

**Statement of**

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**to the**

**United States House of Representatives  
Select Committee to Investigate the January 6th Attack on the United States Capitol**

**on**

**“Our Fragile Democracy: Political Violence, White Supremacy, and  
Disenfranchisement in American History”**

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## Introduction

Although there are no perfect analogies in history, any student of the American past will see common threads between the January 6, 2021, assault on the Capitol and a range of nineteenth- and twentieth-century historical events, including the secessionist movement that caused the Civil War, the terroristic campaigns against biracial democracy during Reconstruction, and the disenfranchisement movement of the 1890s, which established the southern “Jim Crow” order. In American history, political violence against constitutionally elected governments and attempts to diminish the power of non-white voters have often gone hand in hand.

The lessons of nineteenth-century attacks on democratic institutions in the United States are clear: American democracy is fragile, has been frequently under assault by people who wish to deny power or legitimacy to minority groups, and can be overthrown or sharply curtailed by popular violence or by supposedly innocuous election regulations. In several momentous instances in the 1800s, a critical mass of Americans proved willing to set aside the Constitution when they did not get their way, particularly when they felt challenged by the political participation of people they saw as outsiders or unworthy and when they felt their party’s success was at stake. Sometimes, Americans’ anti-democratic, anti-constitutional actions took the form of direct attacks, including assaults on legislative buildings and assassinations of individual political organizers and leaders. Other times, efforts to undermine democracy appeared peaceful, as states adopted laws that excluded people from political participation. In these instances, those who felt aggrieved exerted power without resorting to explicit force.

By the late nineteenth century, after a remarkable period of innovation, the United States was in the midst of a massive retreat from democracy. Political leaders and self-styled reformers advanced largely fabricated claims that electoral fraud and political corruption were rampant, particularly in areas with large Black and immigrant populations. Spurred by these false or exaggerated claims, state and local officials passed a wave of innovative, devastating election laws that turned the United States from a global paragon of democracy to a country that continues to trail many of its peers in democratic participation. These antidemocratic reforms were possible in part because so many American leaders rejected the basic vision of a multiracial, pluralistic democracy. These leaders did not believe that Black, brown, and immigrant Americans were equally entitled to a voice in how their communities and the nation were governed. In short, the aim of the devastating reforms was not to fix real flaws in American political processes but to restrict democracy in ways that benefited the white and the wealthy.

As Congress contemplates its response to the events of Jan. 6, 2021, and to related political violence, restrictions on voting, and efforts to place election processes in the hands of partisan bodies, we urge members to consider a bleak historical reminder: the damage done to democracy in our own time may take a full human lifetime to undo, if indeed it is undone at all. Although Americans often profess a belief that the American system of government is a “machine that will go of itself,” the history of the 1800s reminds us that democracy must be

defended if it is to be preserved, much less perfected.<sup>1</sup> Many American politicians resisted the anti-democratic violence of secession and, for a time, the guerrilla insurgency against emancipation and Reconstruction. By the 1890s, however, politicians did not or could not stop the anti-democratic actions of the disenfranchisers. The anti-democratic order consolidated around 1900 was not overthrown until the 1965 Voting Rights Act, a full human lifetime later.

We write as scholars of the nineteenth-century United States, with particular specializations in the histories of emancipation and Reconstruction. Together we edit the *Journal of the Civil War Era*, the leading scholarly publication on the period, and we have co-written the National Park Service's National Historic Landmarks Theme Study on Reconstruction, assisted with the National Park Service's handbook on Reconstruction, and also co-edited a scholarly volume on Reconstruction. Individually we have published a total of five books of History, as well as many essays, articles, and op-eds. We write with an awareness of the deep contextual differences between historical moments and of the problems with easy analogies. But we also write with an understanding of the false optimism that convinced many nineteenth-century Americans to ignore or downplay the importance of attacks on American democracy. In those crucial moments around the turn of the twentieth century, too many Americans accepted widespread disenfranchisement. Some believed the country should be governed mainly by elite white men; some blamed attacks on democracy on partisanship and hoped for a bipartisan solution that could not come; and some were unwilling to contemplate the actions that would have saved democracy. We write in hopes that the committee may learn from those mistakes and take seriously the fragility of American democratic institutions and the necessity of protecting them against both anti-democratic violence and assaults upon their legitimacy.

### Secession

Americans are justly proud of our long-lived Constitution and our traditions of peaceful transitions of power. But other, less laudable impulses have also characterized American political history. The secessionist movement that caused the Civil War is the largest and probably the most consequential example of an American faction's willingness to flout the Constitution and turn to violence when faced with political changes that would diminish its power, the power of its political party, and the power of white supremacy. Secession began in earnest after the election in 1860 of President Abraham Lincoln, a Republican. The election was hard-fought, with four candidates in serious contention. Lincoln clearly prevailed. He won the popular vote, garnering more than 1.9 million votes, significantly more than his nearest rival, Stephen Douglas, who had 1.4 million. More important, Lincoln won the Electoral College decisively, with 180 electoral votes, greater than the combined total of his three rivals.<sup>2</sup>

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<sup>1</sup> Michael Kammen, *A Machine That Would Go of Itself: The Constitution in American Culture* (New York: Knopf, 1986).

<sup>2</sup> "Presidential Election of 1860: A Resource Guide," Library of Congress, <https://www.loc.gov/rr/program/bib/elections/election1860.html>.

The rise of the Republican Party in the second half of the 1850s, culminating with Lincoln's election to the presidency in 1860, terrified many white southerners, particularly those who belonged to the slave-owning elite. Many had long understood that demographic changes threatened to undermine the power that slaveowners had wielded in national politics. In the 1840s and 1850s, the northern states, where slavery was outlawed, gained population at a much faster rate than the southern ones. Many white southerners, especially southern Democrats, feared that if politics aligned along sectional lines, theirs would be the smaller, less powerful section, their influence particularly diminished in the House of Representatives and the Electoral College. The Republican Party, which began to form in 1854, embodied that threat. A new and potentially powerful force in American politics, the party coalesced around a shared commitment to banning slavery from the federal territories.<sup>3</sup>

In November 1860, white southerners' fears became reality. The Republican presidential candidate, Abraham Lincoln, was elected with virtually no support in the slave states. Indeed, in many southern states Lincoln did not even appear on the ballot. The Republicans also took control of the U.S. House. For many members of the southern elite, Lincoln's election appeared an existential threat. As generations of historians have shown, secessionist leaders' primary concern was that Republicans would use the power of the U.S. government to weaken and eventually perhaps destroy slavery. Secessionists worried not only that the Lincoln administration would not allow slavery to extend beyond its current boundaries, but also that it would put antislavery appointees on the ground in the slave states and refuse to enforce the Fugitive Slave Act. For all these reasons, Lincoln's election triggered an effort by white southerners to declare that their states were no longer part of the constitutional order and that they wanted to form a new nation.<sup>4</sup>

Southern leaders made a choice. They could have acknowledged their election loss and continued to advance their own interests within the structure established by the U.S. Constitution. Instead, they rejected the Constitution and turned to armed struggle. An extensive historical record demonstrates that secessionists' actions were guided by their belief that the Republicans posed a threat to slavery and white supremacy. The evidence is clear in the secession conventions held in Deep South states in December 1860 and the first months of 1861. The Texas convention, for example, resolved that with Lincoln's election, the country was under control of "a great sectional party . . . proclaiming the debasing doctrine of the quality of all men, irrespective of race and color." The Mississippi convention predicted, "Utter subjugation awaits us in the Union, if we should consent longer to remain in it. . . . We must either submit to degradation and to the loss of property worth four billions of money, or we

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<sup>3</sup> David M. Potter, *The Impending Crisis, 1848-1861*, completed and edited by Don E. Fehrenbacher (New York: Harper & Row, 1976), 29-50; James McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 91-103; Eric Foner, *The Fiery Trial: Abraham Lincoln and American Slavery* (New York: W. W. Norton, 2010), 65-82, 142-44.

<sup>4</sup> McPherson, *Battle Cry*, 234-46; James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861-1865* (New York: W. W. Norton, 2013), 51-62.

must secede from the Union.”<sup>5</sup> The Mississippi convention and the others refused to “submit,” even though the election had been conducted fairly, according to the conventions of the time.

In an organized effort to promote rebellion, Deep South states dispatched “commissioners” to persuade other slave states to join the secessionist movement. In an acclaimed study, historian Charles B. Dew demonstrated that although the secession commissioners of 1860-1861 did talk about states’ rights, their central preoccupation was the protection of slavery and white supremacy. (In fact, many secessionists and Confederates had supported the vast expansion of federal authority over state law in the Fugitive Slave Act, passed in 1850.) One commissioner from South Carolina argued that white southerners’ only acceptable option was to rebel against an administration that threatened “degradation and annihilation.” The secession commissioners tapped into white southerners’ fears that if slavery were not allowed to expand into new territories, anti-slavery northerners, especially Republicans, would gain even more political power, and white southerners who did not own enslaved people would depart for the free states. Then, they feared, white southerners would be overrun, attacked, and perhaps even conquered by enslaved people. The commissioners called on white men to protect white women and children. Some used grotesque racism. Alabama commissioner Stephen Hale argued, for example, that Lincoln’s election was “nothing less than an open declaration of war” that would lead to uprisings of enslaved people and would consign white “wives and daughters to pollution and violation to gratify the lust of half-civilized Africans.”<sup>6</sup> The commissioners made it sound as if the Lincoln administration was so vile and dangerous that the only real choice was to rise up in rebellion.

Even within their own states, leaders of the secession movement often turned to coercion rather than allowing others to freely express their political views and engage in open debate. In most southern states, white populations were significantly divided between those who wanted to leave the Union during the fall and winter of 1860-61 and those who did not see Lincoln’s election as a signal that they must immediately separate. In South Carolina, where white residents favored secession more widely than anywhere else, secessionist leaders nonetheless resorted to intimidation to squelch public debate. As one resident of the Low Country wrote, in previous years, “men could speak their sentiments . . . freely and fought about it.” By 1860, however, a man “with a public reputation for unionism . . . would not have been allowed to live here.”<sup>7</sup>

In some southern states, secession proceeded through established channels led by elected officials (governors, state legislatures, and secession conventions). In many others, however, secessionist leaders resorted to violence and fraud against those who opposed immediate secession. Most notably, as historian Stephanie McCurry wrote, in Georgia, “so deep were the divisions of voters . . . so inconclusive the democratic process, that the governor suppressed the

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<sup>5</sup> Charles B. Dew, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War* (Charlottesville: University Press of Virginia, 2001), 11, 13.

<sup>6</sup> Dew, *Apostles of Disunion*, 41, 54.

<sup>7</sup> Stephanie McCurry, *Confederate Reckoning: Power and Politics in the Civil War South* (Cambridge, MA: Harvard University Press, 2010), 49.

electoral results in total violation of state law.”<sup>8</sup> In the Upper South, secessionist feeling coalesced only after South Carolinians attacked a defenseless U.S. force at Fort Sumter and Lincoln in turn called for troops on April 15, 1861. People who opposed immediate secession were regularly subjected to threats and exile. Just outside Washington, D.C., in Arlington County, Virginia, one white resident recalled that he voted for the Virginia secession ordinance on May 23, 1861, in part because he believed that “all who voted against the ordinance were to be run out of the State” and have their property confiscated. Another Arlington County resident recalled that armed men had stood at the polls along with Confederate cavalymen “who, by threats, endeavored to intimidate and influence the voters.” This man had voted against secession “under apprehension for his personal safety.” Another man who voted against secession in Loudoun County, Virginia, was threatened with hanging and escaped by swimming across the Potomac River to Maryland. A Unionist resident of Murfreesboro, Tennessee, remembered “the bitterness and hatred which was manifested towards me and other Union men and our families.” Another Tennessee Unionist recalled, “The times were dangerous. There were but few Union men in Franklin and we were watched.”<sup>9</sup>

President Lincoln, in his Inaugural Address of March 4, 1861, explained why it was so important to adhere to the governing mechanisms established by the Constitution and why, in turn, the southern rebellion against duly elected officials was so destructive. As he saw it, the slaveholding elite of the South, a “minority” in the country as a whole, was demanding capitulation from the “majority” that had elected Lincoln and other Republicans to lead. “Continuing the Government is acquiescence on one side or the other,” he said. In this case, some in the minority had chosen secession over acquiescence and had declared that they were forming a new nation, the Confederate States of America. A nation born from secession could never survive, Lincoln predicted. The “precedent . . . will divide and ruin them, for a minority of their own will secede from them whenever a majority refuses to be controlled by such minority.”

It is worth considering Lincoln’s analysis of the problem of political conflict in the United States and his argument that the only way to avoid despotism or anarchy was for political minorities to acquiesce to political majorities:

A majority held in restraint by constitutional checks and limitations, and always changing easily with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it does of necessity fly to anarchy or to despotism. Unanimity is impossible. The rule of a minority, as a permanent arrangement, is wholly inadmissible; so that, rejecting the majority principle, anarchy or despotism in some form is all that is left.

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<sup>8</sup> McCurry, *Confederate Reckoning*, 55.

<sup>9</sup> C. B. Rose, Jr., *Arlington County, Virginia: A History* (Arlington Historical Society, 1976), 98; Daniel W. Crofts, *Reluctant Confederates: Upper South Unionists in the Secession Crisis* (Chapel Hill: University of North Carolina Press, 1993), 347, 345, 346.

Lincoln's language may sound convoluted to twenty-first-century readers, but essentially he was arguing that only "the majority principle" could sustain American democracy. The Constitution established "checks and limitations" to ensure that majorities did not become tyrannous or calcified. By contrast, only "anarchy or despotism" would follow if the nation abandoned the majority principle, as the enslavers seemed to demand.<sup>10</sup>

Lincoln's warning notwithstanding, in spring of 1861, Virginia, Tennessee, North Carolina, and Arkansas joined the Deep South states in declaring themselves no longer party to the U.S. Constitution. The secessionists' decision to take up arms against the United States in their effort to create an independent slaveholding republic resulted in a war that cost more than 750,000 lives and resulted in the destruction of slavery itself. The Civil War led to three constitutional amendments designed to permanently abolish slavery, establish a multiracial democracy for the first time, and create guarantees of individual rights backed by the federal government. Many white Americans, however, refused to accept this broadening of American democracy.

### Reconstruction

The history of Reconstruction shows how seriously, how violently, and how creatively white southerners resisted the expansion of American democracy. Many Americans responded to the first phase of Black men's enfranchisement under federal policy (1867- ca. 1890) with antidemocratic, violent, illegal, and unconstitutional measures designed to reduce or eliminate the Black vote. Reconstruction was the first time Americans truly tried to create a multiracial democracy. They did this by changing the Constitution so it promised that every person had certain basic rights, that the right to vote could not be denied on account of race, and that the federal government was empowered to protect these rights, particularly when state and local officials refused. When Black men entered southern politics as voters, they instantly became a powerful new force. They tended to vote Republican, because it was the Republicans who had led the war against the slaveowners' rebellion and who promoted freedom and racial equality. Many white southern Democrats rejected the idea that Black men now had the same right to vote and hold office as white men, and they simultaneously rejected the new political landscape that Black men's votes helped create – a landscape in which the two political parties fought for dominance in some southern locales and where Republicans could consistently win election in others. White southern Democrats waged a ferocious struggle against the new order. Instead of accepting the results of elections in which white and Black men – and Democrats and Republicans – were equally entitled to vote, they used violence and intimidation to depress Black turnout and diminish Republican aspirations.

Between 1865 and 1870, Congress passed, and the states ratified, three constitutional amendments designed to set the nation on a new footing and prevent another civil war. The 13<sup>th</sup> Amendment required that slavery be outlawed (except as punishment for a crime); the 14<sup>th</sup> Amendment was an omnibus measure designed to protect civil rights, disqualify some

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<sup>10</sup> "First Inaugural Address of Abraham Lincoln," March 4, 1861, [https://avalon.law.yale.edu/19th\\_century/lincoln1.asp](https://avalon.law.yale.edu/19th_century/lincoln1.asp), accessed April 20, 2022.

insurrectionists from holding office, encourage states to enfranchise Black men, and settle public financial issues that emerged from the war; and the 15<sup>th</sup> Amendment barred discrimination in the right to vote on the basis of race. All three amendments came with a federal enforcement provision, meaning that they explicitly gave Congress power to enforce the principles the amendments articulated.<sup>11</sup>

The amendments, and the statutes Congress passed to enforce them, were tremendously controversial. They were driven by Republicans and passed Congress with virtually no Democratic support. In the southern states, many Democrats refused the new, more democratic terms established by Congress and the American people. They denounced federal policies as despotic and illegitimate, and they angrily defied the new laws, daring federal officials to try to bring them to justice. As Republicans attempted to establish state governments under the new order, their political opponents did everything in their power to resist, including resorting to threats, beatings, rape, and murder, as well as election fraud.<sup>12</sup>

Black men's enfranchisement in the South began in earnest in 1867, when Congress passed legislation requiring the enfranchisement of Black men in the former Confederate states (except Tennessee, which had already been readmitted to the Union). Voter registration was overseen by the U.S. Army, and Black men began to register and vote in these states in 1867 and 1868. With Black men's enfranchisement required by federal law, a major flowering of democracy took place in the southern states. Black communities organized to learn about politics, register, and vote. The Union League, founded in the free states during the war, sent representatives into the South and provided funding for Black southerners themselves to travel from place to place, educating Black communities about voting and how to register, and why they should participate.<sup>13</sup>

Black men's enfranchisement promised to make the Republican Party a significant force in many southern places, but it also threatened Americans who didn't want to see the political order change and who prized white political dominance. Southern Democrats didn't like that the Republican Party sought and received Black support and at times promoted Black leadership. They also objected to the Republicans' political agenda, which included levying taxes on wealthy landholders, honoring laborers' claims to wages, and using public funds to pay for social goods such as public schools and hospitals. Many white southerners responded violently to the onset of Black men's right to vote and explicitly sought to undermine Black communities'

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<sup>11</sup> Thirteenth Amendment, passed 1865, ratified 1865; Fourteenth Amendment, passed 1866, ratified 1868; Fifteenth Amendment, passed 1869, ratified 1870.

<sup>12</sup> Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1876* (New York: Harper & Row, 1988), 228-459; Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge, MA: Harvard University Press, 2003), 165-363.

<sup>13</sup> Hahn, *Nation Under Our Feet*, 177-98; Michael W. Fitzgerald, *The Union League Movement in the Deep South: Politics and Agricultural Change During Reconstruction* (Baton Rouge: Louisiana State University Press, 1989), 1-112; Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860-1870* (New York: Cambridge University Press, 1994), 162-70; Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA: Harvard University Press, 2015), 179-210.



access to political power. The Ku Klux Klan, as well as other white supremacist organizations of this period, formed to combat the threat posed by this expansion of the electorate.<sup>14</sup>

Violence pervaded many areas of life in the post-Civil War South, but our attention here is on organized efforts to stymie lawful political processes and overthrow governments that had been elected in accordance with the newly revised Constitution and federal statutes. As historian Steven Hahn wrote, “The victims of Klan murders and assaults included Republican congressmen, state legislators, former delegates to constitutional conventions, and county officeholders: not least armed sheriffs and constables, magistrates, and solicitors.”<sup>15</sup> The Klan also targeted grassroots leaders and respected members of Black communities. After being driven from his community by the Klan, Black Floridian Emanuel Fortune stated, “The object of it is to kill out the leading men of the republican party . . . men who have taken a prominent stand.” Historians have estimated that at least ten percent of Black members of the state constitutional conventions in 1867-68 were victims of violence, including seven who were murdered.<sup>16</sup> The rampant violence was designed to suppress the political power of Black Americans and, more generally, to subvert newly established democratic procedures in an effort to forcibly return southern states and communities to the control of white men with conservative views.

The history of this period provides virtually limitless examples of political violence designed to diminish Black participation and undermine the newly expanded democracy. For instance, a minister named George Brooks took charge of a Union League chapter in Brazos County, Texas, in 1867, and the group organized to elect a Black man to the upcoming state constitutional convention. When a group of disguised white men threatened the community, Brooks and other African Americans established an armed organization to protect their allies. Brooks also worked with the Freedmen’s Bureau to keep the white attackers at bay. For his efforts, George Brooks was murdered in 1868. Wyatt Outlaw, a Black Union League leader in Alamance County, North Carolina, led an effort to create a Black church and school, aligned with the statewide Republican party, helped get Republicans elected to office locally, and served as a local commissioner. Outlaw was murdered on Feb. 26, 1870, when more than a hundred members of the White Brotherhood, a local white supremacist organization, raided his home, dragged him to the courthouse square in Graham, N.C., and hanged him. The murderers pinned a note on Outlaw’s body: “Beware you guilty both white and black.” Indeed, lawless white Americans did not target only Black Americans; they also terrorized, beat, and sometimes killed white Republicans in their efforts to suppress dissent and secure a Democratic ascendancy.<sup>17</sup>

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<sup>14</sup> Hahn, *Nation Under Our Feet*, 265-313; Kidada E. Williams, *They Left Great Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I* (New York: NYU Press, 2012), 29-54; Fitzgerald, *Union League Movement*, 213-33.

<sup>15</sup> Hahn, *Nation Under Our Feet*, 287.

<sup>16</sup> Foner, *Reconstruction*, 426.

<sup>17</sup> Hahn, *Nation Under Our Feet*, 274-75; Foner, *Reconstruction*, 427; Scott Reynolds Nelson, *Iron Confederacies: Southern Railways, Klan Violence, and Reconstruction* (Chapel Hill: UNC Press, 2005), 100-15.

Many white southerners who did not participate directly in the violence condoned it, found ways to excuse it, or through their silence allowed it to continue. Some did speak out, and some, like Republican Governor William Holden of North Carolina, tried to fight back with arms. In the main, however, southern Democrats did little to stop the violence onslaught. As historian Eric Foner wrote, “Rather than dissociate themselves from the campaign of terror, prominent Democrats either minimized the Klan’s activities or offered thinly disguised rationalizations for them. Some denied the organization’s existence altogether, dismissing reports of violence as electoral propaganda, products of a Republican ‘slander mill.’” Many white southerners refused to cooperate with law enforcement officials who were trying to bring perpetrators to justice.<sup>18</sup>

Republicans tried to defend government institutions against political violence designed to drive them out of power, and at times they succeeded. Some Republican governors deployed state militia to fight off the Klan and restore order. More locally, Black communities organized, attempting to secure whatever weapons they could to fend off armed attacks. They sometimes managed to do so. For a time during the presidency of U.S. Grant – from about 1869 to 1875– the federal government made serious efforts to stem the violence and enforce the new constitutional order. Prompted by the abuse and chaos unleashed by white southerners, the Republican-dominated Congress passed legislation in 1870 and 1871 designed to enforce the 14<sup>th</sup> and 15<sup>th</sup> Amendments. Those statutes, combined with an earlier federal civil rights act from 1866, endowed federal marshals and federal courts with new authority, outlawed organized conspiracies to deny people their constitutional rights, and authorized the president to suspend the privilege of the writ of *habeas corpus* in places he deemed in insurrection against the US government. The newly created Department of Justice launched prosecutions of perpetrators and, in 1871 and 1872, brought many to justice and sent a message that the U.S. government would not tolerate such abuses. Meanwhile, President Grant ordered troops on the ground in some places to try to stop white southerners’ lawlessness. But Republicans faced tough elections at home, and white southern Democrats made the cost of enforcement extremely high. In the wake of an economic crisis in the fall of 1873, Republicans lost control of the House of Representatives in the 1874 midterm elections. Struggling to hold onto power as Democrats surged into office seeking to undo as much of Reconstruction as they could, Republicans proved increasingly unwilling to intervene as white southerners used violence and fraud to topple duly elected governments.<sup>19</sup>

The mid-1870s saw some of the most dramatic anti-Black, anti-democratic episodes of the period. In the small town of Colfax, Louisiana, Democrats sought to restore white supremacist rule. On April 13, 1873, the Democratic faction attacked the county courthouse where Black and white Republicans huddled for safety. When the courthouse caught fire, the Democrats shot down the Republicans as they streamed from the burning building. Dozens more were

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<sup>18</sup> Foner, *Reconstruction*, 434; Lou Falkner Williams, *The Great South Carolina Ku Klux Klan Trials, 1871-1872* (Athens, GA: University of Georgia Press, 1996); Leanna Keith, *The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction* (New York: Oxford University Press, 2008), 135-42.

<sup>19</sup> Hahn, *Nation Under Our Feet*, 280-95; Foner, *Reconstruction*, 454-59, 524-28, 549-63; Williams, *Great South Carolina Ku Klux Klan Trials*; William Gillette, *Retreat from Reconstruction, 1869-1879* (Baton Rouge: Louisiana State University Press, 1979), 186-258.

taken prisoner and then killed. Most historians estimate that the white supremacists killed somewhere between 60 and more than one hundred people at Colfax. Fifty years later, however, the white community memorialized the event with a marker that paid homage to the three white men who lost their lives, as the marker proudly declared, "fighting for white supremacy."<sup>20</sup>

In Louisiana and other southern states where Republicans remained in power, Democrats launched organized campaigns of violence to remove them. In 1874, White Leagues defeated the Republican-led New Orleans Metropolitan Police in the so-called Battle of Liberty Place and drove the Republican governor from office. Only after the U.S. Army forced Democrats to retreat did the governor resume power. When Democrats won control of the US House of Representatives in the fall 1874 midterm elections, they threatened to impeach President Grant if he used the military to protect freedpeople. That winter in Louisiana, White Leagues drove the governor and many local officials from office; twelve hundred Army troops managed to restore them. Insurgents in Alabama killed and wounded almost 100 men in Eufaula, and mobs in Vicksburg, Mississippi, forcibly drove a Black sheriff from office. Meanwhile in Arkansas, rival claimants for the governor's chair led armed attacks upon the State House in the "Brooks-Baxter War." In 1875, Democratic White Line organizations launched a new campaign of terror in Mississippi. Undermined by his own attorney general and fearful of dooming his party to electoral defeat, President Grant did not send troops to Mississippi until it was too late. In Black majority Yazoo County, where the Republican governor had won by 1,800 votes in 1873, Democrats now prevailed 4,044 to seven.<sup>21</sup>

In addition to violence, white Americans in this period also used the rhetoric of corruption, poverty, and dependency to challenge the legitimacy of Black voters and the people they helped elect. Many disenfranchisers claimed they objected to Black men voting not on the grounds of race as such, but because Black voters were too economically dependent or too uneducated to be capable of making their own independent choices in voting. They also claimed that Black men's enfranchisement produced corrupt white politicians, because unscrupulous white men were tempted to cater to supposedly "ignorant" Black voters. In some places, opponents of Black men's enfranchisement (and Republican power) organized into associations of "taxpayers" and "citizens" that claimed they merely wanted to ensure that sensible people were in charge of elections and voting. For example, after Black men began voting in Washington, D.C., and a number of African Americans were elected to the city council,

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<sup>20</sup> Hahn, *Nation under Our Feet*, 292-95; Keith, *Colfax Massacre*; Charles Lane, *The Day Freedom Died: The Colfax Massacre, the Supreme Court, and the Betrayal of Reconstruction* (New York: Henry Holt, 2008).

<sup>21</sup> Robert W. Coakley, *The Role of Federal Military Forces in Domestic Disorders, 1789-1878* (University of California Libraries, 1989), 328-30; Gillette, *Retreat from Reconstruction*, 96, 102, 107-27, 139-49, 158-63; Charles W. Calhoun, *Conceiving a New Republic: The Republican Party and the Southern Question, 1869-1900* (Lawrence, Kan.: University Press of Kansas, 2006), 40-77; James E. Sefton, *The United States Army and Reconstruction, 1865-1877* (Baton Rouge: Louisiana State University Press, 1967), 222-46; Brooks D. Simpson, *The Reconstruction Presidents* (Lawrence: University Press of Kansas, 2009), 158, 174, 177; Keith, *Colfax Massacre*, 109, 113, 149; Douglas R. Egerton, *The Wars of Reconstruction: The Brief, Violent History of America's Most Progressive Era* (New York: Bloomsbury Press, 2014).

a movement of self-professed “taxpayers” and “intelligent citizens” successfully lobbied Congress to reorganize the District of Columbia government so appointed officials were in charge and voters’ power was dramatically reduced. The Democratic *New York World* newspaper emphasized that Black men’s enfranchisement had made Washington a dangerous city: “Let no Northern man, be he Democrat or Republican, for his life or property set his foot in Washington with a dollar; for under the municipal rule now in force, neither is safe.”<sup>22</sup> More generally, as Eric Foner wrote, particularly in the Upper South, “Democrats developed ingenious methods of limiting black voting power.” For instance, in Delaware in 1873, Democrats implemented a poll tax that disenfranchised most black voters and secured Democratic power for the next two decades. In 1870, Maryland instituted a property qualification for voting, and Tennessee’s state constitution included a new poll tax provision.<sup>23</sup> Measures such as these did not overtly violate the 15<sup>th</sup> Amendment’s prohibition on racial discrimination in voting, but their intention was similar: to drastically reduce the power of the Black electorate and, in doing so, to help vault Democrats into office.

The exhilarating and somber history of the Civil War and Reconstruction – from its dramatic democratic advances to its horrific anti-Black violence – serve as a reminder of how contested and fragile our democracy has been. Both the secessionist movement of 1860-61 and the reaction against Reconstruction were moments when groups of Americans, feeling threatened by changing American demographics and political configurations, refused the terms established by the Constitution and used every means they could, both violent and lawful, to attempt to secure political power for themselves.

### Disfranchisement

In the 1870s and 1880s, the forces of racism and anti-democracy, represented politically by the Democratic Party, made significant inroads against Republicans’ effort to create a multi-racial democracy. Yet the Democrats and white supremacy did not fully triumph until the end of the 1890s, establishing what is now known as the regime of “Jim Crow,” which was characterized by segregated facilities, continuing violence, and extensive disenfranchisement of American citizens who were, in fact, constitutionally entitled to vote.

Starting in the 1870s, the Supreme Court interpreted the 14<sup>th</sup> and 15<sup>th</sup> Amendments narrowly, shrinking the federal government’s power to protect individual rights and throwing many matters associated with civil rights and voting back under state jurisdiction. In *U.S. v. Reese* (1876) and *U.S. v. Cruikshank* (1876), for example, the Court narrowed the reach of measures designed to protect Black men’s right to vote, asserting that responsibility for defining and protecting voting rights had returned to the states, where it had been before Reconstruction. It was obvious that at the state level, southern Democrats would do little, if anything, to protect

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<sup>22</sup> Kate Masur, *An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C.* (Chapel Hill: University of North Carolina Press, 2010), 197, 198; Heather Cox Richardson, *The Death of Reconstruction: Race, Labor, and Politics in the Post-Civil War North, 1865-1901* (Cambridge, MA: Harvard University Press, 2001), 92-121.

<sup>23</sup> Foner, *Reconstruction*, 422; Gillette, *Retreat from Reconstruction*, 38-41.

Black men's right to vote, even when – as was the case of the Colfax Massacre and the ensuing *Cruikshank* case – the suppression of African Americans' political rights had included organized violence and murder. Thus empowered, southern state legislatures passed measures designed to limit access to the vote, including new provisions for registration, residency requirements, expansions of felon disfranchisement, and poll taxes. New policies also shifted precinct locations away from Black people's neighborhoods. In South Carolina, such measures drove down Republican voting from 58,071 in 1880 to 13,740 in 1888.<sup>24</sup>

Southern Democrats' campaign of disenfranchisement gained new momentum after 1890, when Republicans in Congress failed to pass a new federal voting rights law, making it clear that even a Republican-majority administration would not try to intervene with states' policies concerning voting and elections. Southern Democrats now began to make state constitutions and laws designed to give an orderly veneer to what some had long tried to accomplish through violence. "We have disfranchised the African in the past by doubtful methods," Alabama's 1901 state convention chairman said, "but in the future we'll disfranchise them by law." The supporters of this disfranchisement proudly called these "White Supremacy" campaigns.<sup>25</sup>

In adopting measures designed to constrain access to the ballot, Democrats sought to consolidate their party's power and minimize the influence of Black voters. The Democrats' disenfranchisement measures primarily targeted Black voters, but Democratic leaders had no objection if many poor white people were also denied the vote. Beginning with Mississippi in 1890 and spreading to most other Southern states over the next two decades, states added and lengthened residency requirements, imposed poll taxes, expanded felon disfranchisement, changed ballot design, and added literacy tests, in some states including a grandfather clause to permit white illiterate men to vote if their grandfathers had been eligible. "It will never come to pass that the neck of the white man shall be under the foot of the negro, or of the Mongolian, or any created being," said Mississippi U.S. Senator James George. After George orchestrated a new Mississippi constitution that restricted voting, overall voter participation (regardless of race) dropped from 70 percent of adult men in the 1870s to 15 percent by the early twentieth century.<sup>26</sup>

Senator George gave voice to the raw racism that motivated many disenfranchisers, but the terminology they used to justify their actions was often far milder. Indeed, in their new state constitutions and laws, those who sought to restrict the vote needed to avoid saying that they

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<sup>24</sup> Foner, *Reconstruction*, 444-459.; Pippa Holloway, *Living in Infamy: Felon Disfranchisement and the History of American Citizenship* (New York: Oxford University Press, 2014).

<sup>25</sup> Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888-1908* (Chapel Hill: University of North Carolina Press, 2000), 18, 42.

<sup>26</sup> Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 84-92; J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of a One-Party South, 1880-1910* (New Haven: Yale University Press, 1974); Carol Anderson, *One Person, No Vote: How Voter Suppression Is Destroying Our Democracy* (New York: Bloomsbury, 2018).

were trying to stop Black men in particular from voting, because references to race or color would very explicitly violate the 15<sup>th</sup> Amendment. It was for this reason that the 1890 Mississippi constitution featured ostensibly race-neutral policies such as poll taxes, literacy tests, and residency requirements. Superficially, such rules said nothing about race. Yet everyone knew what Senator George knew: the rules would clearly have a greater negative impact on would-be Black voters, and the amorphous nature of many of the rules gave local registrars tremendous latitude in enforcement.<sup>27</sup>

Disenfranchisers of the 1890s regularly characterized biracial governments as inherently prone to fraud and described elections that produced biracial governments as illegitimate. In Louisiana, the president of the 1898 state constitutional convention stated that their job was “to eliminate from the electorate the mass of the corrupt and illiterate voters who have during the last quarter of a century degraded our politics.” In Alabama, the Democratic-controlled convention passed a temporary voting law that allowed registrars to deny voters on the grounds that they lacked “good character.” Even a white delegate who supported disfranchisement complained of this measure that the people “who are asking relief from political fraud . . . are to be sent home to perpetrate the most outrageous fraud in all the history of fraud.” In Alabama, the campaign to ratify the new disfranchising constitution in 1901 ran on the slogan “White Supremacy! Honest Elections! And the New Constitution! One and Inseparable.”<sup>28</sup>

Anti-Black political violence continued in many places, although most leading southern Democrats publicly disavowed it. Most notably, when Black Republicans in 1890s North Carolina created a successful alliance with dissident whites and won control of the state, the Democrats launched a white supremacist campaign to take back power through intimidation. In Wilmington, a mob of more than 2,000 white men attacked an African American newspaper and other black-owned businesses and homes, and the violence resulted in between 15 and 60 African American deaths. More than 2,000 Black residents fled the city in the aftermath of the massacre. Democrats, having accomplished a coup d’état, triumphantly assumed control of the city government, a sign of the consolidation of the party's power throughout the former Confederacy.<sup>29</sup> Elsewhere, too, some white southerners continued to turn to collective violence, including lynching, to subordinate Black and disobedient white people. Perpetrators of lynchings took justice into their own hands, acting on rumors and accusations – and without due process – to execute people alleged to have committed crimes. By most counts, white

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<sup>27</sup> Keyssar, *Right to Vote*, 84-92.

<sup>28</sup> Perman, *Struggle for Mastery*, 141, 189-90, 194.

<sup>29</sup> Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920* (Chapel Hill: UNC Press, 1996), 91-118; Timothy B. Tyson and David S. Cecelski, eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (Chapel Hill: University of North Carolina Press, 1998); Eric Anderson, *Race and Politics in North Carolina, 1872-1901: The Black Second* (Baton Rouge: Louisiana State University Press, 1981).

southerners lynched some 3,500 people, most of them African American, between 1880 and the 1950s.<sup>30</sup>

Black leaders like Ida B. Wells, Charles Chesnut, and Robert Smalls drew attention to the many ways – legal and illegal, violent and apparently peaceful – that white Americans were betraying the promises of Reconstruction, particularly the 15<sup>th</sup> Amendment. Their claims were brusquely ignored. When the last Black congressman of the Reconstruction era, George White of North Carolina, left the U.S. House of Representatives in 1901 after the coup in Wilmington, he did not return to his home for fear of violence. Declaring “I cannot live in North Carolina and be treated as a man,” White headed north to Philadelphia. As disenfranchisement swept the South, almost all Black officeholders lost their positions and everyday Black Americans were denied access to local courts, protection by law enforcement, and representation in government.<sup>31</sup>

The voter rollback of the turn of the twentieth century destroyed much of American democracy in the South, and not only for Black people. By the 1904 presidential election only 29 percent of adult males of any race voted in the South. The new Jim Crow governments in the South paid lip service to the needs of poorer whites but starved them of access to good schools or economic development.<sup>32</sup>

The U.S. Supreme Court offered no help in stemming southern disenfranchisement measures. In the case of *Williams v. Mississippi* (1898), the court ruled that Mississippi’s 1890 constitution did not violate the 15<sup>th</sup> Amendment’s bar on racial discrimination in the right to vote. Other states took the decision as a signal to proceed with disfranchisement measures, and constitutional conventions followed in almost every southern state. Their work of disfranchisement succeeded. Virginia voting fell by 50 percent immediately after its disfranchisement constitution passed. In Louisiana, Black registration fell from more than 130,000 to 1,342. By 1910, only four percent of Black Georgia men were registered to vote.<sup>33</sup>

In *Giles v. Harris* (1903), the court again upheld state constitutional requirements for voter registration and qualifications, undercutting the 14<sup>th</sup> and 15<sup>th</sup> Amendments. In this case, Justice Oliver Wendell Holmes denied the claim by a Black Alabama postal clerk, Jackson Giles, for protection of his rights. The president of the Alabama constitutional convention had publicly stated that the new constitution aimed to “establish white supremacy in this State.” Even if Giles had suffered a “great political wrong,” Justice Holmes wrote, the Supreme Court could do nothing. Giles and other African Americans were left to challenge disenfranchisement at the

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<sup>30</sup> Hahn, *Nation under Our Feet*, 426-31; Leon E. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Knopf, 1998), ch. 6; Crystal N. Feimster, *Southern Horrors: Women and the Politics of Rape and Lynching* (Cambridge, Mass.: Harvard University Press, 2010).

<sup>31</sup> Gilmore, *Gender and Jim Crow*, 131; Hahn, *Nation under our Feet*, 412-464; Nell Irvin Painter, *Exodusters: Black Migration to Kansas after Reconstruction* (New York: Alfred A. Knopf, 1977), 71-117.

<sup>32</sup> James N. Gregory, *The Southern Diaspora: How the Great Migrations of Black and White Southerners Transformed America* (Chapel Hill: University of North Carolina Press, 2005), 11-42.

<sup>33</sup> Keyssar, *Right to Vote*, 84-92; Kousser, *Shaping of Southern Politics*; Perman, *Struggle for Mastery*, 18, 42.

state level, a virtually hopeless prospect particularly as they were largely denied the right to vote. Charles Chesnutt, a leading writer and intellectual, called *Giles v. Harris* a “reaffirmation of the Dred Scott decision.” “In spite of the Fifteenth Amendment, colored men in the United States have no rights which the States are bound to respect.”<sup>34</sup>

Although disenfranchisement was most pronounced in the South, the southern antidemocratic impulse was part of a broader national and even international story. Across the nation, many members of the economic and cultural elite expressed doubts about the viability of democracy, in part due to the challenges of building multi-cultural and multi-racial societies, but also because industrialization seemed to be creating a permanent working class. Reformers added property qualifications, new registration requirements, and pauper exclusions that, in some cases, disenfranchised even Civil War veterans in state-supported homes. Northeastern politicians tried to prevent European immigrants from voting in large numbers; Western politicians worked to block Asian voting; southwestern politicians worked to keep Latinos from the polls. By restricting the voting rights of working-class people, elites in many regions of the United States, and in many other nations, hoped to protect their own established power against challenges by impoverished masses. Across the United States, voter participation dropped by more than one-third. Early in the nineteenth century, this country had been a world leader in enfranchising propertyless white men. After the Civil War, the United States became one of only two countries, with Haiti, to enfranchise freedmen soon after abolition. By the early twentieth century, however, the nation stood out in bleaker ways. Instead of a leader in democracy, the United States had become a laggard, with lower voter turnouts and more restrictions on access to the ballot.<sup>35</sup>

As disenfranchisement took hold, white southern intellectuals commenced a propaganda campaign to justify their efforts. Historian Karen L. Cox has shown how organizations such as the Sons of Confederate Veterans and United Daughters of the Confederacy sought to take control of the nation’s history by rewriting it to make white supremacists the heroes. In a “Lost Cause” narrative that became increasingly popular in the early 1900s, many claimed that slavery had been mild, the Civil War an unnecessary blunder, Reconstruction a mistake defined by fraud and corruption, and the overthrow of Reconstruction a redemption of the region by good white men. In published histories, memorials and historical markers, novels like *Gone with the Wind* and *The Clansman*, and films like *Birth of a Nation*, these historical myths emerged to justify the exclusion of Black people from public life, and the violent tactics that white supremacists used to achieve this exclusion. Nor were these racist and politically motivated narratives confined to the South. Professional historians at prestigious northern universities, drawing on a limited range of sources and blindered by their own prejudices and assumptions, reinforced these myths in their own publications and trained graduate students in the same

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<sup>34</sup> Charles Chesnutt, “Disfranchisement of the Negro,” in Booker T. Washington, ed., *The Negro Problem: A Series of Articles by Representative Negroes of To-Day* (New York: James Pott & Company, 1903), 92; Volney Riser, *Defying Disfranchisement: Black Voting Rights Activism in the Jim Crow South, 1890-1908* (Baton Rouge: Louisiana State University Press, 2013); Perman, *Struggle for Mastery*, 173.

<sup>35</sup> Keyssar, *Right to Vote*, 93-138; Rabia Belt, “Ballots for Bullets? Disabled Veterans and the Right to Vote,” *Stanford Law Review* (February 2017): 435-490.



vein. On completing his own massive work on the history of Reconstruction in 1935, the Black intellectual W. E. B. Du Bois wrote, “I stand at the end of this writing, literally aghast at what American historians have done to this field.” It has been the work of Reconstruction historians, particularly since the 1960s, to excavate a more accurate history, one that begins with respect for the rights, dignity, and humanity of all people.<sup>36</sup>

The constitutional changes established in the 1860s did become the foundation for a more democratic nation, but only slowly and after much struggle. As he left the U.S. House of Representatives in 1901, after the violent rise of white supremacy in North Carolina had made it impossible to elect a Black congressman from *any* district, George White told his colleagues that this was “perhaps the Negroes’ temporary farewell to the American Congress. But let me say, phoenix-like, he will rise someday and come again.” More than six decades passed – an entire lifetime – between George White’s speech and the passage of the 1965 Voting Rights Act and the election of three Black congressmembers from ex-Confederate states in 1972. Had it not been for massive, widespread protests against disenfranchisement starting after World War II, the renewed commitment to voting rights in the 1960s might never have happened. History rarely provides simple lessons, but the history of this country makes this much clear: If we are to have a nation premised on the Founders’ view of that governments “deriv[e] their just powers from the consent of the governed,” we must understand that our democracy is fragile and we must commit to protecting it.<sup>37</sup>

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<sup>36</sup> Karen L. Cox, *Dreaming of Dixie: How the South Was Created in American Popular Culture* (Chapel Hill: University of North Carolina Press, 2011); W. E. B. Du Bois, *Black Reconstruction in America*, 1935, intro. by David Levering Lewis (New York: Atheneum, 1992), 725.

<sup>37</sup> Foner, *Reconstruction*, 602-612; George H. White, *Defense of the Negro Race—Charges Answered. Speech of Hon. George H. White, of North Carolina, in the House of Representatives, January 29, 1901* (Washington: Government Printing Office, 1901), 14, available at <http://docsouth.unc.edu/nc/whitegh/whitegh.html>.