Americans are ostensibly made by their governments, but there are almost no legitimate democracies alive in the whole continent. The other governments are dominated by huge and exploitative cartels that rob Latin America of her resources while turning over a small rebate to a few members of a corrupt aristocracy.10

According to King, American complicity in local authoritarianism and economic expropriation was ultimately due to its commitment to maintaining an international police power. As a consequence, the second key transformation needed in American foreign policy involved the ideological rejection of such interventionism and the dismantling of the global military footprint that supported it. This police power asserted the right to intervene whenever and wherever the United States believed that democratic order was imperiled. King contended that, rather than promoting actual self-determination, American actions had the tendency to freeze disputes in ways that undermined lasting resolution or served external interests rather than local publics. They also propped up regimes with little internal legitimacy, which meant that these regimes could stay in power only with the continual investment of yet greater economic and military resources. King saw American support for apartheid governments across southern Africa—through corporate capital investments, trade, and defense alliances—as stark proof of how international police power, and its stated aims of promoting peace, had been transformed into an instrument of popular suppression.

For King, the most explicit consequence of this American orientation to the world was that, rather than creating an actual condition of peace, it ultimately justified greater military adventurism. It treated local communities as means to the end of U.S. ideological ambitions and as instruments for the perpetual extension of global power. Precisely because of the need to overcome international disorder no matter where it existed, the United States was trapped in a project of endlessly extending its geographic footprint and defense commitments. According to King, such realities underscored how “the leaders of nations again talk[ed] peace while preparing for war.”11 It also meant that America found itself, as in Vietnam, forever subject to local insurrections and new potential dangers,
which in turn warranted even greater military spending and territorial presence.

In his view, as in the view of republicans dating back to Harrington, the logic of the United States’ military infrastructure brought with it the steady reduction of economic and political freedom at home. It necessitated the centralization of power and entailed that America’s unprecedented social wealth be diverted from its appropriate task—creating an inclusive community committed to economic independence and the democratic elevation of all its members. Looking at an America marked by internal inequalities and external interventionism, King remarked, “A nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual death.”

In the years since King’s death, his account of universal republican freedom—let alone his stark warning to fellow Americans—has more or less been ignored in the public discourse. While King is deified as a twentieth-century hero, one to stand alongside the founders, his actual views are quietly discarded. To the extent that the civil rights agenda is pursued at all, it mostly involves further incorporating black elites into the institutions of American economic and political power. The notion of tying economic subordination within the United States to global patterns of inequality, let alone the democratic ideal of a permanently mobilized social agent, is hardly ever broached. Nonetheless, it is precisely this vision that holds out the possibility of restructuring collective institutions and of combining a mass politics of inclusion with a broad-based commitment to self-rule at home and abroad.

Humanitarian Imperialism, Immigration, and the American Periphery

King’s vision, as well as the more expansive legacy of the civil rights movement, raises a basic question for the current moment. What spaces exist not only for locating arguments about dependence but also for developing the popular potential to confront prevailing frameworks? Answering this question involves imagining the social constituencies and reform initiatives capable of pursuing an ideal of self-rule. It therefore means linking the concrete material interests of specific groups to the larger common good and thus showing how experiences of inequality or subordination illuminate a more pervasive social predicament. In partic-
ular, it involves addressing today’s twin realities: the retreat of robust ideals of collective possibility and the seemingly permanent expansion of American power. This power, although now disconnected from internal freedom as self-rule, continues to generate relations of external control as well as to justify the near limitless growth of presidential authority. These external relations both instrumentalize outsiders and transform U.S. dominance into an end in itself. Such realities are most strikingly highlighted by the dramatic alteration in the place of immigrants in collective life, from co-ethnic participants in settler empire to nonwhite members of a dependent periphery—one that exists even within our borders. In a sense, sustaining the expansive civil rights legacy means confronting this fact. It also suggests a new politics of inclusion, one with the potential to rehabilitate self-rule as a general and guiding social commitment.

As I noted in the book’s opening pages, for many across the world, particularly in the global south, political contests in the United States are followed not simply for entertainment. In very real terms, shifts in America carry with them shifts in local conditions. Through the selective and adaptive use of economic aid, trade agreements, and military assistance, U.S. power since World War II has operated on a continual basis to intervene in the affairs of weaker states and to construct friendly arrangements. These arrangements continue to be motivated by global pacification, a fact powerfully underscored by the explicit grand strategy of postwar foreign policy elites.

No text better expresses this drive for pacification than National Security Council paper 68 (NSC-68). Generally considered the foundational document of Cold War foreign policy, NSC-68, written in 1950, not only emphasized the specific security dilemmas posed by the Soviet Union; it also reasserted the image of the United States as enjoying a unique historical project, one that aimed to protect national freedom by eliminating all potential sites for foreign chaos:

In a shrinking world, which now faces the threat of atomic warfare, it is not an adequate objective merely to seek to check the Kremlin design, for the absence of order among nations is becoming less and less tolerable. This fact imposes on us, in our own interests, the responsibility of world leadership. It demands that we make the attempt, and accept the risks inherent in it, to bring about order and justice by means consistent with the principles of freedom and democracy.\textsuperscript{13}
In essence, NSC-68 echoed Arnold’s ideal of “humanitarian imperialism” and presented the pursuit of global power as a collective project (replete with risks and sacrifices) that cohered American public life and gave value to social membership.

Today, in order to protect its territorial reach and international primacy, in many ways the United States engages in the classic hallmarks of imperial rule. Policymakers view the country as enjoying a right to act covertly or overtly in all parts of the world in order to quell presumed threats or to create economic ties conducive to national interests. Yet, precisely because the United States is not a traditional empire, local peoples find themselves in an interesting predicament. During the era of colonial dependency, imperial states, for all their coerciveness, remained bound to colonized groups by relations of actual sovereignty. Simply to maintain order over unruly populations, European empires had to be at least partially responsive to indigenous communities—a fact illustrated by the British decision in Canada to extend rights to French Catholics in the years leading up to the American Revolution. By contrast, the current moment is marked not by clear relations of control but rather by a diffusion of practical authority, spread across a variety of shifting sites (from domestic elites in the global south to international institutions and donor countries), often ultimately reinforced by American police power. Given this overlapping network of diffuse control and responsibility, foreign entities, including the United States, may wield a high degree of practical authority over the internal politics of weaker states, without any direct means by which local publics can alter—let alone repudiate—such authority. As Nkrumah, Du Bois, and King worried, despite the end of actual colonial rule, formal state sovereignty remains compromised by substantive forms of dependence.

These facts not only define the global condition and the place of American primacy in the international order; they are also deeply intertwined with the very project of pursuing meaningful domestic accounts of freedom. This is because today global relationships of dependence are themselves reproduced even at home and, moreover, in a context devoid of substantive ideals of self-rule for either insiders or outsiders. In other words, collective practices continue to sustain a distinction between metropole and periphery, even as this distinction serves primarily to strengthen corporate and state hierarchies that undermine democratic possibilities for all. As a consequence, despite the end of settlerism and the move toward formal equality for blacks and women, the extension of American
power nonetheless brings with it two lasting developments: a diminution in the value of full membership and the persistence of profound insider-outsider dichotomies. The latter both entrenches and subtly shifts historic prejudices and modes of subordination and is most evident in the marginal status of noncitizen immigrants in American economic and political life.

The overwhelming majority of current immigrant communities are originally from regions in the global south (parts of Asia, Africa, the Caribbean, and Central and South America)—precisely those regions that face the brunt of vast disparities in global wealth and practical power. As a result, migration to the United States is not simply an arbitrary occurrence; it is a product of both international structures of inequality and U.S. status within the global order as “the first among equals.” Thus a remarkable feature of today’s immigration is the manner in which it reverses the classic settler paradigm. Recall that throughout the eighteenth and nineteenth centuries, European immigrants by and large were viewed as co-participants in an ethnically defined project of expansion, one that secured for white settlers the precondition of republican freedom—economic independence through land ownership. As such, white noncitizens were often immediately included as social equals, with the federal government granting them access to property out west and with many states providing them with voting rights. This inclusion in the shared settler enterprise meant that immigrants during the high tide of territorial conquest were treated as worthy of free labor and free citizenship, while other subordinated communities (most obviously African slaves) were consigned to degraded forms of work.

Now, in place of European co-ethnics, immigrants to the United States are overwhelmingly nonwhite. And instead of extending settler projects into the frontier or “periphery” as nineteenth-century immigrants did, today’s new arrivals in essence represent the movement of this periphery into the very center of metropolitan power. To a large extent, this movement was made possible by the elimination in 1965, during the height of the civil rights movement, of national origins quotas. But while such policy shifts challenged the country’s racial identity, present-day immigrants have not enjoyed anything approaching the swift and full inclusion of their predecessors. By contrast, they often find themselves playing a similar economic and political function to classic subordinated groups. As the cheap labor at the bottom rung of the American economy, immigration perpetuates new stratifications that distinguish between those
engaged in high-status work and those confined to low-skill employment.\textsuperscript{14} If anything, confronted by extensive social disabilities and facing the constant possibility of forced removal, these immigrants’ status at the edges of collective life replicates within the U.S. border the very dependence that governs abroad between the West and its historic colonies.

Nothing better underscores both global hierarchies and their internal relevance for American life than the symbiotic relationship between the United States and Mexico. Over the last century, the American government has repeatedly employed its immigration powers to provide business interests with a permanent supply of inexpensive Mexican labor that could be terminated whenever employers saw fit or deported during periods of economic downturn. The most famous of these efforts was the Bracero Program, which between the 1940s and the 1960s brought 200,000 temporary workers annually as agricultural laborers into the U.S. Southwest. The program helped entrench the social and family networks between the two countries that today sustain the flow of new migrants north. It also went hand in hand with mass deportation of Mexican laborers when employers no longer needed the workforce. Earlier, during the Great Depression, such deportation took the form of a large-scale “repatriation” campaign that sent over 400,000 people, including many formal American citizens, back to Mexico. And at the height of the Bracero Program, “Operation Wetback” in 1954 apprehended 170,000 undocumented workers over the course of three months and forcibly removed them by bus, train, and boat.\textsuperscript{15}

Today there are more immigrants from Mexico than from any other country in the world, including over 100,000 lawful permanent residents who entered every year between 1988 and 1998. Alongside this population are over 6.5 million undocumented Mexican laborers, many of whom have worked in the United States for decades.\textsuperscript{16} Although these numbers are the direct product of a long-standing symbiotic relationship between the two countries, Mexican immigrants find themselves on the receiving end of strict border enforcement efforts and deportation schemes. This treatment ignores the role played by express government programs, as well as tacit state support for corporate employers, in creating and sustaining the Mexican community in the United States.

Such migration patterns are also illustrative of a deeper fact about contemporary American economic life, hinted at above. At present, those
from the global south, particularly the 11 million undocumented immigrants,\textsuperscript{17} often provide the labor that settlers long viewed as inconsistent with self-rule—from women engaged in domestic service for professional elites to unskilled factory employees in what remains of the manufacturing sector. The economic role played by these immigrants highlights the profound democratic problems that radical Progressives saw with a sharp division of labor. For thinkers like Dewey, industrial hierarchy and bureaucratization meant that most workers were removed from arenas of creativity and control and engaged solely in poorly paid and repetitive tasks. For him, the best solution to these problems was to provide workers with greater practical authority over the conditions of their own employment and to challenge the separation between task creation and task completion that marked bureaucratic and corporate practices.

Similarly, feminists like Charlotte Perkins Gilman had raised comparable issues with the nature of “women’s work.” She argued that women primarily experienced economic dependence through the daily grind of household activities rather than in the industrial plant or the agricultural field. In her view, the value provided by this service was systematically ignored. In addition, the gendered division of labor meant that many women did not have the opportunity to choose which practices they would engage in or to determine which work they found most personally fulfilling. Thus republican ideals like economic independence and free labor were in reality exclusively male privileges. According to Gilman, confronting the gendered division of labor meant socializing responsibility for child care, by equalizing the burden between genders and by creating state institutions of support.

In contrast to these aspirations, alongside poor white and minority citizens, immigrant nonnationals today, in ever-expanding numbers, play the part of softening the intensity of the division of labor. Many middle-class Americans have avoided finding themselves on the wrong side of the productive divide precisely because of immigrant workers. In the case of household activities, women in professional and managerial jobs increasingly maintain their positions by relying on a domestic service industry often, although by no means solely, staffed by transnational women from the global south. Rather than having household labor equally shared by all and therefore losing its gendered status, such labor is carried out in a way that still casts it almost exclusively as women’s work while reinforcing the separation between high and low employment. At a broader
level, instead of challenging the productive divide—one that distinguishes elevated from degraded forms of labor—contemporary arrangements have allowed this divide to grow ever more extreme. In a sense, the end of settlerism has not meant the end of using subordinated groups to engage in the most menial and unfree practices. Thus although the settler ideals of robust and participatory self-rule may have receded, old structures of economic hierarchy continue in mutated form, with insider privilege sustaining outsider exclusion.

As in the past, a central mechanism for preserving these hierarchies is the old imperial prerogative, unleashed against all noncitizens—documented or undocumented. As one recent but telling illustration, in 1996 Congress used its plenary power to pass new legislation that dramatically restricted the basic rights of immigrants. In the words of Mae Ngai, “The 1996 laws terminated welfare benefits for legal aliens, made removal mandatory for a broad range of offenses, and further curtailed judicial review and virtually eliminated administrative discretion in deportation cases.” The ultimate consequence has been to blur the boundary between legal and illegal immigrants, by creating new means for revoking legal status for long-term residents while further undermining the ability of undocumented workers to ever “legalize” their position. At present, even permanent residents live in the United States on “a condition of permanent probation,” since minor offenses can carry mandatory deportation irrespective of whether immigrants have served their sentences or have long-standing ties to the United States—including a history of military service.

At the same time, the United States has pursued these policies—as well as its global security objectives—by bringing the full force of the American penal system to bear on noncitizens. In the wake of the attacks of September 11, 2001, immigration laws were employed to contain the perceived threat posed by Arab and Muslim noncitizens, leading to the arrest and detention of some 5,000 immigrants. And as a more general matter, migrants seeking asylum or individuals contesting deportation are today routinely held in an elaborate network of deportation centers and county jails, in the latter case alongside criminal offenders. Under scoring the extent of the state’s coercive enforcement, in fiscal year 2007 the Department of Homeland Security reports that it detained 311,213 immigrants in total, for reasons that included minor violations or even administrative mistakes. In a sense, immigrants have gone from being the engine of settler expansion and thus worthy of full incorporation to
one key and identifiable component of the dependent labor at the base of collective life—labor that both embodies and perpetuates conditions of privilege and structural inequality.

The Hope of a Universal and Nonimperial Republic

These developments suggest striking continuities with concerns that troubled civil rights leaders like King and Du Bois a half century ago. For King and Du Bois, the black predicament in the United States was a matter both of legal discrimination and of systematic economic dependence and impoverishment. This meant that freedom for blacks involved more than ending formal segregation; it required basic changes that provided the entire polity with economic self-rule through meaningful work and guaranteed income. Thus both civil rights leaders understood these goals to be ultimately universal ones, available to all and therefore necessitating fundamental reforms that were not race specific. At the same time, King and Du Bois also saw the black condition in the United States as part of the larger global narrative of imperial authority. Independence for the colonized world and liberty for African Americans were parallel objectives, to be pursued jointly, as both remained united by the historic fact of European empire.

Similarly, the current predicament of the immigrant ties together legal discrimination, economic dependence, and the continuing legacy of Western colonial rule. Addressing this predicament therefore involves fully appreciating the interconnections between domestic freedom and the application of external American power. It also offers an important collective opportunity. A project of political, legal, and economic inclusion for immigrants would mean a basic challenge to the current structures of internal privilege, workplace authority, and even global supervision. In a sense, the settler approach to European immigration, which viewed these groups as presumptive or—as termed by Hiroshi Motomura—“intending” citizens, embodied both the best and worst of settler ideals. On the one hand, such openness rested on maintaining the exclusion of those culturally unfit for membership and thus sustaining and reproducing relationships of subordination for stratified subjects. On the other hand, it nonetheless meant seeing a rich account of free citizenship as bound to the full incorporation of outsiders. At present, reviving and universalizing this settler approach provides a potential method of reclaiming the settler vision of freedom. It entails employing the logic of inclusion to see the
emancipatory potential of the American past as relevant for the present and as bound neither to the dependent labor of outsiders nor to projects of expansion. In essence, it offers one possible avenue for undermining the prevalent ties between freedom and empire, which continue to entrench distinctions between metropolitan privilege and peripheral subordination. And precisely because of the extreme forms of economic and political dependence that mark elements of the immigrant experience, it also provides a clear site for contesting the pervasive hierarchies in work life and in collective decision making. While these hierarchies apply to the immigrant experience, they are the more general product of heightened bureaucratization and corporate control, developments that have undermined practical self-rule for many Americans, regardless of race or citizenship status.

Currently, with the unabated growth of plebiscitary rule and corporate governance, we are far removed from a politics of republican freedom and universal openness, one that draws from the historic arguments of radical Populists and Progressives. The opportunities for public participation in political and economic life are deeply limited, and it remains uncertain which social groups have the capacity to mobilize on behalf of these ideals. The need for such constituencies is vital, because at root today’s problems can be addressed properly only through shifts in political identity. For instance, one cannot expect that legal reforms aimed at curbing executive authority will succeed as long as Americans accept judgments that view security and the protection from external and internal threat as society’s guiding commitments. These commitments inevitably will undermine the utility of institutional changes by reinforcing the need for centralization and hierarchy. Before institutions can reflect and embody reform aspirations, social constituencies must emerge in the public realm to demand and support ideals of freedom.

In the past, agrarian protest and civil rights activism indicated how an element within society could serve as a focal point for asserting such notions of self-rule, and therefore could represent politically and symbolically the interests of the community as a whole. At present, while immigrants are hardly alone in bearing the brunt of institutional hierarchies, their often intensified position of exclusion—marked by the denial of political voice and economic power—and their incipient forms of mobilizing suggest the potential development of a new social base. As with previous groups, the very experience of exclusion brings with it a latent
possibility for locating arguments about subordination. It hints at a concrete and coherent body whose own goals could align with wider calls for economic independence and participatory control, and which could carry forward the legacy of past movements. In this way, immigrant activism embodies a wedge to pry open more sustained discussions of economic and political practice. A century ago, white agrarian radicals developed links with urban wage earners and black sharecroppers, in the process challenging the dominance of the two established parties and questioning the rise of presidential and corporate prerogatives. Perhaps immigrant constituencies, over time, could begin to play a similar role, employing their space at the intersection of internal freedom and external power to raise structural questions about the nature of contemporary American life.

In 2006 immigrant activism indicated the birth of a nascent popular movement committed to challenging the marginal position of noncitizens in the United States. In response to a congressional bill that would have further raised penalties for undocumented workers and treated all illegal immigrants (as well as those who assisted them in entering or staying in the country) as felons, waves of protesters filled the streets. In March and April of that year massive demonstrations occurred across the country, including upwards of a million people in Los Angeles, half a million in Dallas, and 300,000 in Chicago. Immigrant workers also staged a nationwide May Day boycott in which some 3 million people went on strike, walked out of schools, boycotted businesses, or marched in hundreds of American cities. The choice of May 1 for these events tied their efforts to late nineteenth-century labor republicans in the United States, who used that date in 1886 to launch a nationwide call for an eight-hour day. It also suggested how participating immigrants saw their economic position as at the center of efforts for legal and political inclusion. As one undocumented construction worker declared, in a manner reminiscent of old laboring critiques of “wage slavery”: “The only right we have is to work hard and not demand anything.” Thus the overwhelming sentiment during the day combined appeals for full amnesty and an end to criminalizing undocumented status with a call for far greater economic power.

In the period since, groups have continued to march against workplace raids and mass deportations. But government crackdowns on undocumented workers—in part generated by the 2006 protests—as well
as internal political disagreements among organizers, have taken their toll. In particular, the classic debate over the appropriate trajectory of an inclusive politics—whether to rationalize or to restructure existing arrangements—has once more divided activists. Worried that rallies would lead to more sweeps, many immigrants have stayed away, and recent protests have been considerably smaller. Yet, for all these setbacks, immigrant organizing still presents a noteworthy opening for mass mobilization, which through sustained political action could press eventually for collective demands at work and in politics. Like both the producing classes and civil rights activists, immigrant communities have the potential—as yet untapped—to constitute themselves as a self-assertive collective agent.

For the foreseeable future this prospect remains highly improbable due to a number of factors. To begin with, the very conditions of marginalization that bind many immigrants together—fear of deportation, low wages, limited legal protections at the workplace, the lack of voting rights—also dramatically compromise their practical power in American life. And quite akin to the reaction of poor whites to dependent groups during the settler period, large numbers of U.S. citizens, particularly from the working class, view immigrant inclusion as a direct threat to internal order and to their own economic standing. Only recently have unions in the United States begun to embrace immigrant workers, and to date just a fraction of American citizens are committed to meaningfully extending rights to noncitizens.

And even if a mass political base were to emerge more fully, as with historic efforts at greater inclusion, reform doubtlessly could be curtailed to limit its transformative implications. The power and energy of such mobilization may well be directed mostly to narrow legislative objectives and thus may avoid directly confronting the old royal separation between domestic subject and foreign alien. In other words, added rights for immigrants simply could mean checking the most egregious elements of coercive authority over noncitizens—for instance, reducing the number of triggers that would cause detention and deportation or establishing partial amnesty programs. As with the dominant trajectory of post–New Deal reform, the result of these policies would be to diminish the harshness of current practices. Such a softening certainly would provide concrete improvements, but this approach would not alter governing dependencies, let alone connect inclusion to a broader revitalization of economic independence and popular self-rule. If anything, it likely would go hand in hand with reproducing external relationships in which privi-
leged insiders continue to benefit from the subordinated work and practices of those at the edges of American power. Still, all these problems confronting possible mobilization—from a limited vision of reform to the denial of suffrage to overwhelming insider opposition—also confounded previous groups and popular movements. As in the past, there is no reason they cannot be surmounted.

In the process, today’s efforts could provide a critical method for articulating a richer and more expansive ideal of both social membership and inclusion. Such an ideal carries with it Randolph Bourne’s old desire to create within the United States nothing less than the first “international nation,” a metropole bound to no peripheries of dependent subjects or territories. Rather than an isolationist retreat, this goal would mean thinking of the United States as an experiment in political openness. Such an experiment does not view communities, inside or outside American borders, instrumentally; instead, it imagines liberty as beginning not with efforts at external pacification but with the domestic reversal of economic and political hierarchies. This transformation would serve both to reorient America’s international role and as a basis within the country for assessing those workplace and governmental structures that undermine self-rule for everyone—immigrant and native born alike.

My focus in these final pages on black emancipation and immigrant status derives from a basic insight. In many ways, the challenges of the present are the same as those that faced earlier Americans—from William Manning to John Dewey and Walter Weyl. The promise of American freedom has long involved the possibility of expanding widely the capacities and experiences of self-rule, what the ancient and modern republican traditions often viewed as a privileged and elite domain. This promise has meant democratizing knowledge and reshaping economic and political institutions to express the full and free potential of all individuals, both insiders and outsiders. For its safekeeping, freedom as self-rule has required the existence of actually mobilized groups—organized and willing to stand as a government behind the government—to ensure that democratic agency did not become substituted for the will of a select few. Perhaps the most ironic fact about the present is that today this fundamentally American promise seems to have escaped the attention of large segments of the country’s actual citizens—and that one of the tangible opportunities that remains for sustaining these political and economic commitments lies with those that many assume to be unworthy.
of full inclusion. Then again, this fact simply connects us to our own complicated past, in which the revival of emancipatory ambitions has for centuries been bound not to a collective reverence for founding fathers or for governing frameworks but rather to the concerted activity of men and women deemed unfit.
NOTES

INTRODUCTION


9. See Mark Tushnet, “‘Our Perfect Constitution’ Revisited,” in Terrorism, the Laws of War, and the Constitution: Debating Enemy Combatant Cases, ed. Peter


11. Ibid.


13. Efforts by historians and social scientists to make comparative assessments about settler institutions have often focused on how labor regimes influence political arrangements. For instance, D. K. Fieldhouse in the 1960s developed a typology to delineate various forms of settlerism, which he divides into three basic categories: mixed, plantation, and pure settlement. See D. K. Fieldhouse, *The Colonial Empires: A Comparative Survey of the Eighteenth Century* (New York: Delacorte Press, 1967), 11–12. George Fredrickson also employs this typology, which he views as providing ideal types, and ties settler modes of racial exclusion and control to the metropole’s economic goals and labor practices. See George M. Fredrickson, “Colonialism and Racism: The United States and South Africa in Comparative Perspective,” in *The Arrogance of Race: Historical Perspectives on Slavery, Racism, and Social Inequality* (Middletown, Conn.: Wesleyan University Press, 1988), 216–235, especially 220–221.


16. Ibid., 3.


24. By 1914, the Ulster Volunteer Force had smuggled into Northern Ireland some 40,000 rifles in preparation for a civil war to maintain local control by English settlers. In fact, today many Ulster nationalists celebrate their own “independence day” on September 28.


27. Fredrickson’s work as a whole and *White Supremacy* in particular have been hugely instructive in the development of my own arguments. However, at times his approach to “herrenvolk democracy” too quickly rejects the emancipatory features of the republican tradition, due to their political linkage with modes of subordination. In my view, this linkage is not philosophically essential and the great, as yet unfulfilled, project of American life has been to sustain the rich internal accounts while making them broadly accessible.


I. SETTLER REVOLT AND THE FOUNDATIONS OF AMERICAN FREEDOM


3. In the early twentieth century, the “Imperial School” of historians, particularly Charles Andrews, assessed the causes of the Revolution by looking at the changing nature of the British Empire. Andrews held that imperial economic interests and London’s failure to appreciate internal developments in American life were the primary motivating factors. See especially Charles M. Andrews, *The Colonial Background of the American Revolution: Four Essays in American Colonial History* (New Haven, Conn.: Yale University Press, 1924). My own “imperial” reinterpretation does not dismiss the charge of British tyranny, as do Andrews and his colleagues, but rather situates these shifts in British administration in the context of settler ideology and institutions and attempts to make explicit precisely why a reframed empire was experienced on the ground as tyrannical. For a more recent work in this vein, tracing the British roots of American constitutional practice, see Daniel Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the New World, 1664–1830* (Chapel Hill: University of North Carolina Press, 2005). Hulsebosch uses the history of New York State to explore how early Americans adapted British legal frameworks in order to facilitate territorial growth and continental mobility. Unlike Hulsebosch, I draw out how these adaptations not only sustained accounts of constitutional liberty but also presupposed arguments about external dependence.


6. In defending the political necessity of conquest, Jack Sosin goes so far as to describe Bedford as the “the most pacifically inclined and perhaps the most ludicrous of the politicians” participating in the peace negotiations. Jack M. Sosin, *Whitehall and the Wilderness: The Middle West in British Colonial Policy, 1760–1775* (Lincoln: University of Nebraska Press, 1961), 13. For more on the political imperatives justifying greater expansion, see Philip Lawson, *The Imperial Challenge: Quebec and Britain in the Age of the American Revolution* (Buffalo: McGill–Queen’s University Press, 1989), 3–24.
7. Lawson, “‘Irishman’s Prize,’” 581.
9. Ibid., 31, quoted in part in Lawson, “‘Irishman’s Prize,’” 582.
10. D. K. Fieldhouse describes the colonial landscape in 1715 in the following terms:

The British colonies were young; the oldest had existed for barely a century; and in 1715 they did not cover the eastern seaboard of North America let alone their hinterlands. For the most part they were poor, lacking the endowments of the richer Spanish colonies—precious metals and a large sedentary indigenous labor force. Population growth depended on immigration, free or slave, and its natural increase. In 1715 the total population of the mainland colonies was only about 400,000. Their economic development was held back by a shortage of capital. Their exports averaged about a quarter of a million pounds annually in the eighteenth century. There were only four significant towns—Boston, Philadelphia, New York and Charleston.


11. Ibid., 55.
13. Ibid., 282.


22. Indicating the historical roots of the English depiction of the Irish as savages, Jennings comments that when Richard II in 1385 referred to the “Wild Irish,” “The words actually written by Richard were ‘irrois savages, nos enemis’—literally ‘savage Irish, our enemies.’” Jennings, *Invasion of America*, 7.


25. Ibid., 13.


30. *Calvin’s Case*, 397.

31. Ibid., 398.


36. See ibid., 21, 28; and Armitage, “John Locke,” quotations on 618, 617.


40. *Calvin’s Case*, 382.

41. In her account of American citizenship, Judith Shklar famously argues that along with the right to work, the right to vote has been the defining social right in the United States and the central basis for public standing and respect. See generally Judith Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, Mass.: Harvard University Press, 1991).
42. For more on how land was held through a “pyramid of proprietorship” that connected the king to aristocrats and lowly tenants, see Hulsebosch, “Ancient Constitution,” 453.

43. Kettner, American Citizenship, 30–31. For Coke, such restrictions were necessary to protect the king’s control over the realm and to ensure that foreign subjects—and with them a foreign sovereign—did not claim the wealth and power from the territory. He argued that alien landholding was like a “Trojan horse,” allowing foreigners to “fortify themselves in the heart of the realm, and be ready to set fire on the commonwealth.” Calvin’s Case, 399.

44. See Kettner, American Citizenship, 23.


46. Calvin’s Case, 401.


49. Ibid., 83–84.

50. Morgan, American Slavery, American Freedom, 80.

51. Ibid.


53. On gentry views of the propertyless, see Morgan, American Slavery, American Freedom, 320–326 (quotation on 322).

54. Ibid., 322.

55. Quoted in ibid., 322–323.


57. In response to objections that masters would abuse and mistreat their slaves, Fletcher wrote: “that the most brutal man will not use his beast ill only out of a humour; and that if such Inconveniences do sometimes fall out, it proceeds, for the most part, from the perverseness of the Servant.” Quoted in Morgan, American Slavery, American Freedom, 325.


59. Morgan, America Slavery, American Freedom, 326.

60. Fredrickson, White Supremacy, 60, and see ibid., 59–63, for a discussion of the role of American settlement in helping England address social problems of poverty and indigence.

61. As an example of such child kidnapping, Hill writes, “In 1618 a hundred ‘young boys and girls that lay starving in the streets’ of London were shipped off to Virginia.” Hill, Century of Revolution, 20.

62. Fredrickson, White Supremacy, 60.

63. For more on the role of the landless poor in the rise of African slavery, see Fredrickson, White Supremacy, 62–63; and see also T. H. Breen, “A Changing Labor Force and Race Relations in Virginia, 1660–1710,” Journal of Social


65. Locke, Second Treatise, 17. As for Locke’s personal view, his support for the institution of slavery can be gleaned from the fact that slavery was included in the Fundamental Constitutions of Carolina and that he was a private investor in the Royal African Company. See Davis, Problem of Slavery, 118.


69. For more discussion of the Maryland miscegenation law, see ibid., 196.

70. Calvin’s Case, 398.


73. See Morgan, American Slavery, American Freedom, 338–362.


75. As Fredrickson notes, “As the slave population grew rapidly after 1700, such fears became more intense and led not only to further efforts to limit and control the free black population but also to the elaboration of the severe slave code that served to distinguish North American slavery from its Latin American counterpart.” Ibid., 199.

76. See Fieldhouse, Colonial Empires, 59–63.

77. Hulsebosch, “Ancient Constitution,” 471. See also Anthony Pagden, Lords of All the World: Ideologies of Empire in Spain, Britain and France (New Haven, Conn.: Yale University Press, 1998), 91–92, for European, particularly Spanish, skepticism of the usefulness of the principle of res nullius as applied to New World conquests.


79. In fact, Roman comedies are replete with situations that reverse the master-slave relationship, in which the slave is not only more skilled and knowledgeable than the master but faces no actual coercion. “The audacious figure of Tranio in Plautus’s Mostellaria offers perhaps the most memorable illustration of the theme. Due to the fact that his master is benevolent and usually absent, Tranio is able to boast that he has never suffered any direct oppression.” Ibid., 40.

80. Ibid., 41.

81. Algernon Sydney, Discourses Concerning Government, ed. Thomas G. West (Indianapolis: Liberty Classics, 1996), 441, quoted in part in Philip Pettit,

82. See Pettit, Republicanism, 17–50, for his very helpful contrast between republican and liberal freedom.
83. Sydney, Discourses, 17, also quoted in Pettit, Republicanism, 33.
86. Quoted in Pettit, Republicanism, 48.
87. In 1647, during the Putney Debates of the English Civil War, Oliver Cromwell and his son-in-law Henry Ireton made precisely this point in arguments with more radical officers calling for suffrage to be extended to all Anglo males as a matter of birthright. In response, Ireton declared that since only property holders had “a permanent fixed interest in the kingdom,” they alone could be counted on to use political voice wisely. See “The Putney Debates of the General Council of the Army (October 29, 1647),” in The Sources and Debates in English History, 1485–1714, ed. Newton Key and Robert Bucholz (Oxford: Wiley-Blackwell, 2009), 188–191 (quotation on 189).
89. These were the Puritans from East Anglia to Massachusetts from 1629 to 1640, the Anglican Royalist elite and the indentured servants from southern England to Virginia from 1642 to 1675, and the Quakers from the North Midlands of England and Wales to the Delaware Valley from 1675 to 1725. See generally David Hackett Fischer, Albion’s Seed: Four British Folkways in America (New York: Oxford University Press, 1989).
90. As Fischer describes, the East Anglian Puritans fled Charles I and what Whig historians called “the eleven years of tyranny,” the Anglican cavaliers of southern England sought to escape Cromwell’s Puritan rule, and the dissenting Quakers of the North Midlands fled persecution at the hands of the Anglican clergy. See ibid., 16, 212, 423.
94. Lawson, *Imperial Challenge*, 43.

95. Ibid., 43–44.


97. During a town meeting in 1772, Boston’s freeholders and inhabitants explained their reasons for withholding religious toleration from Catholics. In the minds of Protestant settlers, the lack of independent religious conscience meant that Catholics were a permanent threat to free political institutions. The inhabitants declared that “The Roman Catholics or Papists are excluded, by reason of such doctrines as these: That Princes excommunicated may be deposed, and those they call heretics may be destroyed without mercy; besides their recognizing the Pope in so absolute a manner, in subversion of Government . . . leading directly to the worst anarchy and confusion, civil discord, war and bloodshed.” Quoted in Charles H. Metzger, *The Quebec Act: A Primary Cause of the American Revolution* (New York: United States Catholic Historical Society, 1936), 131.

98. See generally Fischer, *Albion’s Seed*, 810–816.


100. Quoted in ibid., 86.


104. In a real expression of toleration Jewish emigrants also received an exemption. Ibid., 74–76. The limited size of the Jewish population in the colonies certainly facilitated this move. Still, despite the 1740 exemption, one should note that throughout the period and well into the nineteenth century Jews, as non-Christians, faced various legal restrictions, including on holding public office and on voting. See generally Howard M. Sachar, *A History of the Jews in America* (New York: Knopf, 1992), 9–37 (especially 17–20, 27–28).


107. Ibid., 92.


111. Ibid., 49.

112. Stuart Banner (*How the Indians Lost Their Land*, 35) captures this remarkable turn in metropolitan and settler attitudes after the French and Indian War by describing the changed dynamic between the two as “an odd reversal”:

At the start of the colonial period, the imperial government had (in colonial charters) assumed that the Indians’ land could simply be taken, but the actual colonists found themselves often purchasing it. By the end of the colonial period, the imperial government was insisting that Indian land—even land upon which no Indians were physically present—had to be purchased. But the colonists now were much more powerful relative to the Indians than their predecessors had been a century and a half before, and many saw things differently. Much of the Indians’ uncultivated land was being illegally appropriated—“illegally” not just under the Indians’ law but under the colonizers’ law as well.

However, Banner misses how these shifting approaches were due to more than relative power relationships or military capacities. Settlers had long presumed that extending Anglo land ownership was a foundational commitment of empire, with the means—conquest or purchase—considered largely instrumental to the moral end of economic independence. But now the need for imperial stability indicated that colonial administrators were increasingly disregarding such settler presumptions and transforming indigenous customs into permanent rights guaranteed by British authority.


114. Ibid., 742–743.


122. Ibid., 208.

123. Ibid., 209.


127. See Quebec Act, 1774, 14 Geo. III, c. 83 (England).

128. See Lawson, “‘Irishman’s Prize,’” 588.


132. See generally Metzger, *Quebec Act*, for an excellent catalogue of the extent and intensity of anti-Catholic sentiment in the colonies before and after the Quebec Act.


135. Quoted in ibid.

136. Quoted in Metzger, *Quebec Act*, 59n110.


138. This is best illustrated by the vehemence of anti-Catholic sentiment on Pope Day or Guy Fawkes Day in 1774, an annual holiday held on November 5 to commemorate the 1605 Gunpowder Plot against the king. In England, effigies of the plot’s leader were carried through the streets in processions and then ritually burned. In New England and elsewhere in the colonies, effigies of the pope alongside the devil usually replaced those of Guy Fawkes. As Peter Shaw writes, “These substitutions reflected an American religious bias: a plot against the king almost automatically suggested a popish conspiracy, and hence the devil.” Peter Shaw,
American Patriots and the Rituals of Revolution (Cambridge, Mass.: Harvard University Press, 1981), 15–16. Over time the event lapsed into a general opportunity for games and pageantry or was discontinued altogether. However, the prospect of Catholic toleration led to a remarkable revival of the tradition, with Shaw commenting that “In America the Quebec Act of 1774 . . . led to far greater actions in the streets than any political event for the rest of the decade, with the possible exception of the Declaration of Independence” (ibid., 68). As Charles Metzger notes, even in places such as Charleston, South Carolina, where the practice had been suspended, “an ‘Association of Protestant School Boys’ anticipated the event by conducting a house to house canvas for tea ‘toward making a Bonfire on the memorable 5th day of November when the old custom is intended to be revived of exhibiting a piece of pageantry, to show their abhorrence of Pope, Pretender, etc” (Metzger, Quebec Act, 61).


143. William Knox, Three Tracts respecting the Conversion and Instruction of the Free Indians, and Negro slaves in the Colonies; Addressed to the Venerable Society for the Propagation of the Gospel in the Foreign Parts (London: J. Debrett, 1768), 31, 30. Christopher Brown describes how those administrative plans that did exist for gradual emancipation all necessarily assumed the importance of reducing settler power and enhancing colonial centralization. “The custom of colonial autonomy, then, presented a formidable block to the prospects for emancipation, as it did more generally to the exercise of imperial authority. A metropolitan attempt to seize and manage an institution traditionally administered exclusively by the colonial legislatures threatened, by necessity, profound constitutional change” (Brown, “Empire without Slaves,” 296).


145. This appears to be the correct spelling for Steuart’s name, although the English Reports employ a different variation.


149. As Simon Schama notes, Mansfield had gone out of his way to avoid a simple declaration that slavery was illegal in England, and “what he had said was that the power of a master to transport his slave against his will, out of England and to a place where he might be sold, had never been known or recognized under Common Law” (Schama, Rough Crossing, 55).


151. See generally Van Cleve, “Somerset’s Case.”

152. Quoted in Shyllon, Black Slaves, 165. At the Constitutional Convention, James Madison argued that Mansfield’s opinion necessitated the U.S. Constitution’s Fugitive Slave Clause, in order to ensure that complete slaveholding rights were respected throughout the country. The clause later became the legal basis for the Fugitive Slave Acts of 1793 and 1850. The clause reads, “No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.” U.S. Constitution, art. IV, sect. 2, cl. 3.


155. The following discussion draws especially from George Van Cleve’s account of how Anglo settlers reacted to the Somerset decision. For instance, Van Cleve notes that while southern slaveholders were quite reticent to discuss the case publicly, this was not due to a lack of interest. Slaveholders worried that public conversation might stoke slave flight and especially violent insurrections. See George W. Van Cleve, “A Slaveholders’ Union: The Law and Politics of American Slavery, 1770–1821” (PhD diss., University of Virginia, 2008), 49–66. The dissertation is forthcoming as A Slaveholders’ Union: Slavery, Politics, and the Constitution in the Early Republic (Chicago: University of Chicago Press, 2010).

156. See Patricia Bradley, “Slavery in Colonial Newspapers: The Somerset Case,” Journalism History 12 (1985): 1–7. Bradley argues that newspapers tended to frame their coverage around specific political objectives. The “Tory” press—those papers that were more supportive of metropolitan officials and that would eventually become loyalists—generally provided extensive coverage of the case as a way to emphasize English liberty and the justice of the British courts. By contrast, the “Patriot” press presented shorter descriptions that employed misinformation to play on the racial concerns of Anglo settlers. For instance, “Patriot” newspapers attempted to raise settler worries about the future of slaveholding in the colonies by glossing over the limited nature of Mansfield’s opinion and by suggesting that he had simply emancipated all slaves in England. As one commonly reprinted newspaper report declared, “A correspondent observes, that as blacks are now free in this country [England], Gentlemen will not be so fond of bringing them here as they used to be.” Quoted in Patricia Bradley, Slavery, Propaganda, and the American Revolution (Jackson: University Press of Mississippi, 1998), 74.

157. Quoted in Davis, Slavery in the Age of Revolution, 387.

164. Virginian views about the slave trade underscored internal class tensions. Although the landed gentry by and large had stopped buying foreign slaves and saw the long-term interests of the colony as moving away from slave labor alone, it was primarily small and “up-and-coming growers” in the southern Piedmont region that supported and sustained the trade. Ibid., 68–73 (quotations on 68, 70).
165. Quoted in ibid., 69.
168. Quoted in Holton, Forced Founders, 140.
174. See Mamdani, Citizen and Subject, 37–61.
175. Quoted in Pettit, Republicanism, 47.
176. See Pettit, Republicanism, 45–50.
178. Quotations in Knight v. Wedderburn, 8, 8–9; and Davis, Slavery in the Age of Revolution, 492.
179. Pocock, Machiavellian Moment, 510.
180. Ibid.
182. This remarkably conciliatory address was written concurrently with others condemning Catholic toleration, such as the Address to the People of Great Britain. This disparity is best understood as an effort by the Congress to convince Britain’s Canadian subjects to join the rebellion. Of course, when French Canadian support failed to materialize (not unsurprisingly given the virulence of anti-Catholic sentiment in the thirteen colonies), American settlers saw fit to compel alliance by force.
185. The Declaration of Independence (U.S. 1776), para. 29.

2. Citizens and Subjects in Postcolonial America
8. Ibid., 587, 574.
9. Ibid., 573, 588, 585.
10. Ibid., 573, 588, 591, 590.
11. Ibid., 591.
14. For instance, David Hendrickson, in his recent history of American international relations, argues that three systems of political organization, union, nation,
and empire, have competed in the collective imagination for ideological and institutional dominance. He asserts that while some early political figures no doubt made imperial arguments, the antebellum republic was not an empire but rather was premised on a commitment to union—the desire to instantiate a lasting and peaceable federative system among the distinct states. As such, isolated imperial practices stood in contrast to a largely nonimperial constitutional project. See David Hendrickson, *Union, Nation, or Empire: The American Debate over International Relations, 1789–1941* (Lawrence: University Press of Kansas, 2009). Similarly, Gary Lawson and Guy Seidman, in their careful and instructive account of the constitutional structure for territorial governance, also conclude that “the Constitution is not hospitable” to empire, because its founders always intended territories “to become equal parts of the larger American polity.” Gary Lawson and Guy Seidman, *The Constitution of Empire: Territorial Expansion and American Legal History* (New Haven, Conn.: Yale University Press, 2004), 202.


17. On Hamilton’s views of the Purchase, see ibid., 109.


19. Ibid., 35.

20. For more on the process of Louisiana’s territorial acquisition, see Sarah Cleveland’s valuable discussion in “Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs,” *Texas Law Review* 81 (2003): 1–284. There Cleveland describes how Jefferson did have legal qualms about the constitutionality of purchasing European territory beyond Britain’s historic possessions. But few if any other politicians shared these concerns. Virtually all saw expansion and conquest as inherent rights of sovereignty, constitutionalized by both war and treaty powers and unimpeded by European zones of discovery. Ultimately, even Jefferson ignored his worries, motivated by the importance of new settler land for economic independence as well as by a desire for quick ratification in case Napoleon changed his mind.


28. Thomas Jefferson famously coined the phrase to describe the intertwined growth of American territory and its internal institutions. In an 1809 letter to James Madison he wrote, “we should have such an empire for liberty as she has never surveyed since the creation . . . [because] no constitution was ever before so well calculated as ours for extensive empire and self government.” Quoted in Gordon S. Wood’s comprehensive new history of the period, Empire of Liberty: A History of the Early Republic, 1789–1815 (New York: Oxford University Press, 2009), 376. In keeping with The Radicalism of the American Revolution, Wood’s account emphasizes the egalitarianism of post-Revolutionary America, captured by Jefferson’s term. As with the earlier book, however, his focus on the rise of representative institutions and the decline of aristocratic deference fails to appreciate the fundamental duality of settler society and, therefore, solely reproduces the internal dimensions of the early republic.
31. For an account of the use of property law to induce white settlement, see Kerry Abrams, “The Hidden Dimension of Nineteenth-Century Immigration Law,” Vanderbilt Law Review 62 (2009): 1353–1418 (especially 1403–1414). Abrams powerfully demonstrates how property, marriage, and voting laws in frontier territories were employed to construct the right ethnic demographic. For example, alongside passing anti-miscegenation statutes, territorial governments after the Civil War began the steady process of extended voting rights to white women. Such practices jointly aimed at inducing European female migration and at preventing racial mixing—the latter a fundamental threat to settler identity.
35. Keyssar, Right to Vote, 33.
46. See Christopher Tomlins, Law, Labor, and Ideology in the Early American Republic (New York: Cambridge University Press, 1993), 60–61. Tomlins provides a key analysis of the rise and fall of legislative supremacy and unconstrained majoritarianism in the 1770s and 1780s. See especially ibid., 60–97.
48. Quoted in Tomlins, Law, Labor, and Ideology, 57. Tomlins argues that during the Revolution, settlers employed the language of “police” to give voice to this
concept of government as ensuring economic independence through the collective exercise of public power. Ibid., 55–59.


58. Wood describes Manning as the quintessential small-scale entrepreneur: “He ran a tavern off and on, erected a saltpeter works making gunpowder during the Revolutionary War, helped build a canal, bought and sold land, constantly borrowed money . . . seeking . . . every which way to better his and his family’s condition.” Wood, *Empire of Liberty*, 351–352. But one should be careful to avoid reading back into this personal history, as Wood appears to, support for later modes of large-scale industrial and commercial capitalism. Rather, for many laborers during the period, a producerist ideology was perfectly consistent with small-scale capitalism (particularly shop owning and manufacturing). Given that society was still primarily agrarian and decentralized, artisans and farmers often viewed such entrepreneurship as one form of productive control and as consistent with the widespread enjoyment of economic independence.

grammatical and spelling corrections made (although I will keep the original spelling of the title when discussing the pamphlet). For more on the life of William Manning and his relationship to American politics in the late eighteenth century, see Merrill and Wilentz’s comprehensive essay introducing his collected writings.

60. Manning, *Key of Liberty*, 135.
61. Ibid., 137, 131.
62. Ibid., 132, 141.
63. See ibid., 167–170.
65. For more on the idea of democratizing intelligence and virtue in early American political thought, see Christopher Lasch, *The Revolt of the Elites and the Betrayal of Democracy* (New York: Norton, 1995), 50–79.
69. Ibid., xii, xiv, 5.
70. Walter Licht, *Industrializing America: The Nineteenth Century* (Baltimore: Johns Hopkins University Press, 1995), 18–19; and Wiebe, *Opening of American Society*, 68. In his comprehensive study of Revolutionary America, *Peace Pact*, David Hendrickson also takes an internationalist orientation to events, arguing that the founding of the federal Constitution emerged out of concerns regarding the possibility of maintaining a durable and federative peace between the various colonies—seen by settlers as a multitude of commonwealths. See David Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: University Press of Kansas, 2003). Although my own arguments share this internationalist orientation, they focus less on the challenges to cooperation between the distinct states and far more on the competing accounts of threat motivating colonial elites and small farmers. For elites at the Constitutional Convention in Philadelphia, a durable peace was most compromised by frontier rebellions and the popular penetration of politics, which held out the potential for widespread disorder and thus European meddling.

73. *Federalist Papers*, no. 7, 113 (Hamilton); and *Federalist Papers*, no. 41, 269 (Madison).
74. For more on elite colonial worries about dismemberment and European rivalries, see Hendrickson, *Peace Pact*, 47–54. As one example among many, he quotes Adams in a 1787 letter to John Jay as declaring that any “but the most short sighted must perceive such manifest danger both from foreign Powers, and from one another as cannot be looked upon, without terror.” Quoted in ibid., 51–52.
75. *Federalist Papers*, no. 16, 154 (Hamilton).
76. Ibid., no. 12, 134 (Hamilton). For more on the related desires of many of the Constitution’s founders to check popular decision making and to create a climate


79. See Tomlins, _Law, Labor, and Ideology_, 64; see also Wiebe, _Opening of American Society_, 28–30.

80. _Federalist Papers_, no. 10, 123 (Madison).

81. _Federalist Papers_, no. 78, 438–439 (Hamilton).


84. Ibid., 7.


86. For ratification numbers in Massachusetts, see Szatmary, _Shays’ Rebellion_, 133; and for information generally on opposition to the new Constitution, see ibid., 130–134 (quotations on 131, 132).

87. _Federalist Papers_, no. 38, 253 (Madison).


89. See Slaughter, _Whiskey Rebellion_, 28–29.


91. U.S. Constitution, art. 4, sec. 3, cl. 2.


94. For more on congressional governance of the Louisiana territory and the move toward statehood, see Peter Kastor, _The Nation’s Crucible: The Louisiana Purchase and the Creation of America_ (New Haven, Conn.: Yale University Press, 2004), 76–108, 135–136. See also Leibowitz, _Defining Status_, 11–15, for a discussion of the role of federal discretion in territorial governance generally.

95. Quoted in Cleveland, “Powers Inherent in Sovereignty,” 175, 176.


103. See Tomlins, Law, Labor, and Ideology, 137.

104. Commonwealth v. Pullis, 199, also quoted in Tomlins, Law, Labor, and Ideology, 137.


111. See Stevens v. Reeves, 26 Mass. 198 (1829), especially 201–202.


113. See Laurie, Artisans into Workers, 19–21 (quotation on 20–21).

114. Licht, Industrializing America, 64.

115. Ibid., 65.
ying the Disparity of Profit in Pursu
117. Manning, *Key of Liberty*, 142.
118. Ibid.
120. Ibid., 100.
121. Laurie, *Artisans into Workers*, 90.
123. See ibid., 12.
124. See ibid., 15–16.
125. Ibid., 29, 30.
126. See Thomas Skidmore, *The Rights of Man to Property: Being a Proposi
tion to Make It Equal among the Adults of the Present Generation: and to Provide for Its Equal Transmission to Every Individual of Each Succeeding Generation, on Arriving at the Age of Maturity* (New York: Burt Franklin, 1829), 12.
127. Ibid., 159, 158, 270, 158.
128. Ibid., 359.
129. Ibid., 126.
130. See ibid., 145–146.
131. Ibid., 158.
132. On the issue of free movement, see ibid., 51, and for quotations see 75, 359.
135. Ibid., 27.
138. Ibid., 1453; and generally Cott, *Public Vows*, 24–55.
141. See generally David R. Roediger, *Wages of Whiteness: Race and the Mak
142. See Frederick Merk, *Manifest Destiny and Mission in American History:
143. Quoted in ibid., 28.
147. Laurie, Artisans into Workers, 26.
148. For more on nativism and the Know Nothing Party, see Eric Foner, Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War (New York: Oxford University Press, 1970), 226–260; and Tyler Anbinder, Nativism and Slavery: The Northern Know Nothing Party and the Politics of the 1850s (New York: Oxford University Press, 1992). Both Foner and Anbinder discuss how the failure of nativists to address the question of slavery during a time of deep sectional conflict undermined their ability to sustain national political support. Anbinder quotes one anti-slavery activist as saying, “neither the Pope nor the foreigners ever can govern the country or endanger its liberties, but the slavebreeders and slavetraders do govern it, and threaten to put an end to all government but theirs. There is something tangible to go upon, an issue which . . . will . . . surely succeed in the long run.” Anbinder, Nativism and Slavery, 278.
149. Quoted in Fredrickson, White Supremacy, 201.
154. Ibid., 449–450.
155. Ibid., 446.
156. Levinson, “Why the Canon Should Be Expanded,” 256.
159. As one of many examples of black popular activity, freed slaves angered by the Freedmen Bureau’s October 1865 restoration of virtually all planter land to


3. THE POPULIST CHALLENGE AND THE UNRAVELING OF SETTLER SOCIETY

1. It is difficult to ascertain the exact number of people who were mobilized through Alliance structures. The cited figures come from historian of Populism Lawrence Goodwyn in a speech given to commemorate the one-hundredth anniversary of the subtreasury plan. Lawrence Goodwyn and William Greider, “Democratic Money: A Populist Perspective,” December 9, 1989, www.geocities.com/progpop/Goodwyn.Greider.html (accessed October 8, 2009).


NOTES TO PAGES 184–190


18. For the naturalization law, see Act of July 14, 1870, ch. 254, §7, 16 Stat. 254 (quotation on 256); and for more on anti-Chinese sentiment during the congressional debates and the idea of “aliens ineligible for citizenship,” see Motomura’s illuminating assessment in *Americans in Waiting*, 70–75.

19. See especially the *Passenger Cases*, 48 U.S. (7 How.) 283 (1849). Although Taney dissented from the ruling, like the majority he also argued that all political communities enjoyed a plenary immigration authority that came from an inherent “power of self-preservation” and was “paramount and absolute in the sovereignty that possesses it.” *Passenger Cases*, 470, 467 (1849) (J. Taney, dissenting). While the Court ruled that the national government possessed this plenary power, Taney, in classic Jacksonian terms, disagreed and believed that it was held by the various states.


24. Ibid., 725. See also Kerry Abrams’s discussion of how politicians depicted Chinese immigrants during legislative debates about the Page Act. Kerry Abrams, “Polygamy, Prostitution, and the Federalization of Immigration Law,” *Columbia Law Review* 105: 641–716, especially 692–694. In classic millennial terms of crisis and threat, the Chinese were seen as dangerous outsiders who had to be subjugated in order to produce lasting domestic tranquility.


30. On the issue of free citizenship for women, the Knights broke with Jacksonian views about female dependence, arguing instead that women were equally capable of free labor and worthy of productive control. As one of its basic planks, the 1878 Knights Constitution sought “to secure for both sexes equal pay for equal work.” Powderly, *Thirty Years of Labor*, 245.

31. Ibid., 657, 659.


33. Ibid., 374.

34. Stevens wrote as the inscription for his tombstone, “I repose in this quiet and secluded spot / Not from any natural preference for solitude / But, finding other Cemeteries limited as to Race / by Charter Rules, / I have chosen this that I

35. For an assessment of the racial dynamic of the Populist movement, including the unwillingness to press for social equality, see generally Gerald H. Gaither, Blacks and the Populist Revolt: Ballots and Bigotry in the “New South” (Tuscaloosa: University of Alabama Press, 1977); and Ayers, Southern Crossing, 134–156. For more on white supremacy and Southern race relations after the Civil War, see generally C. Vann Woodward, Origins of the New South, 1877–1913 (Baton Rouge: Louisiana State University Press, 1951).

36. Powderly, Thirty Years of Labor, 429.


38. See generally William Forbath, “The Borders of ‘Our America’: ‘Race,’ Liberalism, and National Identity in the Law and Politics of European Immigration, 1882–1924” (unpublished manuscript, on file with the author), especially 12, 15–20; and Gyory, Closing the Gate, quotation on 69. I am particularly grateful to Forbath for allowing me to cite his instructive and excellent survey of labor republicanism’s struggle with the question of immigration.


40. Ayers, Southern Crossing, 145.


42. See Gene Clanton’s instructive account of how elected Populists struggled with the question of the Spanish American War in Congressional Populism, 127–164 (quotations on 139, 141).

43. Quoted in ibid., 152.


46. Clanton, Congressional Populism, 4.


48. Ibid., also quoted in Clanton, Congressional Populism, 161, 4.


54. Ibid., 42, 52 (quotation on 55).
55. Ibid., 112.
56. See Ayers, Southern Crossing, 71–87, for a discussion of how the Civil War set the terms for political cleavages and party identification during the Gilded Age. This was particularly true in the South where choosing between Democrat and Republican meant reaffirming sectional affiliation and “often defined a man’s friends, business dealings, and even marriage prospects.” Ibid., 71.
60. See Ayers, Southern Crossing, 120; Goodwyn, Populist Moment, 206–212. See generally Schwartz, Radical Protest and Social Structure, 129–198, for an assessment of the strengths and weaknesses of the lecturing system as a means to integrate Alliance members and to create a participatory mass movement.
64. On McKinley’s war chest, see Michael E. McGerr, The Decline of Popular Politics: The American North, 1865–1928 (New York: Oxford University Press, 1986), 140. On Southern black disenfranchisement and the grandfather clause, see Ayers, Southern Crossing, 171 (quotations therein). The clause was meant to exempt poor whites who registered within three months of the convention and who could prove that they, their father, or their grandfathers voted prior to Reconstruction. The term is used quite broadly today with little appreciation for its genesis and historical meaning.
66. Ibid., 197; and Godkin quoted in Goodwyn, Populist Moment, 210.
67. Gompers and the AFL rejected the Knights’ ambition of organizing all agricultural and industrial workers into a coalition that would press for broad-based reforms and the creation of a cooperative commonwealth. Rather, they took from the late 1880s collapse of the Knights of Labor the belief that, for workers to secure any goals at all, they needed to abandon systemic reform, organize strictly by trade, and press employers for limited improvements. See Laurie, Artisans into Workers, 176–210.
68. On organizational problems within the Alliance institutions, particularly interest divergence between leadership and ordinary members, see Schwartz, Radical Protest and Social Structure, 118–125. On the turn to electoral politics and the decline of farmers’ cooperatives, see ibid., 269–278; and especially Goodwyn, Populist Moment, 230–263, 305–306.


70. “Omaha Platform,” 94, 95 (quotation regarding immigration on 95); and Simpson quoted in Clanton, Congressional Populism, 132. On the land speculation issue, the New York Times quotes Powderly as stating, “We are opposed to land being held for speculation, and have always favored the plan of turning the revenue from the use of land to the use and benefit of the community.” See “Farmers and Knights: Mr. Powderly Talks about the Proposed Alliance,” New York Times, November 26, 1889. While generally supportive of such sentiment, most Populists were more equivocal than Powderly. On Alliance debates about legitimate title and use, see James Green, “Populism, Socialism, and the Promise of Democracy,” Radical History Review 24 (1980): 7–40, (quotation on 16); and also Palmer, “Man over Money,” 72–74.

71. See Motomura, Americans in Waiting, 69–76.

72. See generally Forbath, “The Borders of ‘Our America,’ ” especially 51, for Powderly’s views on the literacy test.


74. See ibid., 435–447, for a fuller account of the Leo Frank trial in Georgia and Watson’s role in his ultimate killing—this after he was pardoned by the governor.

75. See generally Nancy L. O’Conner, “The Influence of Populist Legislators upon American Foreign Policy, 1892–1898” (PhD diss., University of Oregon, 1958); and William Appleman Williams, The Tragedy of American Diplomacy (New York: Norton, 1988), 18–57. Even Jerry Simpson could not avoid being swept up by the prospect of new markets in foreign lands, grandiloquently stating in 1894, “I believe, gentlemen, that the time has come for the United States as a great nation to take its place as one of the great commercial nations of the world.” Quoted in Williams, Tragedy of American Diplomacy, 27. To the end, Simpson was a principled critic of the Spanish-American War as well as of the use of naval violence to impose free trade on weaker neighbors, declaring “I know of nothing more absurd than the rivalry of the nations in the matter of building unwieldy ships of war and in the construction of guns to pierce them.” Quoted in Clanton, Congressional Populism, 139. Yet he seemed unable to appreciate the ties between commercial expansionism and the very interventionism and gunboat diplomacy that he abhorred.

76. See Clanton, Congressional Populism, 141.

77. Woodward, Tom Watson, 454.

78. In re Neagle, 135 U.S. 1 (1890).

79. For more information about this rather colorful episode, including the fact that Terry had earlier sworn Field in as a fellow justice of the California Supreme

80. *In re Neagle*, 68.
81. Ibid., 64, 59.
82. Ibid., 65.

83. See *In re Debs*, 158 U.S. 564 (1895). On the strike and its aftermath, see Laurie, *Artisans into Workers*, 204–210; and especially Nick Salvatore, *Eugene V. Debs: Citizen and Socialist* (Chicago: University of Illinois Press, 2007), 127–140, 147–161, for how the events, particularly the extent of federal repression, convinced Debs that only by claiming state authority would laboring interests prevail. It emphasized to him the need for immediate electoral and political action, such as through the Populist Party and later through various socialist parties.

84. *In re Debs*, 582.
86. Ibid., 26.


89. *The Slaughterhouse Cases*, 73, 78.

90. See ibid., 109–110, 90, 110 (J. Field, dissenting). For Field, as with many in Congress, the Reconstruction amendments had been about not only eliminating actual bondage but also consolidating the belief that republican citizenship presupposed basic control over one’s own labor. Therefore, his willingness to link the amendments to the plight of Louisiana butchers underscored that in Field’s view the case was primarily about defending free citizenship rather than a liberal theory of economic rights. As Forbath comments on Field’s position, “‘Citizenship in the republic’ now protected them [the butchers] against such interferences with their freedom to pursue their calling as the State-created monopoly in Louisiana.” See Forbath, “Ambiguities of Free Labor,” 778.


92. See Gretchen Ritter, *The Constitution as Social Design: Gender and Civic Membership in the American Constitutional Order* (Stanford, Calif.: Stanford University Press, 2006), 21–24, for more on what she terms the “border status” of women during this period—or as I would describe it, their position as formal citizens and yet still subject to paternal authority in the household.


95. Takaki, Iron Cages, 189.


98. Lochner v. New York, 75 (J. Holmes, dissenting).

99. Ibid., 57, 59, 60.


4. Plebiscitary Politics and the New Constitutional Order


4. Ibid., 126–128 (quotations on 126, 128).


8. In their writing on Progressivism, Christopher Lasch and Michael Sandel overemphasize the ideological divisions between Croly and Weyl (viewing the former as a champion of industrial self-government and the latter as a defender of the new redistributive state). See Christopher Lasch, The True and Only Heaven: Progress and Its Critics (New York: Norton, 1991), 340–344; and Michael Sandel, Democracy’s Discontent: America in Search of a Public Philosophy (Cambridge, Mass.: Belknap Press of Harvard University Press, 1996), 219–227. This approach fails to appreciate the republican continuities shared by Croly and Weyl, such as their continuing belief in the centrality of self-assertive and engaged citizenship. In fact, if viewed as largely complementary, the thinkers together offered
the primary elements of a potential twentieth-century response to the rise of corporate and state hierarchy.

11. Ibid., 279, 195, 276.
12. Ibid., 329, 330.
16. Ibid., 281.
17. Ibid., 281, 384.
18. Ibid., 384, 390.
24. During the Progressive era, Kallen was perhaps most famous for responding to nativist attacks on new immigrant communities from southern and eastern Europe and for defending the value of “cultural pluralism.” See generally Horace Kallen, *Culture and Democracy in the United States* (New York: Boni and Liveright, 1924). The following discussion focuses instead on his arguments about leisure and consumerist politics. Such positions were more fully developed in later works from the 1930s and 1940s, particularly *The Decline and Rise of the Consumer: A Philosophy of Consumer Cooperation* (New York: D. Appleton–Century, 1936) and *The Liberal Spirit: Essays on Problems of Freedom in the Modern World* (Ithaca, N.Y.: Cornell University Press, 1948). Although my use of these later books slightly diverges from historical chronology, the works are nonetheless consistent with Kallen’s earlier arguments and provide the clearest articulation of his Progressive reconstruction of the relationship between freedom and work. For an earlier presentation of similar themes of democratic education and self-actualization through labor, see Horace Kallen, *Education, the Machine and the Worker: An Essay in the Psychology of Education in Industrial Society* (New York: New Republic, 1925).
27. See ibid., 250; and Kallen, *The Liberal Spirit*, 238.
32. Morone, Democratic Wish, 112; Croly, Progressive Democracy, 270.
39. See Kornbluh, Why America Stopped Voting, 131; La Follette quoted in ibid.
47. Quotations in ibid., 8, 7. For more on Roosevelt’s views about race, see generally Thomas G. Dyer, Theodore Roosevelt and the Idea of Race (Baton Rouge: Louisiana State University Press, 1984).
Dyer writes that precisely because of his Dutch background, Roosevelt avoided using “Anglo-Saxon,” and instead his “favorite term was the English-speaking race,” a politically pregnant rubric which implied that Britisbers, Americans, South Africans, and Australians were yoked in bonds of blood and language and also suggested that those of non-English ancestry, such as Dutch, could still gain admission into the group which Roosevelt believed was destined to dominate the world.” Ibid., 28–29. For Roosevelt’s arguments about shared imperial responsibilities between Britain and the United States, see William Tilchin, *Theodore Roosevelt and the British Empire: A Study in Presidential Statecraft* (New York: St. Martin’s Press, 1997). During this period, Roosevelt had a close relationship with Alfred Thayer Mahan and strongly supported the latter’s positions on expansion and naval power, frequently referencing Mahan’s book, *The Interest of America in Sea Power, Present and Future* (Boston: Little, Brown, 1898). In an article titled “Possibilities of an Anglo-American Reunion,” reprinted as part of that book, Mahan also argued that the United States and Britain shared the same basic ideals and imperial fates, as the two countries were jointly “intrusted a maritime interest, in the broadest sense of the word, which demands, as one of the conditions of its exercise and its safety, the organized force adequate to control the general course of events at sea.” Ibid., 111.

50. See Lasch, *True and Only Heaven*, 301; and for Lasch’s discussion of Holmes, Roosevelt, and James as well as what James derisively saw as the focus on “mere excitement” in the former two figures, see ibid., 296–303. In contrast to Lasch, I question whether James actually provided a meaningful alternative to the “war party” or if in fact his approach to national service presupposed a militarized vision of civic engagement.
54. Ibid., 216, 216–217.

58. For example, Senator Redfield Proctor of Vermont, a powerful defender of the need to confront Spain in Cuba, took for granted that victory would not produce extensive new territories. Before the war, he rejected outright all efforts at expansion or the incorporation of foreign peoples, considered ethnically inappropriate for free citizenship. In classic settler terms he remarked, “I am not in favor of annexation: not because I would apprehend any particular trouble from it, but because it is not a wise policy to take in any people of foreign tongue and training, and without any strong guiding American element.” Redfield Proctor, “Speech to Congress, March 17, 1898,” in *America as a World Power, 1872–1945*, ed. Robert H. Ferrell (Columbia: University of South Carolina Press, 1971), 59.


61. For a recent account of the territorial implications of the debate over Puerto Rico’s status, see Kal Raustiala,* Does the Constitution Follow the Flag? The Evolution of Territoriality in American Law* (New York: Oxford University Press, 2009), especially 59–91. Raustiala argues that the *Insular Cases* grounded within American constitutional law the idea of “intraterritoriality,” namely that distinct legal regimes can operate in different geographical spaces within the national territory.


63. Justices Brown, White, Shiras, McKenna, and Gray concurred in the decision, with Chief Justice Fuller and Justices Harlan, Brewer, and Peckham dissenting.


65. Ibid., 279–280, 280.


68. Quotations in ibid., 341–342, 318.

69. See generally Burnett, “Untied States.”


387
71. Carman F. Randolph, “Constitutional Aspects of Annexation,” *Harvard Law Review* 12 (1898): 291–315 (quotation on 304). Randolph ends his piece by further emphasizing his fear for the future of Anglo liberty if Congress pursues the annexation of the Philippines: “Assuming that the annexation of the Philippines is embodied in the treaty, it is the most questionable project of domestic concern that a President has ever submitted to the senate.” Ibid., 315.


80. Ibid., 286.


82. On the Senate’s failure to ratify the Treaty of Versailles, see David Joseph Goldberg, *Discontented America: The United States in the 1920s* (Baltimore: Johns

83. For more on the linkage between anti-imperial and nativist arguments in the 1920s, see Goldberg, *Discontented America*, 23, 140–166. As for La Follette’s conflicted approach to the emerging restrictionist paradigm, see ibid., 157 and Richard Lowitt, “Review: Robert M. La Follette and the Waning Insurgent Spirit: From the New Citizenship to the New Deal,” *Reviews in American History* 4 (1976): 244–250. However, at least in 1913, La Follette was willing to stand on principle, opposing a proposal that required new immigrants to provide a certificate of character. According to him, supporters of the proposal were doing the bidding of monopolists and corporate elites. European immigrants, the Progressive senator declared, “were a menace to plutocracy, and there are certain people in this country who do not favor encouraging a menace to plutocracy.” “Senate Turns Back Immigration Bill,” *New York Times*, January 21, 1913.


86. Ibid., 255, 260.

87. Ibid., 248, 258.

88. Quotations in ibid., 258, 258–259, 252.

89. Ibid., 260.

90. Ibid.


96. Ibid., 319–320.

97. Ibid., 318, 316.

98. Ibid., 319.

99. See Morone, *Democratic Wish*, 137.

was widely referred to as “the switch in time that saved nine,” although it
remains unclear to what extent the justices were responding directly to Roosevelt’s
court-packing plan.

101. For a fuller account of the episode and the idea of transformative judicial
appointments, see especially Bruce Ackerman, We the People: Transformations, vol.
213–334 (quotation on 26); see also James McGregor Burns, Roosevelt: The Lion

102. Quotation in Burns, Roosevelt, 344; and see generally Theodore J. Lowi,
The Personal President: Power Invested, Promise Unfulfilled (Ithaca, N.Y.: Cornell
University Press, 1985), 2–3; Morone, Democratic Wish, 138.

103. For the current White House administrative statistics, see Miller Center of
Public Affairs, “American President: An Online Reference Resource: Administra-
tion of the White House,” www.millercenter.org (accessed October 17, 2009); see
also Lowi, Personal President, 4 (for 1939 numbers), 6 (quotation).

104. Following Theodore Lowi and Stephen Skowronek, I will employ the
term to express the contemporary constitutional order, premised on executive
leadership and the view of the presidency as the single body able to represent the
nation as a whole. See generally Lowi, Personal President; Stephen Skowronek,
The Politics Presidents Make: Leadership from John Adams to George Bush

105. See Richard E. Neustadt, Presidential Power and the Modern Presidents:
The Politics of Leadership from Roosevelt to Reagan (New York: Free Press,
1990), 7; and Skowronek, The Politics Presidents Make, 55, 53, 54.

106. See Foner, The Story of American Freedom, 201–204. Still, one should
note that FDR very rarely in speeches and writings actually referred to himself or
the New Deal as “liberal.” As I will discuss later, this can be viewed as part of FDR’s
effort to depict his policies as embodiments of a general and popular interest in
economic security rather than simply as the product of partisanship. Instead of be-
ing liberal, progressive, or conservative, New Deal measures were presented as
implementing a broad political right to freedom from necessity.

107. See Franklin Roosevelt, “Commonwealth Club Campaign Speech, Sep-
tember 23, 1932,” in The Roosevelt Reader: Selected Speeches, Messages, Press
Conferences, and Letters of Franklin D. Roosevelt, ed. Basil Rauch (New York:
Rinehart, 1957), 74–85 (quotations on 79, 77).

108. Frances Perkins, “FDR Was ‘A Little Left of Center,’” in New Deal
Thought (New York: Bobbs-Merrill, 1966), 379–385 (quotation on 384); and

The Later Works, 1925–1953, vol. 13, ed. Jo Ann Boydston (Carbondale: South-

110. See generally David K. Adams, “The Concept of Parallel Action: FDR’s
Internationalism in a Decade of Isolationism,” in From Theodore Roosevelt to
FDR: Internationalism and Isolationism in American Foreign Policy (Stafford-
shire, U.K.: Keele University Press, 1995), 113–130 (especially 117) and Ronald E.
Powaski, Toward an Entangling Alliance: American Isolationism, Internationalists, and Europe, 1901–1950 (Westport, Conn.: Greenwood Press, 1991), 58–88. For more on FDR’s attempts to navigate isolationist sentiment while sustaining Wilsonian principles—such as through debates over the 1930s Neutrality Acts—see also David M. Kennedy, Freedom from Fear: The American People in Depression and War, 1929–1945 (New York: Oxford University Press, 1999), 381–425. Kennedy writes that early during FDR’s presidency, “As a Wilsonian, he . . . hoped that a world of . . . international cooperation would one day emerge. . . . But during his first term, the mood of the country, as well as Roosevelt’s personal priorities and the practical realities of New Deal politics, dictated that he promote no serious American effort to bring that . . . world about.” Ibid., 390.


112. Ibid., 54, 54–55, 55.


116. Ibid., 234, 214. The subsequent discussion of Robert Lynd and Thurman Arnold expands upon arguments made about the two thinkers in Lasch, Progress and Its Critics, 412–475 (especially 424–439). There Lasch presents a similar critique of their New Deal faith in expertise and their skepticism of popular sensibilities.


118. See Lasch, Progress and Its Critics, 430.


120. Ibid., 47–48, 232–233, the latter quoted in part in Lasch, Progress and Its Critics, 433–434.

121. Lasch writes of democracy for Arnold, “It meant the universalization of material well-being, engineered by ‘fact-minded persons’ and ‘competent diagnosticians.’ A democratic regime . . . had to ‘carry its people along with it emotionally’; but that did not imply that the people should take an active part in governing themselves.” Lasch, Progress and Its Critics, 434–435.


123. Ibid., 112, quoted in part in Lasch, Progress and Its Critics, 433, 434.


127. For more on how measures like the Wagner Act undermined the forms of “belated feudalism” that structured the wage system, see especially Karen Orren, *Belated Feudalism: Labor, the Law, and Liberal Development in the United States* (New York: Cambridge University Press, 1991), 204–230.


136. Quotations in ibid., 259.


143. See *Adkins v. Children’s Hospital*, 261 U.S. 525 (1923) (quotation on 553).


**Conclusion**


6. Quotations in ibid., 137

7. Ibid., 112, 165; and Henry George quoted in ibid., 163–164.

8. Ibid., 165.

9. Ibid., 167, 190.

10. Ibid., 175.

11. Ibid., 182.

12. Ibid., 188.

NOTES TO PAGES 340-345

(Washington, D.C.: Government Printing Office, 1977), 241. Classified until 1977, NSC-68 is generally credited to Paul Nitze, who was director of policy planning at the State Department and chaired the National Security Council Study Group that wrote the document.


22. See Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (New York: Oxford University Press, 2006), 189–204 for his account of nineteenth-century “immigration as transition” and for his belief that a model of presumptive or “intending” citizenship should be employed today regardless of changes in the ethnic composition of immigrants.


This book has benefited from the kindness and assistance of many people. To begin with, I am indebted to Nancy Rosenblum, Michael Sandel, and Richard Tuck for their encouragement and guidance from the very beginning of this project. Each offered invaluable insight, listened patiently to my ideas, and helped to clarify the scope and meaning of these arguments. I also owe special thanks to Bruce Ackerman, who read numerous versions of the material and whose intellectual generosity provided an essential sounding board. All four have shown immeasurable scholarly and personal commitment, and represent a model of teaching that I hope to follow. Countless other friends, colleagues, and mentors have contributed to this book by providing moral support, reading drafts, or suggesting fruitful paths for research. Many have taken time out of their busy schedules to help me with my work, and I am deeply appreciative. I would like to thank Kerry Abrams, Jonathan Bach, Ashi Bâli, Paulo Barrozo, Ken Chen, Noah Dauber, Stefan Dolgert, Aron Fischer, William Forbath, Jason Frank, Nick Frayn, Jeffrey Green, David Grewal, Forrest Heidel, Stanley Hoffmann, Daniel Kanstroom, Devesh Kapur, Yukiko Koga, Sharon Krause, Jedidiah Kroncke, Douglas Kysar, Darryl Li, Karuna Mantena, Daniel Markovits, Pratap Mehta, Daniel Moses, Hiroshi Motomura, Isaac Nakhimovsky, Jedediah Purdy, Danya Reda, Sanjay Reddy, David Roediger, Verity Smith, George Van Cleve, and Patrick Weil. For many years, Alex Gourevitch has been a close friend and interlocutor; our discussions have been a source of challenge and inspiration.

Generous financial support was provided by the Charles Warren Center, a Graduate Society Fellowship at Harvard University, and the Oscar M. Ruebhausen Fund at Yale Law School. I am very grateful to Michael Aronson, my editor at Harvard University Press, for his faith and unflagging commitment to this project, as well as to the rest of his editorial team—including Heather Hughes, John Donohue, and Julie Palmer-Hoffman. I also thank two anonymous reviewers for their careful comments and incredibly instructive suggestions. In addition, I feel privileged to have finished this book at Cornell University, and would like to thank the Law School for its tremendous support and my colleagues in particular for their encouragement during the last stages of this process.

Finally, this book would not have been possible without my family. I am forever indebted to my parents, Phyllis Safiya Gabriel and Kipkorir Aly Azad Rana,
who have shaped me more than they know. I thank my Kenyan and American relatives for their kindness and great warmth, as well as my “in-law” family, who have welcomed me completely. I am most indebted to Odette Lienau, my companion and intellectual partner, who read countless drafts with immense care and provided extensive feedback, all the while offering infinite patience and love. I dedicate this book to her and to my parents, who were my first and remain my greatest teachers.
INDEX

Abrams, Kerry, 185, 368n31, 377n13, 378n24
Absolutism: Catholicism and, 56–58; of Parliament, 69–72
Ackerman, Bruce, 299, 316
Adams, John, 76, 96
Address to the People of Great Britain (Jay), 78, 366n182
Adkins v. Children’s Hospital (1923), 322–323
Africa: neocolonialism and, 131–132; W. E. B. Du Bois on, 332
Afrikaner pioneers, 11
Agrarian Justice (Paine), 125, 130
Agrarian movement. See Populist movement
Aguinaldo, Emilio, 273
Ames, Fisher, 124, 129, 198
Amherst, Jeffrey, 66
Anbinder, Tyler, 375n148
Ancestry, liberty and, 58–59, 70–71
Anderson, Joseph, 144, 145
Andrews, Charles, 354n3
Anglo-Boer Wars, 11
Anglo-Saxons, 69–70
Anglo subjects: emergence of free, 46–50; supremacy of, 45–46
Anti-colonial thinking, defeat of, 215–220
Anti-Federalists, 140–141, 182
Anti-statism: during Civil War period, 182–183; politics of duality and, 105–106; populist tradition and, 102–105; post-Revolution revolts and, 100–102
Appeal to the Inhabitants of Quebec, 95, 366n182
Appleby, Joyce, 141–142
Arendt, Hannah, 20–21, 22
Aristotle, 123
Arkansas, 237
Armitage, David, 34, 35
of populist tradition and, 120–125; sense of crisis during, 96–97
American settlement: ideological basis for, 31–37; imperial expansion and, 25–28; Irish colonization and, 28–30; justifications for, 24
American Revolution: causes of, 14–15, 23–24, 354n3; exceptionalism of, 20–22; producerist democracy and, 125–129; rise
Arnold, Thurman: Christopher Lasch on, 391n116,121; on humanitarian imperialism, 236, 308–311; on statecraft, 319, 321

Articles of Confederation, 142–143, 145
Australia, 11, 353n26
Ayers, Edward, 200, 211

Banner, Stuart, 35, 361n112
Battle of Fallen Timbers, 130
Bedford, Duke of, 25, 354n6
Bentham, Jeremy, 52, 92
Bercovitch, Sacvan, 55–56
Blackburn, William, 84
Borah, William, 291
Bourne, Randolph, 290–296, 324, 326, 347
Bracero Program, 340
Bradford, William, Jr., 87
Bradley, Joseph, 228
Bradley, Patricia, 85, 364n156
Bradwell v. Illinois (1873), 228, 322
Brewer, David: on economic independence and free citizenship, 226; executive prerogative and, 236; In re Debs and, 224; rejected vision of, 235; United States v. Celestine and, 230; on women’s equality, 322
British colonies: D. K. Fieldhouse on, 355n10; expansion of, 67–69; as experiment in republicanism, 50–55; insularity and immigration in, 58–62; social mobility in, 46–50; views on liberty, 89–93
British Empire: American expectations for, 63–65; colonization of Ireland and, 28–30; indirect rule and, 73–79; mercantilism and, 132–136; native land rights and, 65–73; settler revolt and, 21–22; territorial expansion of, 25–28; views on liberty, 89–93
Brock, George, 101
Brown, Christopher, 80, 363n143
Brown, Henry, 275–277, 279
Brownson, Orestes: on expansion and economic freedom, 99, 156–158; on industrial production, 162; on a laboring class versus a leisure class, 244–245; link to anti-Federalism, 182; radical populism of, 154; on republican freedom, 213
Bryan, George, 140–141, 182
Bryan, William Jennings, 179, 180, 211, 214
Burke, Edmund, 20, 90, 91–92, 354n5
Burke, William, 354n5
Burnett, Christina, 279
Byllesby, Langdon, 154–155, 162, 187
California Land Settlement Act (1851), 119
Calvin, Robert, 31
Calvin’s Case (1608), 37–40, 46, 71, 72
Campbell v. Hall (1774), 71–73
Canada: British control over, 25–26, 63; invasion of, 94–95, 366n182; Quebec Act and, 73–79
Capitalism. See Industrial capitalism
Carew, Peter, 30
Carnegie, Andrew, 284
Catholicism: absolutism and, 57–58; free citizenship and, 117; governance under Louisiana Purchase and, 144; Guy Fawkes Day and, 362n138; Quebec Act and, 73–79; settler xenophobia and, 57–58, 60–61, 76–78, 96, 117, 144, 166–167, 360n97, 362–363n138; Thomas Jefferson on cultural assimilation and, 148
Catt, Carrie Chapman, 260–261
“Centinel.” See Bryan, George
Charles I, 359n90
Checks and balances, 316
Cherokee Indians, 111–114
Cherokee Nation v. Georgia (1831), 112–113, 229
Children: indentured servitude and, 41–42; unfree labor and, 163
China: commercial expansion and, 286; Theodore Roosevelt on, 265–266; as a threatening empire, 192; as a world power today, 2
Chinese Exclusion Act (1882), 191
INDEX

Christianity: civilization and, 29–30, 31–32; conquest of infidel lands and, 72
CIO (Congress of Industrial Organizations), 312, 313
Civilian Conservation Corps, 267
Civilization: Christianity and, 29–32; “savagery” and, 29–30, 34–37, 270–271
Civil rights movement, 329–336, 343
Civil War: effects of, 15, 172–175, 183–193; government power during, 182–183; party identification and, 380n56
Cleveland, Grover, 223–224
Cleveland, Sarah, 144, 367n20
Cocke, William, 144
Coke, Edward: on alien landholding, 357n43; Anglo colonization and, 24, 31–33; Calvin’s Case and, 31–33, 37–40; on colonists’ rights, 46; ethnic hierarchies and, 324; on foreigners’ rights, 115; idea of subjectship, 37–40; on indigenous laws, 31–33, 35; John Locke and, 43; Joseph Story and, 108; Lord Mansfield and, 72, 73
Cold War, 179, 334, 337–338
Colonialism: Theodore Roosevelt on, 283; W. E. B. Du Bois on, 332. See also Empire; Neocolonialism; Settler colonialism
Colonies. See British colonies
Colonization: free market and, 152–153; Langdon Byllesby on, 154–155; legal and political basis for, 24–37; Orestes Brownson on, 156–157; settler freedom and, 109–110; Thomas Skidmore on, 159–160, 161–162
Commercial expansion, 284–287, 381n75
Commercialism, 234, 263, 265–266, 268
Common Sense (Paine), 125, 126
Commonwealth v. Pullis (1806), 149
Communism, Martin Luther King Jr. on, 334
Congress, territorial government and, 145–146
Congress of Industrial Organizations (CIO), 312, 313
“Connected criticism,” 17
Conquered land: colonial legal status of, 31–32, 40, 46; indirect rule and, 71–73; settled land versus, 49–50, 81–84, 88–89; slavery and, 80–81, 84, 88. See also Settled land
Conquest of infidel lands, 29–30, 32–36, 72–73, 106–111
Constituent power, 318–319
Constitutions, during revolutionary period, 121–122
Consumerism, 251–253, 261, 264–265, 268–269
Continental Congress, 78, 94–95, 142–143
Cooperative commonwealth, 178, 209, 213, 246, 380n67
Cooperatives, 155, 158, 252
“Cornelius,” 142
Corporations: co-optation of government by, 185; land ownership and, 215–216; post–Civil War rise of, 184–185
Cotton, John, 55–56, 95
Court-packing, 299–300, 390n100
Coverture, 163
Crawford, William, 69
Credit crisis, post-Revolution, 100–101
Crèvecoeur, J. Hector St. John de, 5
Croly, Herbert: on “direct democracy,” 254; idea of an “authoritative representative body,” 246, 256; Lasch and Sandel on,
INDEX

Croly, Herbert (continued)
383n8; nationalism and, 253–256; New Deal and, 296–297; Randolph Bourne and, 293; on republican freedom, 242–243, 245–247, 250–251; Theodore Roosevelt and, 256
Dunmore, Fourth Earl of, 88
Dyer, Thomas G., 384n47
Economic concentration, 183–189
Economic independence: Civil War and, 172–175; free market and, 149–154; gender and racial hierarchies and, 162–167, 188–193, 215; Langdon Byllesby on, 154–155; Orestes Brownson on, 156–158; Populist movement and, 204–205; Progressivism and, 242–247, 314; republicanism and, 52–53; Thomas Skidmore on, 158–162
Economic security, 311–315, 319–320, 333
Education: civil rights movement and, 330; John Dewey on, 249; Progressivists on, 314; Robert Lynd on, 308; Walter Weyl on “social surplus” and, 244–245
Egremont, Second Earl of, 66
Electoral process: during Great Depression, 311–312; Populist movement and, 205–210; racial discrimination in, 211, 217, 380n64; reforms in, 257–259. See also Suffrage
Elizabeth I, 41
Elkins, Caroline, 8
Emancipation Proclamation, 172–175
Emerson, Ralph Waldo, 166
Emigration. See Immigration; Territorial expansion
“Empire of liberty,” 114, 148, 154, 368n28
Equality/equal opportunity: American settlerism and, 12; civil rights movement and, 329–336; economic, 306; exceptionalism and, 5–6; Franklin Delano Roosevelt on, 302–304; social inclusion and, 327–329; Thurman Arnold on, 310–311
Exceptionalism: American exceptionalism, 5–7; of American revolution, 20–21; in settler ideology, 97
Executive power: economic security and, 314–315; Franklin Delano Roosevelt on, 311; New Deal constitutionalism and, 315–320; permanent peace and, 221–222
Executive prerogative, 222–226, 298–299
Expansion. See Global expansion; Territorial expansion
Extralegal organizing, 205–210
“Facing West from California’s Shores” (Whitman), 233
Factory system, 90–92
Fallen Timbers, Battle of, 130
Farmers Alliance: decline of, 213, 258; political mobilization and, 208–209, 376n1; Populist movement and, 15, 176–178, 194–195; unified labor and, 196
Fascism, 307
Fawkes, Guy, 362n138
Federal government: Civil War–era views on, 182–186; defeat of radical populist tradition and, 142–148; populist wariness of, 103–104; Revolutionary elites on, 135–142
Federalists, 135–143, 316–317
Federal Reserve Board, 258–259
Federal Trade Commission, 258–259
Ferguson, Niall, 351n1
Field, Stephen, 222–223, 227–228, 382n90
Fieldhouse, D. K., 27, 352n13, 355n10
Fischer, David Hackett, 55, 68, 359n90
Fletcher, Andrew, 41, 357n57
Foner, Eric, 164–165, 375n148
Food and Drug Administration, 258–259
Foran Act (1885), 199
Forbath, William, 382n90
France, 25–26, 63–65
Frank, Leo, 218
Frankfurter, Felix, 315
Franklin, Benjamin: on British expansion, 63–65; on commerce and manufacturing, 136–137; on empire and liberty, 95; native land rights and, 69; on Somerset v. Stewart, 85
Franklin secession movement, 134
Fredrickson, George: on Christianity and civilization, 29; on frontier settlers, 143; on indentured servitude, 42; influence of, 353n27; on servitude and land ownership, 43; on settler typology, 352n13
Free blacks: discrimination against, 47; free citizenship and, 118–120; inclusion of, 44, 183–184; land ownership and, 172–173; Roger Taney on, 168–169; unfree labor and, 164–165
Free citizenship: consumerism and, 251–257; decline of, 320–325; degraded labor and, 188–193; gender and, 163–164, 321–324; labor market and, 382nn87,90; permanent peace and, 221–222; racial discrimination and, 115–119, 184; Roger Taney on, 171–172; roots in colonial subjectship, 49–50, 58–61, 70; under settlerism, 95, 262–263, 280, 320–321; social inclusion and, 328–329; stratified subjectship and, 114–120, 221–222, 276–279, 320–321; wards of the state and, 226–233
Freedmen’s Bureau, 172, 375n159
Freedom: American global power and, 1–4; colonization and, 109–110; conflicting views in Britain and America on, 89–93; Edmund Burke on, 20, 90; land ownership and, 52–55; as self-rule, 22–23, 54–55; settler empire and, 12–14; slavery and, 50–52; subordination and, 5, 14, 353n27; two faces of, 3, 13
Free market, 148–154, 159
Free trade, 284–287
French and Indian War, 66
French Revolution, 20
Frontier experience, 11
Frontier settlers: Federalist views on, 143; free market and, 152–153; Langdon Blylesby on, 154–155; Orestes Brownson on, 156–157; Thomas Skidmore on, 159–160, 161–162
Fugitive Slave Clause, 364n152
Fugitive Slave Laws (1793 and 1850), 118, 158, 364n152
Fuller, Melville, 192, 279, 280, 281
Gates, Thomas, 33, 40
Gender differences: free citizenship and, 163–164, 321–324; gendered division of labor and, 341; Jacksonian populism and, 163–164; Knights of Labor and, 196, 378n30; unfree labor and, 162–165; women as wards of the state and, 228–229, 322–324; women’s suffrage and, 257–262, 368n31
General Allotment Act (1887), 229–230
George, Henry, 333–334
George III, 74
Gilbert, Humphrey, 28
Gilded Age: corporate political control during, 185–186; extralegal organizing during, 206–210; immigrant and racial exclusion during, 191–193; party affiliation during, 206–207, 380n56
Gilman, Charlotte Perkins, 259–260, 341
Global expansion: constitutionalizing, 275–281; free citizenship and, 263–264; millennialism and, 269–271; Randolph Bourne on, 290–296; Redfield Proctor on, 387n58; Spanish-American War and, 272–275; Theodore Roosevelt on, 265–266; universalism and, 281–290
Godkin, E. L., 212
Goldman, Emma, 261
Gompers, Samuel, 212–213, 284–285, 380n67
Goodwyn, Lawrence, 179–180, 213, 376n1
Gordon, William, 77
Gould, Jay, 194
Government: Civil War–era views on, 182–186; distribution of wealth and, 243–245; of English colonies, 48–49; Federalist views on, 135–142; Populist mobilization and, 205–210; populist tradition and, 121–125; Roger Taney on, 167–172; Thomas Paine on, 125–126; William Manning on, 126–129. See also Federal government; Territorial governance
Grandfather clause, 211, 380n64
Grand Labor Coalition, 194–195
Grant, Ulysses S., 265
“Great Community,” 248, 249, 256
Great Depression, 296, 311–312. See also New Deal
“Great Society,” 248
Great Trek, 11
Great Upheaval, 194
Gregg, Andrew, 145
Grenada, 71–72
Guadeloupe, 25–26, 63
Gunpowder Plot, 362n138
Guy Fawkes Day, 362n138
Habeas Corpus Act (1679), 78
Hale, Mathew, 41
Hamilton, Alexander: on federal government, 134–136; on law and popular sovereignty, 139; on Louisiana Purchase, 110; on postcolonial dependence, 137; on property ownership, 101–102; on Senate and presidency, 316
Hardwicke, First Earl of, 81, 84
Hargrave, Francis, 83
Harrington, James, 46, 52, 53, 267
Harrison, William Henry, 110
Hartz, Louis, 5
Hatch, Nathan, 64, 95
Hawaii, 201, 272
Hay, John, 286
Hendrickson, David, 366n14, 371n70
Hereditary property, 158, 159
INDEX

Hill, Christopher, 357n61
Hillman, Sidney, 312
Hofstadter, Richard, 179–180
Holmes, Oliver Wendell, 231, 234, 263–264, 266–268, 327
Holt, John, 80–81, 87
Holton, Woody, 125
Homestead Act (1862), 116, 184, 185, 187
House of Representatives, 316
Howard, Milford, 219
Hughes, Charles E., 323
Huguenots, 60
Hulsebosch, Daniel, 39, 354n3

Humanitarianism, 308–311

Idaho territory, 237
Illegal aliens, 239, 345–347
Immigrant activism, 345–347

Immigration: Alien Enemies Act, 369n37; alien landholding and, 357n43; alien land laws, 215–216, 381n70; alien suffrage laws, 60, 116, 237; changes in views and laws on, 237–239; colonial policies on, 58–62; deportation and, 117–118, 239, 369n37; division of labor and, 339–343; free European immigrants, 114–120; Horace Kallen defends, 384n24; humanitarian imperialism and, 336–343; illegal aliens and, 239, 345–347; immigrant activism, 345–347; internal and external authority and, 17; land ownership and, 215–216; Randolph Bourne on, 293–294; Robert La Follette on, 389n83; Roger Taney on, 377n19; settler empire and, 12–13; social inclusion and, 343–347. See also Chinese immigration; Office of Immigration


“Imperial School,” 354n3

Imperial subjectship, 45–46, 48, 50, 61, 111–120, 189–193, 276–277. See also Stratified subjectship


Indentured servitude, 40–45, 47

Indians. See Indigenous groups

Indigenous groups: colonization of Ireland and, 28–30; Edward Coke on, 31–33; free citizenship and, 118, 119–120; indirect rule and, 111–114; John Locke on, 33–37; Johnson v. M’Intosh and, 106–111; land rights for, 65–73, 361n112; legal implications of settled land for, 49–50; mercantilism and, 133–134; populist tradition and, 129–131; Roger Taney on, 168; as royal subjects, 23; settler colonialism and, 8–10; territorial governance and, 282–283; Thomas Skidmore on, 160–161; wards of the state and, 229–230

Indirect rule, 72–79, 91, 111–114

Industrial capitalism: bureaucratic hierarchy and, 244, 248–250; Gilded Age and, 184–186; New Deal critique of, 306–308; unequal bargaining power and, 151–152, 232, 312–313
Industrialism: after the Civil War, 184–185; millenniaism and, 268–269, 271; Progressivism and, 243; republicanism and, 234–235; slavery and, 90–92; wage labor and, 148–149, 174; wards of the state and, 226–233
Industrial unionism, 247, 313–314
Infidel lands, conquest of, 29–30, 32–36, 72–73, 106–111
Inherited wealth, 158, 159
In re Debs (1895), 223–224, 225
In re Neagle (1890), 222–223, 224, 225
Insular Cases, 275–277, 289, 387n61
Insularity, in settler ideology, 58–59
Insurrection Act (1792), 224
Intelligence, democratization of, 248–249
The Interest of Great Britain Considered with Regard to Her Colonies and the Acquisitions of Canada and Guadaloupe (Franklin), 63
Interstate Commerce Commission, 258–259
Interventionism. See American interventionism
Ireland, 11–12, 28–30, 353n24, 356n22
Iréton, Henry, 359n87
Isolationism: Franklin Delano Roosevelt and, 304, 391n110; nativism and, 291, 389n83; Republican Party and, 290–291
Jackson, Andrew, 112, 131, 150, 168, 317
James, William, 267–268
James I, 30
Jamestown, 33, 40
Jay, John, 78
Jefferson, Thomas: Christopher Tomlins on, 373n97; on Constitution, 146–148; on empire and liberty, 95, 368n28; on English subjectship and colonial autonomy, 88; on governmental power, 147; Louisiana Purchase and, 144, 367n20; on mercantilism, 137; “personal competency” and, 302; politics of duality and, 147–148; presidential leadership and, 318; on threats posed by slaves and Indians, 96
Jennings, Francis, 29, 356n22
Jews, social inclusion of, 360n104
Johnson, Lyndon, 330
Johnson v. M’Intosh (1823), 106–108, 160
Jones, Chester Lloyd, 257–258
Jones & Laughlin Steel Corporation, 313
Julian, George, 172–174, 183
Kallen, Horace, 249–250, 252, 257, 384n24
Kanstroom, Daniel, 239
Kennedy, David M., 391n110
Kettner, James, 59
The Key of Libberty (Manning), 126–127, 256
King, Martin Luther, Jr., 332–336, 338, 343
Knight, Joseph, 92–93
Knights of Labor: on Chinese immigration, 199–200; formation of, 206; on free citizenship for women, 378n30; labor reform and, 194, 380n67; on land held for speculation, 215–216; political mobilization and, 208–209; Populist movement and, 15, 177; social inclusion and, 93, 196; unified labor and, 195–196, 199–200
Knight v. Wedderburn (1778), 92–93
Knowledge for What? (Lynd), 306
Know Nothing Party, 167
Knox, William, 27–28, 75, 81–82
Kornbluh, Mark, 206, 258
Herbert Croly on, 245–247; Horace Kallen on, 249–250, 384n24; influence on political arrangements, 352n13; John Dewey on, 248–249; Martin Luther King Jr. on, 333–334; nationalism and, 254–255; plebiscitary presidency and, 314–315; Populist movement and, 205–210, 213–214; populist tradition and, 129–131; Progressivism and, 242–243, 314; racial discrimination in, 164–165, 188–193; settler empire and, 12; Walter Weyl on leisure and, 244–245; wards of the state and, 226–233; women and, 259–260, 322–324; xenophobia and, 215. See also Free labor; Unfree labor; Wage labor

Labor market, 90–92, 173–174, 382n87,90

Labor unions, 149–151, 194

La Follette, Robert, 291, 389n83

La Follette, Suzanne, 259

Laissez-faire economics, 173, 184, 226, 228, 231, 306–308

Lamb, William, 178, 194, 208

Land ownership: alien landholding and, 357n43; Anglo rights to, 46–47; corporate speculation and, 215–216, 381n70; for free blacks, 118, 172–173; John Locke on, 33–37; liberty and, 52–55; native rights to, 106–111, 361n112; Protestantism and, 56; racial discrimination in, 118–119, 215–216, 381n70; republicanism and, 186–189; settler revolt and, 65–73; subjectship and, 38–39; suffrage and, 359n87

Lane, Ralph, 28

Langdon, Samuel, 64

Lasch, Christopher: on balance and divided sovereignty, 123; on Croly and Weyl, 383n8; on Populist movement, 180; on Robert Lynd, 391n116; on Thurman Arnold, 308, 391nn116,121; on virtue, 122

Laurie, Bruce, 150–151, 152–153, 155

Law(s): alien land laws, 215–216, 381n70; anti-Federalist views on, 140–142; delegation of lawmaking, 298–299, 300; Federalist views on, 138–140; miscegenation laws, 44–45

Lawson, Gary, 367n14

Lawson, Philip, 25, 57, 74

League of Nations, 291, 304


Lee, Richard Henry, 76, 78, 140

Legislative supremacy, 123–128, 213, 316, 369n46, 370n55

Leisure: democratization of, 244–245, 249–251; Horace Kallen on labor and, 384n24; Martin Luther King Jr. on labor and, 333–334; Theodore Roosevelt on, 264

Letters from an American Farmer (Crèvecoeur), 5

Levinson, Sanford, 169, 171

Levy, Recorder, 149

Lewis, John, 313–314

Liberalism, 301–311, 390n106

Liberalism and Social Action (Dewey), 256

Liberty. See Freedom

Licht, Walter, 132, 194

Lincoln, Abraham, 173, 186, 265, 318

Lippmann, Walter, 262, 301

Lipset, Seymour Martin, 11

“Little Englander” approach, 25–26

Livingston, Philip, 77, 78

Lochner, Joseph, 231


Locke, John: on American conquest, 33–37; on child labor, 41; on economic and political independence, 46; Joseph Story and, 108; on liberty and absolute power, 52; res nullius and, 49; on slavery, 43, 358n65

Logan, George, 101, 102

Louisiana Purchase, 110, 143–145, 169, 225, 367n20

Lowell, Abbott Lawrence, 277

Lowi, Theodore, 300, 390n104

Lynd, Helen, 306

Lynd, Robert, 306–307, 319, 391nn116, 121
INDEX

Machiavelli, Niccolò, 52–53, 94

Madison, James: on Constitution and republican government, 134, 135–136, 137–139; on expansion and congressional administration, 142–143; on Fugitive Slave Clause, 364n152; on self-interest, 197, 198; on Senate and presidency, 316; on slave rebellion, 87

Magna Carta, 70

Mahan, Alfred Thayer, 386n47

Mamdani, Mahmood, 91

Manifest Destiny, 165–166, 268

Mann, Michael, 10

Manning, William: on labor and liberty, 121; on militarism and territorial expansion, 155; personal history of, 126, 370n38; producerist democracy and, 126–129; republican freedom and, 213; on self-interest, 127–128, 197; on social conflict, 127–128, 256–257; Society of Laborers and, 128–129, 208–209

Mansfield, Lord, 71–73, 76, 80, 82–86, 364n149

Manufacturing. See Industrialism

Marshall, John: on frontier expansion, 131; imperial prerogative and, 106–108, 110; Indian reservations and, 229; on indirect rule of indigenous groups, 112–114; territorial expansion and, 104

Martial virtues, 267–268

May, Robert, 110–111, 367n18

Mayhew, Jonathan, 64–65

McKenna, Joseph, 277

McKinley, William, 202, 211, 237, 274–275

McNeill, George, 199

Mercantilism, 132–137

Merrill, Michael, 128–129

Metzger, Charles, 363n138

Mexican-American War, 166

Mexicans: division of labor and, 340–341; free citizenship and, 119–120; populist xenophobia and, 166

_Middletown_ (Lynd and Lynd), 306

_Middletown in Transition_ (Lynd and Lynd), 306

Migration: free market and, 152–153; Langdon Byllesby on, 154–155; Orestes Brownson on, 156–157; Thomas Skidmore on, 159–160, 161–162

Militarism: American globalism and, 283; Jerry Simpson and, 201–202; Martin Luther King Jr. on, 335–336; Randolph Bourne on, 293; “strenuous life” and, 266–268

Mill, John Stuart, 52


Miller, Samuel, 222–223, 226, 227, 235, 236

Milton, John, 56

Minor v. Happersett (1874), 229, 322

Miscegenation laws, 44–45

Mississippi Compromise, 169–170

_Nebraska ex rel Gaines v. Canada_ (1938), 330

Mobilization: Farmers Alliance and, 376n1; during Great Depression, 311–312; of immigrants, 345–347; Populist movement and, 205–210

Monaghan, Henry, 352n9

Monroe, James, 285

Monroe Doctrine, 285–286, 334–335

Morgan, Edmund, 40

Morone, James, 99, 253, 254, 296

Morrill Land Grant College Act (1862), 184

Morrill Tariff Act (1861), 184

_Mostellaria_ (Plautus), 358n79

Motomura, Hiroshi, 115, 343

_Muller v. Oregon_ (1908), 322, 323

Multiple traditions thesis, 7

Murray, James, 74
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAACP (National Association for the</td>
<td>330</td>
</tr>
<tr>
<td>Advancement of Colored People)</td>
<td></td>
</tr>
<tr>
<td>National Association for the Advancement</td>
<td></td>
</tr>
<tr>
<td>of Colored People (NAACP)</td>
<td></td>
</tr>
<tr>
<td>National Bank, 150</td>
<td></td>
</tr>
<tr>
<td>National Banking Act (1863), 184</td>
<td></td>
</tr>
<tr>
<td>Nationalism, 251–257, 293–295</td>
<td></td>
</tr>
<tr>
<td>National Labor Relations Act (1935),</td>
<td></td>
</tr>
<tr>
<td>312–313</td>
<td></td>
</tr>
<tr>
<td>National Origins Act (1924), 238</td>
<td></td>
</tr>
<tr>
<td>National Reform Press Association (NRPA),</td>
<td></td>
</tr>
<tr>
<td>208–209</td>
<td></td>
</tr>
<tr>
<td>National Security Council paper 68</td>
<td></td>
</tr>
<tr>
<td>(NSC-68), 337–338, 394n13</td>
<td></td>
</tr>
<tr>
<td>National service, 267</td>
<td></td>
</tr>
<tr>
<td>Nativism, 167, 291, 375n148, 389n83</td>
<td></td>
</tr>
<tr>
<td>Naturalization: for Chinese immigrants,</td>
<td></td>
</tr>
<tr>
<td>189–190, 192; in colonies, 59–61; politics</td>
<td></td>
</tr>
<tr>
<td>of duality and, 114–120</td>
<td></td>
</tr>
<tr>
<td>Naturalization Act (1802), 115–116</td>
<td></td>
</tr>
<tr>
<td>Neocolonialism, 131–132, 134–135,</td>
<td></td>
</tr>
<tr>
<td>140–141</td>
<td></td>
</tr>
<tr>
<td>Neuman, Gerald, 118</td>
<td></td>
</tr>
<tr>
<td>Neustadt, Richard, 301</td>
<td></td>
</tr>
<tr>
<td>Neville, William, 178, 203–204, 281</td>
<td></td>
</tr>
<tr>
<td>New Deal: Civilian Conservation Corps</td>
<td></td>
</tr>
<tr>
<td>and, 267; constitutional legacy of,</td>
<td></td>
</tr>
<tr>
<td>315–320, 326; liberalism and, 301–311;</td>
<td></td>
</tr>
<tr>
<td>overview, 16, 240, 296–297; plebiscitary</td>
<td></td>
</tr>
<tr>
<td>presidency and, 297–301; security and,</td>
<td></td>
</tr>
<tr>
<td>311–315; women workers under, 323</td>
<td></td>
</tr>
<tr>
<td>The New Democracy (Weyl), 243</td>
<td></td>
</tr>
<tr>
<td>New France. See Canada</td>
<td></td>
</tr>
<tr>
<td>“New Nationalism,” 255–256</td>
<td></td>
</tr>
<tr>
<td>New World colonies, 8–9</td>
<td></td>
</tr>
<tr>
<td>Ngai, Mae, 342</td>
<td></td>
</tr>
<tr>
<td>Nicholas V, 29</td>
<td></td>
</tr>
<tr>
<td>Nitze, Paul, 394n13</td>
<td></td>
</tr>
<tr>
<td>Nkrumah, Kwame, 131, 334, 338</td>
<td></td>
</tr>
<tr>
<td>NLRB v. Jones &amp; Laughlin Steel Corp.</td>
<td></td>
</tr>
<tr>
<td>(1937), 313</td>
<td></td>
</tr>
<tr>
<td>Norman conquest, 29–30, 69–70</td>
<td></td>
</tr>
<tr>
<td>Northwest Ordinance (1787), 109, 142,</td>
<td></td>
</tr>
<tr>
<td>144, 169</td>
<td></td>
</tr>
<tr>
<td>NRPA (National Reform Press Association),</td>
<td></td>
</tr>
<tr>
<td>208–209</td>
<td></td>
</tr>
<tr>
<td>NSC-68 (National Security Council paper</td>
<td></td>
</tr>
<tr>
<td>68), 337–338, 394n13</td>
<td></td>
</tr>
<tr>
<td>Obama, Barack, 1–2</td>
<td></td>
</tr>
<tr>
<td>Oceanic Steam Navigation Co. v. Stranahan</td>
<td></td>
</tr>
<tr>
<td>(1909), 237–238</td>
<td></td>
</tr>
<tr>
<td>Office of Immigration, 184</td>
<td></td>
</tr>
<tr>
<td>Office of the Comptroller of the Currency,</td>
<td></td>
</tr>
<tr>
<td>184</td>
<td></td>
</tr>
<tr>
<td>Olney, Richard, 224</td>
<td></td>
</tr>
<tr>
<td>Omaha Platform, 207–208, 210, 215,</td>
<td></td>
</tr>
<tr>
<td>378n29, 381n70</td>
<td></td>
</tr>
<tr>
<td>“Omni-competent” individual, 306–308</td>
<td></td>
</tr>
<tr>
<td>Onuf, Peter, 109–110</td>
<td></td>
</tr>
<tr>
<td>Orange Free State, 11</td>
<td></td>
</tr>
<tr>
<td>Oregon Donation Land Act (1850), 116</td>
<td></td>
</tr>
<tr>
<td>Orren, Karen, 151</td>
<td></td>
</tr>
<tr>
<td>O'Sullivan, John L., 165</td>
<td></td>
</tr>
<tr>
<td>Otis, James, 70</td>
<td></td>
</tr>
<tr>
<td>Our Country: Its Possible Future and Its</td>
<td></td>
</tr>
<tr>
<td>Present Crisis (Strong), 268–269</td>
<td></td>
</tr>
<tr>
<td>“Our Foreign Policy: A Democratic View”</td>
<td></td>
</tr>
<tr>
<td>(Franklin Delano Roosevelt), 304</td>
<td></td>
</tr>
<tr>
<td>Page Act (1875), 190–191, 378n24</td>
<td></td>
</tr>
<tr>
<td>Paine, Thomas, 104, 125–126, 130, 158,</td>
<td></td>
</tr>
<tr>
<td>370n55</td>
<td></td>
</tr>
<tr>
<td>Paley, William, 52, 91–92</td>
<td></td>
</tr>
<tr>
<td>Palmer, Robert, 122</td>
<td></td>
</tr>
<tr>
<td>Parliament, British, 69–72, 80</td>
<td></td>
</tr>
<tr>
<td>Paternal subjectship, 38–40, 163–164,</td>
<td></td>
</tr>
<tr>
<td>228–229, 322–324, 382n92. See also</td>
<td></td>
</tr>
<tr>
<td>Stratified subjectship</td>
<td></td>
</tr>
<tr>
<td>Peckham, Rufus, 231–232, 235, 236</td>
<td></td>
</tr>
<tr>
<td>Pedersen, Susan, 8</td>
<td></td>
</tr>
<tr>
<td>People’s Party: critique of centralization,</td>
<td></td>
</tr>
<tr>
<td>258; decline of, 212–213; Frank Doster</td>
<td></td>
</tr>
<tr>
<td>on, 210; Ignatius Donnelly and, 378n29;</td>
<td></td>
</tr>
<tr>
<td>opposition to, 211; overview, 15;</td>
<td></td>
</tr>
<tr>
<td>political mobilization and, 209; Populist</td>
<td></td>
</tr>
<tr>
<td>movement and, 176–178, 180; support for</td>
<td></td>
</tr>
<tr>
<td>procedural reforms, 254; Tom Watson on,</td>
<td></td>
</tr>
<tr>
<td>176, 197; unified labor and, 196; views on</td>
<td></td>
</tr>
<tr>
<td>expansion, 200–201, 218–219</td>
<td></td>
</tr>
<tr>
<td>Perkins, Frances, 302–303</td>
<td></td>
</tr>
</tbody>
</table>
INDEX

Petit, Philip, 52, 53, 54, 92, 123–124
Phagan, Mary, 218
Philippines: territorial annexion and, 277–278, 281–282, 388n71; Theodore Roosevelt on, 273, 283; Thurman Arnold on, 309–311; war of occupation in, 203–204; William McKinley on, 274–275
Pinkertons, 210
Plebiscitary presidency: conclusions on, 321–325; explanation of term, 390n104; legal and institutional framework of, 297–301; liberalism and, 301–315; New Deal and, 296–297, 315–320
Plessy v. Ferguson (1896), 191–192, 193
Pocock, J. G. A., 94
Political parties, 206–208, 380n56
Politics of duality: colonial expansion and, 106–111; division of labor and, 47–48, 162–165, 188–189, 339–341; indirect rule of indigenous groups and, 111–114; overview, 103–106; racial discrimination and, 114–120; territorial governance and, 279
Pontiac (Ottawa chief), 66
Pope Day, 362n138
Populist Party. See People’s Party
Poverty: English approach to, 41–43; forced migration and, 117–118, 357n61; Martin Luther King Jr. on, 333; republican dependence and, 53, 136–137; Walter Weyl and, 243–244
Powderly, Terence: on Chinese labor, 199–200; on gender and racial equality, 196, 199; immigration and, 216, 238; on Knights of Labor, 195, 199; on land held for speculation, 381n70; on republican freedom, 209; unified labor and, 178, 194, 196, 197, 198
Presidency: economic security and, 314–315; international focus on elections, 1–2, 337; legal and institutional framework of, 297–301; New Deal constitutionalism and, 315–320. See also Plebiscitary presidency
President’s Committee on Administrative Management, 300
Preston, William, 166
Price, Richard, 77, 89
Proctor, Redfield, 387n58
Producerist democracy, 125–129, 147, 205, 370n58
Progress and Poverty (George), 333–334
Progressive Democracy (Croly), 245–246
Progressivism: administration and, 257–262; consumerism and nationalism and, 251–257; democratization of intelligence and leisure in, 248–251; Franklin Delano Roosevelt and, 301–302; labor and, 242–247, 314; New Deal and, 297; overview, 241–242; women’s suffrage and, 259–261
The Promise of American Life (Croly), 253
Propaganda, 307–308
Property ownership: Anglo rights to, 46–47; gender hierarchies and, 163; hereditary property and, 158, 159; John Locke on, 33–37; liberty and, 52–55; native rights to, 106–111; Protestantism and, 56; republicanism and, 186–189; settled land versus conquered land and, 49–50; settler revolt and, 65–73; subjectship and, 38–39; territorial laws on, 368n31; Thomas Skidmore on, 159–161
Protestant millennialism, 55–58, 63, 95–96
Protestants, 29, 55, 60–61, 73–79, 359n89
The Public and Its Problems (Dewey), 248
Public opinion, 307–308
Puerto Rico, 275–276, 278
Pullman Company, 223–224
Puritans, 55, 57, 64–65, 77, 95
Putney Debates, 359n87
Quebec Act (1774), 73–79, 363n138
Quinn, David Beers, 355n15
Radical Republicans, 93, 173–174, 183–184
Railroads, 185, 186–187, 194, 223–224
Raleigh, Walter, 28
Randolph, Carman, 281–282, 388n71
Raustiala, Kal, 387n61
Rawls, John, 17–18
The Reasons for keeping Guadaloupe at a Peace, preferable to Canada explained in five letters from a Gentleman in Guadaloupe to his Friend in London, 25–26
Reconstruction, 174, 183–184
Representation, Thomas Paine on, 370n55
Republicanism: colonies as experiment in, 50–55; divided sovereignty and, 123, 138–140; empire and, 22–23, 94–98, 148–149; European hegemony as threat to, 132–135; free market and, 149–154; industrialism and, 234–235; Langdon Bylesby and, 154–155; legislative supremacy and, 121–128, 172; localism and, 140–141; Orestes Brownson and, 156–158; permanent peace and, 220–222; populist account of, 120–125; Populist movement and, 213–214; Progressivism and, 241–242; Protestant millennialism and, 55–58; settler revolt and, 89–93; subordination and, 12–14, 353n27; Terence Powderly on, 209; territorial expansion and, 186–189; Thomas Skidmore and, 158–162; William Neville and, 204
Res nullius, 49
Revolutionary War. See American Revolution
Rice v. Dwight Manufacturing Co. (1848), 152
Richard II, 356n22
The Rights of Man (Paine), 125, 126
The Rights of Man to Property (Skidmore), 158
Roberts, Owen, 321–322, 389n100
Rodney, Caesar, 149
Roman Empire, 64
Roosevelt, Franklin Delano: American interventionism and, 219, 304–306; economic security and, 315; on executive authority, 311; executive structure and authority under, 297–301; isolationism and, 304, 391n110; liberalism and, 301–306, 390n106; New Deal and, 296–297. See also New Deal
Rousseau, Jean-Jacques, 102
Royal Charter (Virginia Company), 31, 33
Royal Proclamation (1763), 65–67, 69, 71, 73, 95
Sandel, Michael, 54, 383n8
Schama, Simon, 364n149
Schuyler, Philip, 95
Second Treatise of Government (Locke), 33–34, 43
Segregation, racial, 198, 330, 331, 343
Seidman, Guy, 367n14
Self-interest, 197–198, 204–205, 209
Sépulveda, Juan Ginés de, 30
Settled land: colonial autonomy and, 63–64, 70; conquered land versus, 81–84, 88–89; res nullius and, 49–50. See also Conquered land
Settler colonialism: American Revolution and, 23; comparative historical assessment of, 8–14; forms of, 352n13
Settler revolt: British Empire and, 21–22, 62; effects of, 97, 205–206; native land rights and, 65–73; Quebec Act and, 73–79; slavery and, 79–93; war with France and, 63–65
Settlers: ideology on insularity and immigration, 58–62; republicanism and, 50–55; royal discretion over, 37–45; social mobility and, 46–50; supremacy of Anglo, 45–46
“Shadow Populists,” 179–180
Shaw, Peter, 362n138
Shays’ Rebellion, 100–102, 130, 133–134, 142, 146
Shiras, George, 277
Shklar, Judith, 356n41
Sidney, Henry, 29
Sieyès, Emmanuel, 318
Simpson, Jerry, 178, 201–202, 215, 219, 381n75
Skidmore, Thomas: on labor in the populist tradition, 154; link to anti-Federalism, 182; millennial ideas of, 161; as a nonimperial thinker, 177–178, 324; rejection of settler exclusivities, 148; views of, 138–162, 172
Skinner, Quentin, 50, 54
Skowronek, Stephen, 301, 390n104
Slaughterhouse Cases (1873), 226–228
Slavery: Andrew Fletcher on, 357n57; Anglo social mobility and, 47–48; in colonial newspapers, 364n156; Edmund Burke on, 20; emancipation and, 86, 87–88, 172–175, 363n143; free citizenship and, 118, 119–120; Fugitive Slave Clause and, 364n152; George Fredrickson on, 358n75; indentured
servitude and, 42–45; John Locke on, 43–44, 358n65; labor market and, 173–174; liberty and, 50–52; miscegenation laws and, 44–45; nativism and, 375n148; Orestes Brownson on, 158; race and, 43–45, 47–48; Revolutionary discourse of, 20, 89–91; Robert May on, 367n18; Roger Taney on, 168–170; in Roman comedies, 358n79; settled land versus conquered land and, 80–81, 84, 88; settler fears of insurrection and, 47–48, 86–87; settler revolt and, 79–93; Somerset v. Stewart and, 82–84, 364n155; Thomas Skidmore on, 159

Slave trade: Benjamin Franklin on, 85; competing colonial views of, 86, 365n164

Smith, Al, 304

Smith, John, 40

Smith, Rogers, 5–6, 7, 61

Social conflict, 256–257

Social criticism, 17–18

Social mobility, 46–50

“Social surplus,” 243–245, 252, 333

Social unrest, 222–226

Society of Laborers, 128–129, 208–209

Somerset, James, 82, 83

Somerset v. Stewart (1772), 80, 82–87, 364n155

Sosin, Jack, 354n6

Southwest strike, 194

Sovereignty. See Divided sovereignty;

Undivided sovereignty

Spanish-American War, 201, 219, 272–275, 287, 387n58

Spanish Empire, 26, 50

Spoils system, 206, 317

“The State” (Bourne), 292

Steere, J. Neal, 282

Steuart, Charles, 82

Stevens, Thaddeus, 183–184, 198, 378n34

Stevens v. Reeves (1829), 151–152

Stiles, Ezra, 77, 95

Story, Joseph, 108


“Strenuous life,” 263–271

Strikes, 149, 194, 223–224

Strong, Josiah: American globalism and, 240, 263–264; on commercialism, 234; on liberty, 288; millennialism and, 268–270, 271


Subordination: of Indians, 33; liberty and, 3, 5; republicanism and, 12–14, 353n27; settler empire and, 13–14

Suffrage: as defining social right, 356n41; disenfranchising laws and, 211, 380n64; land ownership and, 359n87; politics of duality and, 116; for women, 257–262, 368n31. See also Electoral process

A Summary View of the Rights of British America (Jefferson), 88

Sumner, Charles, 190

Suppression. See Subordination

Supreme Court, 299–300

Sutherland, George, 297–299, 301, 322–323

Sweatt v. Painter (1950), 330

Sydney, Algernon, 46, 51, 52

The Symbols of Government (Arnold), 308

Takaki, Ronald, 229–230

Taney, Roger, 146, 167–172, 190, 273, 275, 377n19

Taxation, 71–72, 74, 76

Temple, William, 41

Territorial expansion: of British Empire, 25–27; closing of American frontier and, 174; commercialism and, 234–235; Franklin Delano Roosevelt on, 302; Frederick Jackson Turner on, 263; free citizenship and, 263–264; free market and, 152–153; immigration and, 239; Langdon Byllesby on, 154–155; Orestes Brownson on, 99, 156–157; Populist movement and, 200–205, 218–219;
Territorial expansion (continued)
relation to populist tradition, 129–131,
142–148; republicanism and, 94,
186–189; Roger Taney on, 169–171; in
settler ideology, 233–234; Thomas
Skidmore on, 159–160, 161–162; Walt
Whitman on, 233–234. See also Global
expansion
Territorial governance, 275–280, 367n14
Terry, David, 222–223
Test Act (1673), 57, 74–75
Thompson, E. P., 90
Toqueville, Alexis de, 5
Tomlins, Christopher, 146, 151, 373n97,
392n133
Trachtenberg, Alan, 187
Trail of Tears, 114, 131
Transvaal, 11
Treaty of Gaudalupe-Hidalgo, 119
Treaty of Paris (1763), 25, 107, 108, 272
Treaty of Utrecht (1713), 65
Tully, James, 285
Turner, Frederick Jackson, 11, 130, 233,
263, 266
Tushnet, Mark, 6, 352n9
Tuveson, Ernest Lee, 95
Ulster, 29, 30, 353n24
Undivided sovereignty, 121–125, 128, 172
Unemployment, mobilization and,
311–312
Unfree labor, 162–167, 188–193
Unified labor, 195–200, 217–218
Unionism, 247, 248
Union organizing: economic security and,
315; in Jacksonian era, 150–151,
153–155; Jay Gould and, 194; Jefferso-
nian politics and, 149; mobilization and,
311–312; nationalism and, 254–255;
Wagner Act and, 312–314
United States: as a global power, 272–275,
283–289, 326–327, 337–339; liberty and
authority of, 1–4; as a settler empire, 3,
12–14; social inclusion in, 343–348. See
also American settlement
United States v. Celestine (1909), 230
United States v. Cartiss-Wright Export
Corp. (1936), 297–299
United States v. Nice (1916), 230
United States v. Rogers (1845), 168, 171
United States v. Wong Kim Ark (1898),
192–193
Universal republic: Langdon Byllesby
and, 154–155; Orestes Brownson and,
156–158; Randolph Bourne and, 293–295;
Thomas Skidmore and, 158–162,
177–178
Urbanization, Progressivism and, 241–242
Urban League, 330
Utopian ideals, in settler ideology, 55–56,
95–97
Valdés, José Bordas, 288
Van Buren, Martin, 317–318
Van Cleve, George, 83, 364n155
Van Devanter, Willis, 230
Virginia Company, 31, 33, 35
Virtue: democratization of, 129, 214; elite
republicans on, 122–123; martial virtues,
267–268; political mobilization and, 209;
Populist movement and, 214; self-interest
and, 122–124, 127, 197–198; William
Manning on, 129, 197
Voortrekkers, 11
Wage labor: Abraham Lincoln on, 173;
courts and, 149, 151–152, 226–228,
231–233, 313, 321–323, 382n87;
Langdon Byllesby on, 154–155; Orestes
Brownson on, 156–158; Progressivism
and, 242–243; republican freedom and,
52–54, 90–93; rise of, 148–149; as wage
slavery, 173–174, 196, 209, 345; women
and, 322–324
Wagner Act (1935), 312–313, 392n133
Waite, Morrison, 229
Walker, Francis Amasa, 229
Walzer, Michael, 17
Wards of the state, 113–114, 226–233,
322–324
Washington, George, 69, 133, 224
Washington Territory, 185
Watson, Tom: on American interventionism, 204, 281; collapse of Populism and, 211; on executive prerogative, 224–225, 226; on global expansion, 326; political career of, 180; on political parties and labor organizations, 208; on race and labor, 176, 196–197; on social inclusiveness of Populism, 178, 198; on territorial expansion, 201, 202, 218, 219; unified labor and, 196–198, 217–218; views on race compared to Thaddeus Stevens, 198; white supremacy of, 180, 217–218

Wealth: consumerism and, 252; inherited wealth, 158, 159; Martin Luther King Jr. on, 333; Walter Weyl on, 243–245

Wedderburn, Alexander, 75

Wedderburn, John, 92–93

Weitzer, Ronald, 8

West Coast Hotel Co. v. Parrish (1937), 299–300, 321–322, 323, 389n100

West Indies, 25–26

Weyl, Walter: consumerism and, 252–253, 261; on democratizing leisure, 245; on economic security, 243–244, 313; on education, 244–245; influence on Theodore Roosevelt, 235–256; Lasch and Sandel on, 383n8; on rebuilding foundations of republicanism, 240, 257; on republican freedom, 242–245, 250–253; on “social surplus,” 243–244; on support for procedural reforms, 254

“What’s the Matter with Kansas?” (White), 211–212

Whiskey Rebellion, 101–102, 224

White, Edward, 237–238, 277–279, 280

White, Thomas, 28

White, William Allen, 211–212

White House staff, 300

Whitman, Walt, 233

Wiebe, Robert, 120, 123, 133, 207

Wilentz, Sean, 128–129

Williams, Robert, 69–70

Williams, Solomon, 65

Wilson, Woodrow: American interventionism, 287–289, 304; isolationism and, 291; on liberty, 288, 290; millennialism of, 287–289; Tom Watson on, 219

“Wilson Plan,” 288–289

Winthrop, John, 55, 95

Wolfe, Patrick, 9, 353n26

Women: free citizenship and, 159, 259–261, 322–323, 378n30; gendered division of labor and, 159, 262, 341; Knights of Labor on, 196, 378n30; as paternal subjects, 163–164, 228–229, 322–324; suffrage for, 163, 257–262, 368n31

Wood, Gordon, 21, 22, 126, 370n58

Woodward, C. Vann, 219

Worcester v. Georgia (1832), 112, 113, 229

Work. See Labor

Workhouses, 41

Working men’s parties, 153–154, 156, 158–159, 162


See also Racial discrimination

Young, Whitney, 330