

Introduction

extended metaphor

Wandering between two worlds, one dead,
The other powerless to be born...

Matthew Arnold's famous lines from "Stanzas from the Grand Chartreuse" have long served as an epigram for nineteenth-century Europeans whose past seemed far more certain than their future. Arnold, the English poet adored by American liberals, looking out from a French monastery in 1850, evoked the tensions and confusion of emerging industrial modernity. What he said of Europe applied to the post-Civil War United States as well, if only as a borrowed garment.

In 1865 an older American nation had died, a casualty of the Civil War. Abraham Lincoln's lesson taken from the Gospel of Mark, that "a house divided against itself cannot stand," had been rewritten in blood. The old Union had perished in a fratricidal war, but Northerners did not doubt that, again in Lincoln's words, "this nation, under God, shall have a new birth of freedom." They would resurrect the best of the old society with the cancer of slavery cut out.

Americans did give birth to a new nation, but it was not the one they imagined. How the United States at the end of the nineteenth century turned out to be so different from the country that Lincoln conjured and Republicans confidently set out to create is the subject of this book.

Arnold's metaphor of gestation and birth imagined two discrete worlds, one quickening as the other died, but Americans had, unknowingly, conceived twins in 1865. The first twin embodied the world they anticipated emerging from the Civil War, and it died before ever being born. The second, unexpected, twin lived, forever haunted by its sibling.

Americans have been of two minds of that surviving twin ever since. They have recognized that it carried some of the noblest instincts and ambitions of the triumphant republic even if these were more fully embodied in its vanished sibling: a world of equal opportunity, a uniform set of rights, and a homogeneous citizenship guaranteed by the federal government. This was the world Radical Republicans like Thaddeus Stevens

imagined in a Greater Reconstruction that would remake the country—West as well as South—in the mold of the Free Labor North. Ideally, every community in the United States would become a replica of Springfield, Illinois, Abraham Lincoln's hometown and the figurative Nazareth of the nation. The country would be Protestant and roughly egalitarian without either of the "dangerous classes": the very rich or the very poor. Independent production would be the norm and wage labor but a stage in life. Historians often write of Reconstruction and the Gilded Age as if they were separate and consecutive eras, but the two gestated together.

Actual Reconstruction considerably scaled back the vaunting ambitions of the most radical of the Republicans. It denied rights and protections to other men and all women even as it guaranteed them to white and black men, but still the audacity of the Thirteenth, Fourteenth, and Fifteenth Amendments of the Constitution that ended slavery, granted citizenship, and gave the vote to ex-slaves remains inspiring. Rarely have Americans moved so boldly or so quickly.

Greater Reconstruction presented only one aspect of the Gilded Age. When Mark Twain and Charles Dudley Warner wrote *The Gilded Age: A Tale of Today* in 1873, they gave a forgettable novel a memorable title that has come to stand for the entire late nineteenth century. The pithy title covered a convoluted plot whose moral was the danger of privileging speculation over honest labor. The "Gilded Age" exposed the rot beneath the gilded surface. Historians once embraced corruption as diagnostic of the age, but for the past half century they have downplayed its importance. They have been wrong to do so. The Gilded Age was corrupt, and corruption in government and business mattered. Corruption suffused government and the economy. "Friendship" defined the relation between public officials and businessmen, and officials from postmasters to deputy sheriffs and judges received fees for services. Lavish subsidies went to private corporations such as the transcontinental railroads, and the government subcontracted public responsibilities from prisons, Indian reservations, moral regulation, and more to churches, corporations, and other private organizations.¹

In this volume of *The Oxford History of the United States*, the Gilded Age begins in 1865 with Reconstruction and ends with the election of William McKinley. This period for a long time devolved into historical flyover country. Writers and scholars departed the Civil War, taxied through Reconstruction, and embarked on a flight to the twentieth

1. Mark Twain and Charles Dudley Warner, *The Gilded Age: A Tale of to-Day*, 2 vols. (New York: Harper & Brothers, 1915, orig. ed. 1873).

century and the Progressives, while only rarely touching down in between. Such neglect has changed with recent scholarship that has revealed a country transformed by immigration, urbanization, environmental crisis, political stalemate, new technologies, the creation of powerful corporations, income inequality, failures of governance, mounting class conflict, and increasing social, cultural, and religious diversity.

Failed presidencies proliferated across the Gilded Age. Critical periods in American history tend to be epitomized by a dominant political figure: Jefferson, Jackson, Lincoln, Wilson, the two Roosevelts, Reagan. But the Gilded Age does not induce hagiography. Its presidents come from the Golden Age of Facial Hair, none of them seemingly worth remembering for any substantial achievement. There was no Age of Harrison.

Political parties mattered far more than presidents, but these parties were not particularly ideological. They tapped deeper loyalties that arose out of the Civil War and religious, ethnic, and sectional identities. People became Republicans and Democrats because of who they were more than because of the principles they espoused. Both parties contained members across an ideological spectrum.

The Republican Party dominated American politics at the end of the Civil War, but it changed after the war. The split between radical, moderate, and conservative that defined the wartime party's divisions yielded to a split between those Republicans whose beliefs mirrored those of the old Whig Party, and liberals. Whiggish Republicans believed in a strong and interventionist government, and during the Civil War they put those beliefs into practice, passing the Homestead Act; the Morrill Tariff; the Morrill Act, funding state land grant universities; and subsidizing transcontinental and other railroads. After the war, they possessed no more patience with laissez-faire than they had before or during it. Gilded Age liberals sprang from a noble European and American lineage whose opposition to hierarchies and privileges made them enemies of the Catholic Church, monarchy, aristocracy, and human slavery. Nineteenth-century liberals stressed individual freedom, private property, economic competition, and small government. These ideological distinctions do not map easily onto the political beliefs of the late twentieth and early twenty-first century. Liberals, in particular, produced a varied progeny now scattered across the modern political spectrum. Modern liberals have inherited their namesakes' concern with individual rights, but they do not tie those rights as closely to property as nineteenth-century liberals, and they have abandoned their distrust of government intervention in the economy. In this respect, they are more like Whigs. Nineteenth-century liberals, with their devotion to laissez faire and property rights and their faith in competition, were closer to twentieth and twenty-first century conservatives and

closer still to libertarians. During the Civil War, Gilded Age liberals had temporarily accepted the need for a powerful central government—the so-called Yankee Leviathan—in the war against slavery, but they feared such centralized power after the war, which put them in opposition to Regular Republicans.

Politics changed over the period, but politics and politicians did not change nearly so rapidly as ordinary life and ordinary Americans. During the Gilded Age, the actions of millions mattered more than the actions of a few. The cumulative efforts of tens of thousands of tinkers transformed technology. People moved from the countryside into cities and, in much smaller numbers, from the east to the west. Mass immigration made the United States, in today's parlance, diverse and multicultural even as the country tried, and failed, to bridge the racial chasm that slavery had created. Then, as now, large numbers of native-born Americans did not regard diversity as a good thing, and the arrival of Catholic and Jewish immigrants spawned a nativist reaction. One of the ironies of the Gilded Age was that during this period the United States both completed the



"Home Sweet Home," the title of this Currier and Ives print, was the refrain of a popular song in a now-forgotten English opera. It became a favorite of both Union and Confederate soldiers and captures the sentimentalized home that loomed so large in Victorian culture. Library of Congress, LC-USZC2-2590.

four-centuries-long conquest of Indian peoples by Europeans and their descendants and then treated Indians like immigrant Europeans: a people to be acculturated and assimilated.

Americans assessed these changes in terms of the home, a symbol so ubiquitous and seemingly so bland that it can vanish while in plain sight. The home became the beating heart of an expansive political program that would create black homes, impose "proper" homes on Indian peoples, exclude Chinese (deemed both a threat to American homes and incapable of creating their own), and expand the white home into the West. Home embodied all the gendered and racialized assumptions of American republicanism and the American economy. It contained manly men and womanly women united in monogamous marriage to reproduce families. It originally provided a site of production as well as reproduction. The threat to the home—from industrialization, great wealth, and urbanization—became a threat to the entire society. Farmers and workers mobilized the home in defense of their interests. Those who failed to secure proper homes were cast as a danger to the white home—as happened to Chinese, blacks, Indians, and to a lesser degree some European immigrants. They became the targets of horrendous violence and repression, which the perpetrators always cast as self-defense. The struggle over Reconstruction, as well as the class struggle that emerged in the 1870s, ended up as a struggle over the home.

Invoking the gendered home involved seizing a weapon of considerable power. Frances Willard, of the Woman's Christian Temperance Union, realized this. Her broad campaign of home protection made her into one of the most formidable and powerful political figures of the century. She was hardly alone. Buffalo Bill Cody placed it at the center of popular culture, and President Rutherford B. Hayes deployed it to buttress Republican programs and the creation of a nascent social welfare system.

Willard was both a feminist and an evangelical Christian, and the United States remained a profoundly evangelical Protestant culture whose reforming zeal had hardly been exhausted by the success of abolition. Evangelical Protestantism had been the great wellspring of American reform since the 1830s, and its current had widened to take in not only an expanding country but also the world. Temperance reform became its great cause, but this was one among many. Americans exported missionaries and reformers in an attempt to create what historian Ian Tyrrell has called "America's moral empire."

American engagement with the world managed to be both expansive and defensive. The United States defined itself against Europe, and Americans regarded most of the rest of the world as barbarous. Americans

exported missionaries and reformers as well as wheat and cotton, while trying to shut themselves off from those European manufacturers that threatened American industry. At the same time, immigrants made the United States a polyglot nation, filled with people from Europe, Canada, Asia, and Mexico. Nor were ideas easily banished. American students, intellectuals, and officials traveled to Europe and brought back European notions and philosophies.

Yet to simply track the United States as another swimmer in a vast transnational current misses all the complexities of the Gilded Age. Most of the changes examined in this volume took place on national and regional scales, not the transnational. Transnational developments mattered, but during the Gilded Age the nation took shape in response to these larger changes rather than as a simple reflection of them. The existence of a larger global economy, for example, led to an American nationalist reaction—the tariff—that profoundly shaped the American economy and American politics.

Abraham Lincoln, the politician whose memory and legacy dominated the Gilded Age, died as this book begins, but he never really vanished. The novelist and critic William Dean Howells captured part of the reason when he reviewed John Hay's and John Nicolay's monumental biography of the president in 1890. Howells wrote that "if America means anything at all, it means the sufficiency of the common, the insufficiency of the uncommon." Lincoln had come to be both the personification of the American common people and the nation's greatest—and most uncommon—president. Howells thought it was the nation's common people and common traits that most mattered.²

Howells, famous then and largely forgotten since, knew most everyone, but he always remained detached. He watched, and he wrote. His interventions in politics remained minor. Howells was a Midwesterner, and this was the great age of the Midwest. Originally a committed liberal, he came to acknowledge liberalism's failures and insufficiencies, and then struggled to imagine alternatives. He did so as a writer, and he and his fellow Realists created invaluable portraits of the age. In his confusion, his intelligence, and his honesty, he reminds us that for those living through the Gilded Age it was an astonishing and frightening period, full of great hopes as well as deep fears. When Howells cryptically embraces the common, it is worth listening to him. Understanding his judgment of the "sufficiency of the common, the insufficiency of the uncommon" provides a lens for assessing the Gilded Age.

2. "Editor's Study," February 1891, William Dean Howells, *Editor's Study*, ed. James W. Simpson (Troy, NY: Whitston, 1983), 298.

The Gilded Age produced uncommon men and women. They abound in this volume, but in Howells's lifetime, and during the twentieth century, businessmen who amassed wealth on a scale never seen before in American history became the face of the period. Contemporary caricaturists and later historians named them the Robber Barons, but this, as well as their later incarnation as farsighted entrepreneurs, gave them too much credit. They never really mastered the age. When Howells wrote of "the insufficiency of the uncommon," he probably had them in mind, seeing them as insufficient to the demands of the period for the same reasons as Charles Francis Adams, who had aspired to be one of them and then dismissed them in his *Autobiography*.

I have known tolerably well, a good many "successful" men—"big" financially—men famous during the last half-century, and a less interesting crowd I do not care to encounter. Not one that I have ever known would I care to meet again, either in this world or the next; nor is one of them associated in my mind with the idea of humor, thought or refinement. A set of mere money-getters and traders, they were essentially unattractive and uninteresting.³

In a period that began with such exalted hopes and among a people so willing to proclaim their virtue as were Americans, sufficient seems condemning with faint praise, but a sobered Howells writing in the midst of what seemed a prolonged economic, political, and social crisis expressed a restrained optimism. Howells did not romanticize the "common people." The failure of Reconstruction in the South was, in part, their failure. They often at least consented to the corruption of democratic governance. And for most of the Gilded Age the "common people" questioned whether they really had much in common as race, religion, ethnicity, class, and gender divided the nation. Yet their actions transformed the country, even if they undertook perhaps the most consequential of these actions—the movement into wage labor—unwillingly and under duress.

In judging them sufficient, Howells settled down in between the dystopian and utopian fantasies that marked the age. Millions of ordinary Americans had remade the country with their work, their movements, their agitation, their tinkering, their broad and vernacular intellectualism that neither aspired to nor created a high culture, and even with their amusements. They had not succumbed to the long economic and social

3. Charles Francis Adams, *An Autobiography, 1835–1915, with a Memorial Address Delivered November 17, 1915, by Henry Cabot Lodge* (Boston: Houghton Mifflin 1916), 190.

crisis that threatened to overwhelm the country. What they accomplished was sufficient. It was a foundation on which to build.

Howells and his contemporaries never escaped the great gravitational pull of the Civil War. The era began with the universal conviction that the Civil War was the watershed in the nation's history and ended with the proposition that the white settlement of the West defined the national character. Changing the national story from the Civil War to the West amounted to an effort to escape the shadow of the Gilded Age's vanished twin and evade the failure of Reconstruction. Rewriting the Civil War as a mere interruption of the national narrative of western expansion minimized the traumas and vestiges of the Civil War and downplayed the significance of the transformation of Gilded Age economy and society. But too much had changed, and too much blood had been spilled in the War, for such a simple story of continuity to be fully persuasive. The twin, never born, shadowed the Gilded Age. A vision of a country unachieved lingered, and quarrels over what should come next remained unresolved.

Howells settled for the sufficient. It was not a judgment he came to easily; nor is it the kind of judgment we expect from Americans. How he made it, and why he judged the common life of his country sufficient, involves a long story, a history of the Gilded Age.

Part I

Reconstructing the Nation

not much property separated bricklayers, lawyers, stable owners, and managers. Lincoln was one of the richer men in Springfield, but neither he nor his neighbors were very wealthy.²⁰

The message of the sermons, the speeches, and the journey itself was that the martyred president had left the Union secure, its values affirmed, and liberty triumphant. A new magazine, *The Nation*, which would become the voice of liberal—in the nineteenth-century sense of the word—opinion for the rest of the century, published its first issue on July 5, 1865. Its editors saw themselves as standing at a turning point not just in American but also in world history.

It is not simply the triumph of American democracy that we rejoice over, but the triumph of democratic principles everywhere, for this is involved in the successful issue of our struggle with the rebellion. . . . We utter no idle boast, when we say that if the conflict of the ages, the great strife between the few and the many, between privilege and equality, between law and power, between opinion and the sword, was not closed on the day on which Lee threw down his arms, the issue was placed beyond doubt.²¹

Lincoln proved more malleable in death than in life. The assassination, the end of slavery, and the religious imagery and sermons surrounding his funeral speeded Lincoln's transformation into "Father Abraham." A man who in life could never shed his sense of tragedy and suffering, whose celebration of the possibilities of the republic never blinded him to its faults, would in death become, as historian Robert Carwardine has put it, a "prophet and agent of American mission."²²

20. Carole Shammas, "A New Look at Long-Term Trends in Wealth Inequality in the United States," *American Historical Review* 98, no. 2 (1993): 424; U.S. Bureau of the Census; U.S. National Archives and Records Service, "Population schedules of the eighth census of the United States, 1860, Illinois [microform], reel 226, Sangamon County, Schedule 1, Springfield, Illinois," 140.

21. Nancy Cohen, *The Reconstruction of American Liberalism, 1865–1914* (Chapel Hill: University of North Carolina Press, 2002), 25.

22. Searcher, 70; Carwardine, 55.

1

In the Wake of War

In April 1865 the United States was divided into three parts. The North dominated the nation. The South lay broken and battered, although the most defiant Southerners still regarded it as rightfully a separate country. Beyond the Missouri River lay the West, claimed but hardly controlled by the American Union. There dwelled independent peoples who called themselves Dine, Lakotas, and dozens of other names, but whom Americans collectively called Indians. For four years the three sections had known little but war, and the inhabitants of each, like the inhabitants of Caesar's Gaul, had reason to account themselves brave. Yet all were about to feel the power and policies of an enlarged federal government, a victorious Union army, and an expansive capitalism.

The triumphant North demanded three things of the defeated South: acknowledgment of the emancipation of its slaves; contract freedom for all citizens, black and white; and national reunification. Emancipation, freedom, and reunification were still just words. Their meanings remained unfixed. The image of the new country would emerge only as the lines connecting these ideological dots were drawn. As former North Carolina governor David L. Swain recognized, "With reference to emancipation, we are at the beginning of the War." This struggle over the results and meaning of the Civil War—and the meaning of black freedom—would be fought throughout the rest of the century in all sections of the country, but it began in 1865 in the South with Reconstruction.¹

The foundations of black freedom had been laid in the contraband camps and the Union Army during the Civil War. Initially, the former slaves were stateless: no longer slaves but not yet citizens. They were

1. Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South, from Slavery to the Great Migration* (Cambridge, MA: Belknap Press of Harvard University Press, 2003), 130; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988), 129; David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, MA: Belknap Press of Harvard University Press, 2001), 31.

dependent on federal aid, but they made themselves useful both as soldiers and laborers. Through their labor and service the freedpeople, in the language of the period, entered into contracts with the federal government, creating social relationships of mutual and reciprocal obligations that marked their independent status. In the contraband camps and army the freedpeople had exchanged useful service for rights and protection and by doing so breached what had once seemed an impenetrable barrier between black people and the possibility of citizenship.²

slaves - property & less than human
1780/1865 less than human
in Southern society

The task after the war was to regularize and clarify the status of freedpeople and force the Southern states to accept that new status. The Republicans took up this task after Gen. Robert E. Lee's surrender. In 1865 the Republican Party controlled both houses of Congress. Salmon Chase of Ohio, a former secretary of the treasury in Lincoln's cabinet, was chief justice of the U.S. Supreme Court. The Republicans were the party of nationalism, economic improvement, personal independence, and, more tentatively, universal rights. In the immediate aftermath of the war it was easy to cast the rival Democrats as the party of treason, backwardness, hierarchy, and slavery.³

Washington, D.C., the nation's still vaguely Southern capital, acted as the hub connecting the three sections. Washington was a bedraggled city of frame houses, muddy streets, open spaces, and about seventy-five thousand people, roughly a third of whom were black. The city was the emerging and still incongruous North American Rome, both republican and imperial, both grand and shoddy. Rising among dirt and squalor were the great granite, sandstone, and marble hulks of official buildings. The Capitol dome had finally been completed, but the canal running along the edge of the Mall was an open sewer, which reeked, as John Hay said, of "the ghosts of 20,000 drowned cats." From the White House the bucolic countryside of Mt. Vernon and Alexandria was visible across the Potomac, but at the end of the war the middle ground of such a view was a stockyard full of cattle to feed Union troops. Near it was the embarrassing stub—153 feet of the projected 600 feet—of the Washington

2. I take this formulation from Chandra Manning, *Troubled Refuge: Struggling for Freedom in the Civil War* (New York: Knopf, 2016), 218.
3. William Alan Blair, *With Malice toward Some: Treason and Loyalty in the Civil War Era* (Chapel Hill: University of North Carolina Press, 2014), 271–86.

Monument, begun seventeen years earlier, but left only partially built after funds had run out.⁴

Many of the capital's public buildings and monuments—including the toga-clad statue of George Washington exiled from the Capitol rotunda to the park outside—were classical in inspiration. There were victorious generals in abundance, but no Caesar.⁵

The authority and power of the federal government, so visible in Washington, were less visible elsewhere. The South in the spring of 1865 was conquered, but only thinly occupied by federal forces. Neither Northerners nor Southerners knew what the peace that followed the war and its carnage would look like, what form Northern occupation would take, or how Southerners, black and white, would react. Indians, not white settlers, were still a majority in most places west of the 100th meridian. The shape U.S. policy would take there remained unclear.

Carl Schurz captured the venom that suffused American social relations in the conquered South in an incident that took place in a Savannah hotel. Schurz was a German émigré and refugee from the failed European revolutions of 1848. He had settled in Missouri and become a general in the Union army. He knew what it meant to lose a revolution, and he knew that defeat did not necessarily change minds. He was in 1865 a Radical, sent to the South by the president to report on conditions there. He did not worry much about young Southern men "of the educated or semi-educated" class. They swaggered in courthouse squares, and Schurz overheard their talk in hotels and on the streets. They were of a type and potentially dangerous, but they did not immediately concern Schurz.

What troubled him were the sentiments of Southern women, for whom Schurz had greater respect than he did for Southern men. At a hotel's common table, he sat opposite "a lady in black, probably mourning. She was middle-aged, but still handsome." Schurz was sitting next to a young Union lieutenant, in uniform, and the lady seemed agitated. During the meal, the woman reached for a dish of pickles. The lieutenant with a polite bow offered it to her. "She withdrew her hand as if it had touched

4. 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), 146; Dorothy Kunhardt, *Twenty Days: A Narrative in Text and Pictures of the Assassination of Abraham Lincoln and the Twenty Days and Nights That Followed—the Nation in Mourning, the Long Trip Home to Springfield*, ed. Philip B. Kunhardt (New York: Harper & Row, 1965), 111–17.
5. For classicism, see: Caroline Winterer, *The Culture of Classicism: Ancient Greece and Rome in American Intellectual Life, 1780–1910* (Baltimore, MD: Johns Hopkins University Press, 2002); Garry Wills, *Cincinnatus: George Washington and the Enlightenment* (Garden City: Doubleday & Company, 1984), 55, 67–74.

something loathsome, her eyes flashed fire and with a tone of wrathful scorn and indignation she said: 'So you think a Southern woman will take a dish of pickles from a hand that is dripping with the blood of her countrymen?' The incongruity of the pickles and the passion amused Schurz, but the scene also struck him as "gravely pathetic." It augured "ill for the speedy revival of a common national spirit" because women composed a "hostile moral force of incalculable potency."⁶

A comparable loathing seethed in the North. Harriet Beecher Stowe was as hostile to the South at the end of the war as she had been toward slavery in the 1850s. In her fiction, Southern whites were not like Northern whites. Stowe had popularized the term "white trash" to Northern audiences in her *A Key to Uncle Tom's Cabin*, which she had published to demonstrate the factual basis of her best-selling novel. Slavery, Stowe had written, had produced "a poor white population as degraded and brutal as ever existed in the most crowded districts of Europe." Even when these whites had gained enough wealth to own slaves, the slaves were "in every respect, superior to their owners."⁷

When Sidney Andrews, a correspondent for the antislavery papers the *Chicago Tribune* and the *Boston Advertiser*, went south in 1865, he might well have been traveling through the landscape of Stowe's novel. In describing the "common inhabitant" of white rural North Carolina, Andrews found "insipidity in his face, indecision in his step, and inefficiency in his whole bearing." His day was "devoid of dignity and mental or moral compensation." He was all talk and little work, fond of his apple-jack and fonder still of his tobacco. To Andrews, the "whole economy of life seems radically wrong, and there is no inherent energy which promises reformation." How armies whose backbone was men like this had managed to hold off the North for four years Andrews did not explain. He didn't have too; his prejudices were those of his readers.⁸

6. Schurz was more dismissive of Southern women in his original letter of July 31, 1865. Joseph H. Mahaffey, "Carl Schurz's Letters from the South," *Georgia Historical Quarterly* 35, no. 3 (1951): 246; Carl Schurz, *The Reminiscences of Carl Schurz*, ed. Frederic Bancroft and William Archibald Dunning (New York: McClure, 1907), 3: 178–81.

7. Edward J. Blum, *Reforging the White Republic: Race, Religion, and American Nationalism, 1865–1898* (Baton Rouge: Louisiana State University Press, 2005), 98–99; Nancy Isenberg, *White Trash: The 400-Year Untold History of Class in America* (New York: Viking, 2016), 135–36; Harriet Beecher Stowe, *A Key to Uncle Tom's Cabin; Presenting the Original Facts and Documents Upon Which the Story Is Founded. Together with Corroborative Statements Verifying the Truth of the Work* (Boston: J. P. Jewett & Co., 1853), 184–85.

8. Isenberg, 178–80; selection from Sidney Andrews, *The South Since the War* (Boston: Ticknor and Fields, 1866); Harvey Wish, *Reconstruction in the South, 1865–1877*

Familiarity, however, did not necessarily change Northern opinions. Despite some outrages by Union soldiers toward the freedpeople, many of them came to despise the ex-Confederates for their continued resistance, the violence they directed at freedpeople, and their attacks on individual soldiers, agents of the Freedmen's Bureau, and northern teachers. Lt. Col. Nelson Shaurman, after service in Georgia, thought Georgians the "most ignorant, degraded white people I have ever seen... were it not for the military power—of which they have a wholesome fear—there would be scenes of cruelty enacted that would disgrace savages." The soldiers sought to cow, not convert, the ex-Confederates, and military posts succeeded in doing so.⁹

In the wake of the war journalists, travelers, and soldiers conducted what amounted to a political reconnaissance of the South. John Townsend Trowbridge, a popular author touring the southern battlefields, sat in the Atlanta rail yards on a foggy, rainy morning and described the shattered remnant of what had once been the city looming in the mist. Squat wooden buildings thrown up as temporary replacements were scattered among the ruins. General William Tecumseh Sherman's men—"the inevitable Yankee" as the great Southern diarist, Mary Chesnut, had called them—had left "windrows of bent railroad iron by the track." There were "piles of brick; a small mountain of old bones from the battle-fields, foul and wet with the drizzle... with mud and litter all around."¹⁰

In the spring of 1865 southwestern Georgia was one of the Southern places that seemed to northern travelers untouched by the war. The land lay green and bounteous. Black people plowed the earth, planted cotton, and, until the arrival of Union troops who came only after Appomattox, suffered under the lash as if slavery still lived and the old South was merely dozing and not dead. Clara Barton, who had done much to alleviate the suffering of Northern soldiers during the war and who would later found the Red Cross, saw the region differently. She thought it "not the gate of hell, but hell itself." Roughly thirteen thousand Union soldiers lay buried there in mass graves at the Confederate prison camp at Andersonville.¹¹

First-Hand Accounts of the American Southland after the Civil War (New York: Farrar, Straus and Giroux, 1965), 20–21.

9. Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA: Harvard University Press, 2015), 54–56.

10. J. T. Trowbridge, *The South: A Tour of Its Battlefields and Ruined Cities, a Journey through the Desolated States, and Talks with the People* (Hartford, CT: L. Stebbins, 1866), 460; Mary Boykin Miller Chesnut, *Mary Chesnut's Civil War*, ed. C. Vann Woodward (New Haven, CT: Yale University Press, 1981), 780, Apr. 5, 1865.

11. Stephen B. Oates, *A Woman of Valor: Clara Barton and the Civil War* (New York: Free Press, 1994), 309–36, 368; Susan E. O'Donovan, *Becoming Free in the Cotton*

Union soldiers had come to southwest Georgia during the war, but they had come as prisoners. Most had died there, and their bones were what brought Clara Barton. For many American families the war had not been fully resolved at Appomattox because their fathers, sons, and husbands had simply vanished. The dead at Andersonville were among the half of the Union dead who had been buried unidentified or left unburied on the battlefields, rendering the South "one vast charnel house."¹²

By recent estimates, somewhere between 650,000 and 850,000 men died in the Civil War, with a reasonable figure being about 752,000. Roughly 13 percent of men of military age in the slave states died during the war, twice the figure (6.1 percent) of men born in the free states or territories. More were incapacitated. In Mississippi 20 percent of the state's revenues in 1866 went to artificial limbs for veterans.¹³

The Union Army had burial records for about one-third of its estimated fatalities. The vast effort of both victors and vanquished to identify and inter their dead reflected the deep divisions left by the war and how difficult the creation of a common citizenry would be. The dead provoked the living to keep the old animosities alive. White Southerners often refused to say what they knew of the location of Union dead, and Union reburial parties often refused to bury the remains of Confederates. Barton would help locate more than twenty thousand of the Union's dead and spark a systematic effort to reinter them in national cemeteries. A suggestion that the national cemetery in Marietta, Georgia, include the Confederate dead, however, horrified local women who protested any "promiscuous mingling" of the remains of the Confederates with "the remains of their enemies." The South launched its own private efforts to reinter its abundant dead.¹⁴

Freedpeople proved the most helpful in finding the graves of Union soldiers. In Charleston, South Carolina, they had cared for the graves of two hundred Union prisoners who had died there. On May 1, 1865, under the protection of a brigade of Union soldiers, they honored the dead in what was probably the country's first Decoration Day. The Union and

South (Cambridge, MA: Harvard University Press, 2007), 111–15; Lee W. Formwalt, "The Origins of African-American Politics in Southwest Georgia: A Case Study of Black Political Organization During Presidential Reconstruction, 1865–1867," *Journal of Negro History* 77, no. 4 (1992).

12. Drew Gilpin Faust, *This Republic of Suffering: Death and the American Civil War* (New York: Knopf, 2008), 211–49, 267; Oates, 309–36, 368.

13. J. David Hacker, "A Census-Based Count of the Civil War Dead," *Civil War History* 57, no. 4 (2011): 312, 338, 342, 348; Eugene R. Dattel, *Cotton and Race in the Making of America: The Human Costs of Economic Power* (Chicago: Ivan R. Dee, 2009), 225.

14. Oates, 309–36, 368; Faust, 225.

Confederate dead—grotesquely anonymous in the piles of bones, bitterly yet tenderly remembered by the living—still bred hatreds and resentments that were not going to melt quickly away with peace.¹⁵

Congress was in recess in the spring of 1865 when the Confederacy collapsed following Lee's surrender, Lincoln's assassination, the gradual surrender of the other Southern armies, and the capture on May 10 of Jefferson Davis. It was left to a new president—and his cabinet, the army, and Southerners, both black and white—to determine the fate of the South.

Congress had passed the Thirteenth Amendment abolishing slavery before adjourning, but it took until December for enough states to ratify it, and only then was slavery legally extinguished in the loyal border states of Kentucky and Delaware. Emancipation remained a work in progress. The Emancipation Proclamation, the flight of the slaves, and the advance of Union armies during the war had brought freedom, of a sort, but it had also brought hunger, suffering, and death to many of those who seized that freedom. The federal government had enlisted able-bodied black men as laborers and soldiers, but often consigned their families to contraband camps or neglected them entirely. They died by the tens of thousands. Freedom that amounted to no more than the ability to sell one's labor at what a buyer was willing to pay was a more constrained freedom than slaves had imagined.¹⁶

In the spring and summer of 1865 many Southerners were unwilling to grant even that limited freedom. In large swaths of the interior South only the arrival of soldiers actually ended slavery. Returning rebels, in violation of the law, moved to evict the wives and families of black soldiers from their homes.¹⁷

Even with the arrival of troops, Carl Schurz wrote that Southerners still thought that the freedmen would not work without coercion and that "the blacks at large belong to the whites at large." As long as these beliefs persisted, emancipation would yield "systems intermediate between slavery as it formerly existed in the south, and free labor as it exists in the north, but more nearly related to the former than to the latter." The North had achieved only the "negative part" of emancipation, ending the system of

15. Faust, 211–49.

16. Jim Downs, *Sick from Freedom: African-American Illness and Suffering During the Civil War and Reconstruction* (New York: Oxford University Press, 2012), 18–64.

17. Downs, *After Appomattox*, 39–44; Manning, 243; Alie Thomas to Brother, July 30, 1865, Emily Waters to Husband, July 16, 1865, in Ira Berlin, ed., *Families and Freedom: A Documentary History of African-American Kinship in the Civil War Era* (New York: New Press, 1997), 131–32.

chattel slavery; the hard part, instituting a system of free labor, remained to be done.¹⁸

During spring and summer of 1865, Mary Chesnut chronicled the descent of South Carolina, the heartland of the Confederacy, into a snarling mix of rumor, resentment, self-recrimination, blame, rage, and self-pity. The elite of the Old South proved as recalcitrant in defeat as they had been in the glory days of their rebellion. They had gambled virtually everything on the attempt to create a slave state, "dedicated," as historian Stephanie McCurry has put it, "to the proposition that all men were not created equal," and they had lost the gamble. Sherman's army had looted and burned and driven home the enormity of the catastrophe they had engendered. Their slaves had deserted them and welcomed the Yankees. In the face of all this, Chesnut's friends saw the Yankees as barbarians and their own slaves as pitiful and deluded. The old Southern elite thought of themselves as victims.¹⁹

That the victimization they most feared did not come to pass did nothing to diminish their sense of persecution. Above all, whites dreaded vengeance from their own ex-slaves. White Southerners had always wavered between contentions that their slaves were treated with kindness and considered part of the slaveholder's family and a fear of seething collective black anger and individual grievances that had to be restrained by force lest they erupt in vengeance and retaliation. With emancipation, all their latent fears of retaliatory violence against a system sustained by the lash and gun haunted them. Southerners proclaimed that emancipation would result in "all the horrors of St. Domingo" and the Haitian Revolution. But as Schurz reported in 1865, and the slaveholders themselves admitted, "the transition of the southern negro from slavery to freedom was untarnished by any deeds of blood, and the apprehension [of African American violence]... proved utterly groundless." There was violence in the South, but it was usually at the hands of white outlaws, bushwhackers, and unreconciled Confederates. Black people were victims, not perpetrators. Their collective restraint was remarkable. Chesnut heard the fears of Santo Domingo, but in the daily interactions she witnessed "both parties, white and black, talked beautifully." Characteristically, she discerned something more beneath the beautiful talk: when the ex-slaves "see an opening to better themselves they will move on."²⁰

18. Carl Schurz, *Report on the Condition of the South*, 39th Congress, Senate Ex. Doc. 1st Session, No. 2, Project Gutenberg (1865).

19. Chesnut, 792ff.; Stephanie McCurry, *Confederate Reckoning: Power and Politics in the Civil War South* (Cambridge, MA: Harvard University Press, 2010), 1.

20. Schurz, *Report*; Chesnut, May 21, 1865, 821, and July 4, 1865, 834.

As the spring of 1865 wore on, the clash of armies ceased, and both the North and South waited to see what President Johnson would do. "We sit and wait until the drunken tailor who rules the U.S.A. issues a proclamation and defines our anomalous position," Chesnut wrote in her diary. Frederick Douglass sensed danger. An escaped slave, he had become a leading abolitionist and the most famous black man in America. He warned that Southern hostility toward blacks had, if anything, increased because African American soldiers had helped defeat the rebellion. He cautioned the North not to trust the South, but to wait and see "in what new skin this old snake will come forth next."²¹

Theoretically the victorious Union Army held control, but that control depended on two things. The first was the physical occupation of the South. The second was the legal right of the army to govern the South under war powers, which, in turn, depended on deciding whether war continued after the defeat of the Southern armies.²²

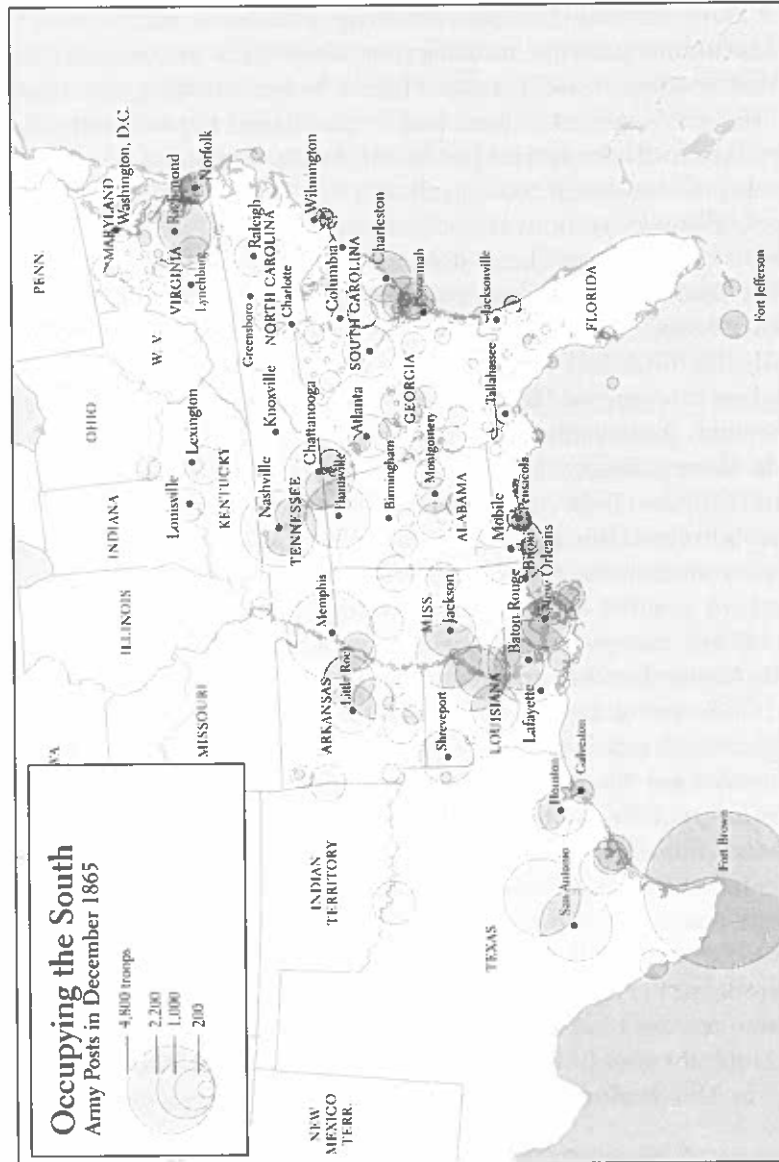
When Lee surrendered, the South was barely occupied by the army and slavery only partially uprooted. Nearly 75 percent of the enslaved remained in slavery. Force had begun the abolition of slavery, and only force could fully end it. In April the Union Army held some eighty towns and cities, but elsewhere the armies had either passed through leaving devastation in their wake or never appeared. Occupying the South meant controlling an area the size of Western Europe, roughly eight hundred counties, spread over 750,000 square miles, and containing nine million people. By September the army had some 324 garrisons and at least 630 outposts of one sort or another, but the actual number could have been much higher since reporting was spotty and unsystematic. But neither the high command nor the officers and men had much of a stomach for a long occupation of the South. With the war won, the soldiers in the volunteer units—the vast bulk of the army—were ready to muster out, and most officers wanted no part of occupation.²³

Even as the army expanded across the South, its numbers diminished. Both the North and South had used the rhetoric of home—perhaps the central symbol of the age—to justify the Civil War, and with the fighting done, Union soldiers clamored to go home. Even more significantly, the country could not afford to maintain a million-man army. A brief financial panic in March 1865 forced the government to intervene secretly to

21. Chesnut, 814, May 16, 1865, "In What New Skin Will the Old Snake Come Forth," May 10, 1865, in Frederick Douglass, *The Frederick Douglass Papers: Series One, Speeches, Debates, and Interviews* (New Haven, CT: Yale University Press, 1979), 4: 80–85.

22. Downs, *After Appomattox*, 1–25.

23. *Ibid.*, 14, 23–25, 41–42, 47–48, 89–97; James E. Sefton, *The United States Army and Reconstruction, 1865–1877* (Baton Rouge: Louisiana State University Press, 1967), 7–8.



Map adapted by Geoff McGhee from Gregory P. Downs, *After Appomattox*; Basemaps: Minnesota Population Center; National Historical Information System; Natural Earth Data.

buy its own bonds to maintain prices. The problem was paradoxical. With Union victory certain, the price of gold dropped, and since the government depended on the sale of bonds whose interest was paid in gold, the yield of bonds dropped and the market for them fell. It appeared the government might not be able to meet its obligations. The crisis convinced officials that they must quickly cut expenses and pay down the debt. The North demobilized just as army officers realized the demands occupation of the South would place on the army.²⁴

The curtain call of the Union army that won the Civil War was the Grand Review on May 23 and May 24 in Washington, where for two days Gen. George Meade's and Gen. Sherman's armies paraded through the city. Grant, who as general-in-chief commanded both of them, doubted that "an equal body of men of any nation, take them man for man, officer for officer, was ever gotten together...." It was a celebration of a democracy in arms. As the *Philadelphia North American* put it, only a democracy could trust such a mass of armed men in the capital. "Is it not as great a tribute to free government as was ever paid?" And it was a sign of the limits of that democracy; the black regiments that had fought so long and so well were excluded.²⁵

As the regiments disbanded with the longest-serving dismissed first, Grant put fifty thousand of those soldiers that remained under Philip Sheridan and shifted them to the Mexican border, which like all American borders remained porous, with Indians and *tejanos*, *nuevo mexicanos*, Sonorans, and *californios* moving in both directions. Sheridan had begun the Civil War as a lieutenant and become one of Grant's most trusted generals. Lincoln described the five-foot, five-inch Sheridan as "a brown, chunky little chap, with a long body, short legs, not enough neck to hang him and such long arms that if his ankles itch he can scratch them without stooping." Sending Sheridan signaled the seriousness of American concerns about the border.²⁶

24. Downs, *After Appomattox*, 92–93, 97–99.

25. Ulysses S. Grant, *Personal Memoirs of U.S. Grant* (New York: C. L. Webster & Co., 1886; Dover reprint, 1995), 454. Stuart McConnell, *Glorious Contentment: The Grand Army of the Republic, 1865–1900* (Chapel Hill: University of North Carolina Press, 1992), 4, 8.

26. For the western part of the U.S.-Mexican border, Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border* (Princeton, NJ: Princeton University Press, 2011), 1–89; Andrew R. Graybill, *The Red and the White: A Family Saga of the American West* (New York: Norton, 2013), 113. For a lucid overview of borders and boundary making, Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven, CT: Yale University Press, 2003), 1–23.

Grant, and many Republicans, saw the Mexican Liberals under Benito Juarez as the Mexican equivalent of Republicans and anticipated intervening on the side of Juarez's revolutionaries against the Emperor Maximilian, installed by the French in 1864 and supported by the Confederacy. The planned intervention would disproportionately involve black troops because black regiments having been formed later would be discharged later. The shift of so many soldiers to Texas led to complaints in the fall about insufficient troops in the rest of the old Confederacy. The number of Union soldiers in the Confederacy fell from roughly 1 million in April to 125,000 by November and 90,000 by the end of January 1866. Those who remained were often on foot, for the army began selling horses, reducing the cavalry in Mississippi to fewer than 100 men by October. Away from the railroads, infantry could not chase down mounted nightriders who terrorized freedpeople.²⁷

Hamlin Garland later captured both the joy and the melancholy of the Union soldiers' return home in his *Son of the Middle Border*. He wrote of "a soldier with a musket on his back, wearily plodding his way up the low hill just north of the gate." It was his father, Dick Garland, home from campaigning with Grant and Sherman. But it was his "empty cottage" that was at the center of the scene. The Garland family happened to be at a neighbor's house. They saw him approaching and rushed to overtake him, only to find him "sadly contemplating his silent home." His wife, approaching him, found her husband "so thin, so hollow-eyed, so changed" that she had to ask to make sure that the man in front of her was indeed Richard Garland. His daughter knew him. His small sons did not. Decades later Hamlin Garland remembered the "sad reproach in his voice. 'Won't you come and see your poor old father when he comes from the war?'" The war left a restlessness in Dick Garland. He never explained his sadness on seeing his home, but no current home would ever be enough again. The Garlands' lives thereafter would be a continuous whirl west.²⁸

Such restlessness was part of the war's legacy. The veterans had been "touched by fire," as Oliver Wendell Holmes would famously put it twenty years later. The ordeal had changed them. But while the Civil War

27. Downs, *After Appomattox*, 27–28, 89–90, 96; Hahn, 133; Sefton, 11–24; Gregory P. Downs, "The Mexicanization of American Politics: The United States' Transnational Path from Civil War to Stabilization," *American Historical Review* 117 (2012): 393–95; William A. Dobak and Thomas D. Phillips, *The Black Regulars, 1866–1898* (Norman: University of Oklahoma Press, 2001), 4–5; Paul Andrew Hutton, *Phil Sheridan and His Army* (Lincoln: University of Nebraska Press, 1985), 20–21.

28. Hamlin Garland, *A Son of the Middle Border* (New York: Grosset & Dunlap, 1928), 1–3.

abundantly bestowed death with one hand, it had, with the other, offered young men opportunities. Men in their twenties and early thirties rose quickly to positions of authority within the military and in the government. The postwar world relieved most of them from danger, but it also constrained their possibilities. The army shrank and soldiers flooded back into a quieter life, but one without the promise of early advance and authority. Henry Adams, great-grandson and grandson to presidents and secretary to his father, the wartime ambassador to Great Britain, felt this acutely, and he captured the sense of displacement in his famous *Education*. "All his American friends and contemporaries who were still alive," he recalled, "looked singularly commonplace without uniforms, and hastened to get married and retire into back streets and suburbs until they could find employment." John Hay, a Midwesterner and Lincoln's secretary, would "bury himself in second-rate legations for years." Charles Francis Adams, Jr., Henry's brother, "wandered about, with brevet brigadier rank, trying to find employment."²⁹

In the spring following the war the confusion and disorientation of the young men who fought the war and held office mirrored that of the government itself. President Andrew Johnson was the great anomaly of the postwar United States. Born in Tennessee and a Jacksonian Democrat for most of his career, he was not only one of the few Southerners in power, but also the single most powerful man in the country. Lincoln had named him vice president on his 1864 Union ticket. Johnson was born poor and as a young man worked as a tailor, but he had prospered and owned slaves before the war. He never forgot his own beginnings, and despite his political success, he could never conceive of himself as anything but an outsider. He was often his own worst enemy. He had done himself no favors at Lincoln's second inaugural. Already sick, he had spent the preceding night drinking with John Forney, an editor, secretary of the Senate, and one of the more corrupt political fixers of a corrupt age. He had resumed drinking in the morning, and illness and alcohol produced a rambling, insulting inaugural speech that was rescued only by being largely inaudible to much of the audience. He never lived it down. In Chesnut's slur, he was the drunken tailor.³⁰

Still, following Lincoln's assassination, he drew on the public sympathy that flowed to him and for a brief season had a relatively free hand. Rhetorically, Johnson initially breathed fire. "Treason," he declared, "must be made odious, and traitors must be punished and impoverished.

29. Henry Adams, *The Education of Henry Adams: An Autobiography* (New York: Heritage Press, 1942, orig. ed. 1918), 195–96.

30. Hans L. Trefousse, *Andrew Johnson: A Biography* (New York: Norton, 1989), 188–91.

Their great plantations must be seized and divided into small farms. . . .” The new president was impatient with the astonishing assumption by Confederate governors and legislatures that their authority had not evaporated with defeat and that they would continue in office. Despite his actions later, he largely supported military occupation in 1865 and defended the extension of war powers. The war was not over until Southern resistance ceased, peace reigned, and the old Confederate states were readmitted into Congress.³¹

Johnson, however, soon softened. Politically, he grew close to Secretary of State William Seward. Seward, wounded at home by another assassin on the night that Booth murdered Lincoln, had become the leading Republican advocate of leniency toward the South. He worried about the growth of a powerful central state. When the Comte de Gasparin, a French author and reformer, criticized the government for not immediately providing for black suffrage, Seward responded by emphasizing curbs on federal power. He argued that, beyond denying amnesty to the leaders and upholders of the rebellion and maintaining “military control until the civil power is reorganized,” the federal government could do nothing. To resort to coercion would be a “policy of centralization, consolidation and imperialism . . . repugnant to the spirit of individual liberty” and something “unknown to the habits of the American people.” It was an extraordinary statement in a country that had just resorted to four years of coercion to restore the Union, centralized and consolidated federal power, ended slavery and thus deprived Southerners of property, and enacted a western policy—including Seward’s future purchase of Alaska—that was avowedly imperial. Seward’s position became one that many Southerners, particularly those who had initially opposed secession, embraced.³²

While Congress was in recess, Secretary of War Edwin Stanton formed, at first tentatively, a counterpoint to Johnson and Seward. Radical Republicans, who advocated a thorough remaking of the South, initially thought they could work with Johnson and tried to influence him by channeling their suggestions through Stanton. Before becoming Lincoln’s secretary of war, Stanton was a successful Ohio lawyer and James Buchanan’s attorney general in the lame duck days of that disastrous

31. Michael Perman, *Reunion without Compromise: The South and Reconstruction, 1865–1868* (Cambridge: Cambridge University Press, 1973), 43–44, 57–59; Brooks D. Simpson, *The Reconstruction Presidents* (Lawrence: University Press of Kansas, 1998), 68; Downs, *After Appomattox*, 64–65; Foner, 177.

32. Perman, 4, 30–31; Michael Les Benedict, *The Fruits of Victory: Alternatives in Restoring the Union, 1865–1877* (Philadelphia: Lippincott, 1975), 10; Brooks D. Simpson, *Let Us Have Peace: Ulysses S. Grant and the Politics of War and Reconstruction, 1861–1868* (Chapel Hill: University of North Carolina Press, 1991), 110–11.

administration. Stanton was a mean-spirited and dour man. He had been born sickly and asthmatic, but it was not poor health that soured him. The death of his first wife and his daughter and the suicide of his brother had left him first grief-stricken and then hardened. Irritated during a trial by the clever opening statement of an opposing attorney, Stanton had begun his remarks by saying, sarcastically, “Now that this extraordinary flow of wit has ceased, I will begin.” The other lawyer could not resist the opening. “Wit always ceases when you begin,” he said. The courtroom erupted in laughter (but Stanton won the case).³³

Where most biographers incline to hagiography, Stanton’s biographers sometimes strain for tolerance. Autocratic, duplicitous, and humorless, Stanton had initially scorned Abraham Lincoln, the funniest—at least intentionally—president the United States ever had, as a man of little consequence and less ability, and he always remained surer of himself than he was of Lincoln. Ulysses Grant, who disliked Stanton, “acknowledged his great ability” and also his “natural disposition to assume all power and control in all matters that he had anything whatever to do with.” Stanton seemed to take pleasure in disappointing people and denying their requests, even as he constantly overreached his authority.³⁴

Stanton and Johnson had much in common. Both were outsiders: isolated and unpleasant, rigid and self-righteous. Neither had been Republicans at the outbreak of the Civil War. Both owed their places to Lincoln, and both were magnets for trouble. In terms of personality they occupied the same pole; like magnets, they repelled.

The cabinet’s task in May 1865 was to construct a plan for reconstituting the Southern governments. At Lincoln’s death there were a hodgepodge of approaches to governing the conquered states. Stanton presented the option of black suffrage to accompany black freedom, but he did not insist on it.³⁵

On May 29, 1865, President Johnson issued his first two Reconstruction proclamations. They created the road map—vague as it was in its particulars—for Reconstruction and the return of civil government in the South. The first proclamation, issued under the constitutional power of the president to grant pardons, gave amnesty to most ex-Confederates on their taking an oath of loyalty to the United States and accepting the end of slavery. He imagined ordinary Southern whites taking power, displacing

33. Foner, 181; Benjamin Platt Thomas, *Stanton: The Life and Times of Lincoln’s Secretary of War*, ed. Harold Melvin Hyman (New York: Knopf, 1962), 1–92, quote 57.

34. William Marvel is not the first Stanton biography to take a jaundiced view of his subject. William Marvel, *Lincoln’s Autocrat: The Life of Edwin Stanton* (Cambridge, MA: Harvard, 2015); Grant, 2: 105, 536–37.

35. Downs, *After Appomattox*, 65–66; Foner, 181–82; Benedict, 12.

fears
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the old elite. Blacks would remain on the bottom with certain civil rights but no right to political participation. The second, issued under his war-time powers as commander-in-chief, created the provisional government for North Carolina and provided a template that the other Southern governments were supposed to follow. In North Carolina all of those able to vote before the Civil War and who fell within the scope of Johnson's pardons could vote. This formulation denied freedmen the franchise while granting it to men who had rebelled against the United States. By leaving suffrage qualifications up to the new legislatures, it ensured that blacks would not vote in the South. Johnson appointed William W. Holden, a secessionist who had become a peace candidate in 1864, as governor. Holden would supervise the election of a convention that would amend the state's constitution to create "a republican form of government."³⁶

The proclamations embodied both recognition of the necessary political realities in a nation perched between war and peace and some of the most spectacular misjudgments in the history of American politics. Even as Johnson maintained war powers to govern the South, he alienated the Radical Republicans, who read conditions in the South more accurately than Johnson. The proclamations also badly underestimated the freed-people. They would not be passive. Finally, the proclamations, insofar as they partially restored civil law, undercut the only effective agents of federal power—the army and the Freedmen's Bureau—in the South. To Johnson's dismay, Southern sheriffs and posses would try to arrest and imprison Northern soldiers.³⁷

The proclamations revealed how poorly Johnson fitted the historical moment. He had a weakness for principles, which, combined with his stubbornness, meant that once he had reasoned himself into a position, that position, intended to be an intellectual fortress, often became a prison. Since the Constitution did not give the Confederate states any right to leave the Union, he concluded that they had never been out of the Union at all. And if they had never been out of the Union, then they retained all their rights under the Constitution. And if they retained their rights, then they could determine who could vote and hold office. He as president could not demand that they implement universal male suffrage for citizens or grant black suffrage. The South might have rebelled, and that rebellion might have been crushed, but the president and Congress, by Johnson's logic, had no more authority over the South when the war ended than when it had begun. Lincoln had dismissed this question of the

36. Isenberg, 177–78; Foner, 182–83; Eric L. McKittrick, *Andrew Johnson and Reconstruction* (Chicago: University of Chicago Press, 1960), 7.

37. Downs, *After Appomattox*, 65–68; Foner, 221.

status of the states as a "pernicious abstraction" and the Radicals thought the question was "profitless." Johnson pursued it, and his logic had constructed his prison. Leland Stanford, a wartime governor of California, was among those who saw the problems with such a stance. A man had no right to commit murder, Stanford said, but that did not mean that men did not commit murders that and they should not be punished.³⁸

Johnson's answer to such objections was that he was making a distinction between individual treason and collective treason. He had no intention, at least initially, of letting individual traitors escape unscathed. He wanted to protect Southern states, not Confederate leaders. But no matter how logically plausible Johnson's argument might seem, even he had to make exceptions to it. He, after all, was appointing provisional governors, ordering new state constitutional conventions, and demanding certain terms for reunion: agreement to the abolition of slavery, renunciation of secession, and, later, repudiation of the Confederate debt. None of this, as Schurz pointed out, was part of contemporary constitutional theory. If he could do these things, Radicals asked, why could he not demand the vote for the black male population?³⁹

In practice, Johnson was willing to stretch his authority when it served his desire for rapid reintegration and amnesty. Legally, few or none of the new Southern governors he appointed were eligible for office. Congress had in 1862 demanded that all federal officials swear to the so-called ironclad oath, that they were now and had always been loyal to the United States. Versions of this oath were required for congressmen and embedded in the new constitutions of Tennessee, Missouri, and Maryland. Amnesty did not do away with the requirement, but Johnson chose to ignore the law. When it became apparent that qualified appointees for the U.S. revenue offices being reopened in the South could not be found if the ironclad oath was required, Johnson substituted an oath specifying only future loyalty to the United States.⁴⁰

Although he ignored the ironclad oath, Johnson still targeted the leading rebels. He had exempted fourteen separate classes of rebels from amnesty; the most significant were high-ranking Confederate officials and those holding taxable property valued at more than \$20,000. These high officials and the rich would have to apply individually for pardons. Without a pardon, they were barred from participating in public affairs and their property was liable to confiscation. Despite the general amnesty

38. Downs, *After Appomattox*, 66–67; Foner, 178–79.

39. Downs, *After Appomattox*, 71; Foner, 179; Simpson, *The Reconstruction Presidents*, 80.

40. For oaths, Joseph A. Ranney, *In the Wake of Slavery: Civil War, Civil Rights, and the Reconstruction of Southern Law* (Westport, CT: Praeger, 2006), 36–37; Thomas, 447.

and his appointments in the South, Johnson seemed serious about punishing the men who had led the South into rebellion, but by the end of the summer he would be pardoning hundreds of people a day and restoring their property to them.⁴¹

In appointing the remainder of the provisional governors for the former Confederate states during May, June, and July 1865, Johnson again ignored the oath requirements; but he did pick men who had either opposed secession or not taken a leading role in precipitating it, even if they later served the Confederacy. He sought to strengthen Unionists in the South where he could find them and find collaborators among the more moderate Confederates, usually old Whigs, where he could not. His policy was to make leniency "the spring of loyal conduct and proper legislation rather than to impose upon them laws and conditions by external force." Outside of abolishing slavery and renouncing secession, he did not demand a commitment to transforming the South.⁴²

II

Johnson's proclamations marked the beginning of Presidential Reconstruction, and they complicated a muddled political situation. It often seemed that the defining quality of Presidential Reconstruction was the president's sporadic absence from it. The president's authority came from his war powers. When disorder and violence continued after the surrender of Confederate armies, war powers and martial law remained in force. Neither Johnson nor the Republican Congress considered the mere defeat of Confederate armies to constitute peace. Wartime and war powers continued until civil government was fully restored. Johnson could, and did, intervene to curtail the reach of martial law, but his interventions were often piecemeal and sporadic.

Officers on the ground had great leeway. As during the war, the provost marshals assigned to most Northern armies determined Southerners' freedom to travel, controlled their access to supplies, and governed the towns and cities. Under the Confiscation Act of 1862, they could seize the property of disloyal citizens in the South, and they often undertook the organization and supervision of labor by freedmen.⁴³

41. Perman, 122; Downs, *After Appomattox*, 79; Foner, 183.

42. Perman, 60–68, 70–74; Foner, 187–88.

43. Perman, 59; Downs, *After Appomattox*, 2–3, 14–17; Harold M. Hyman, "Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment," *American Historical Review* 66, no. 1 (1960): 85–87; P. Moore Wilton, "Union Army Provost Marshals in the Eastern Theater," *Military Affairs* 26, no. 3 (1962): 120–26.

With the collapse of the Confederacy, the army ruled the South as a conquered territory under martial law, and military responsibilities kept increasing. The army acted as a relief agency, a police force, a court, a public works bureau, and a school system. Although Johnson's proclamations restored limited civil government in the South, they did not end martial law, which persisted for all of 1865 and much of 1866. Dual authority ensured endless jurisdictional clashes between military courts run by the provost marshals, courts run by the Freedmen's Bureau, and civil courts.⁴⁴

Johnson was actively hostile to the Freedmen's Bureau. Congress had established the Bureau of Refugees, Freedmen and Abandoned Lands on March 3, 1865, before Lincoln's assassination. In creating the bureau, Congress gave new power to the federal government, which it would do repeatedly. More unusually, it created and staffed an agency designed to execute that power. It was, to be sure, a temporary agency, expiring a year after the Confederacy expired, but until then the Freedmen's Bureau had the authority to govern "all subjects relating to refugees and freedmen from the rebel states." In large swaths of the South the bureau's authority over refugees allowed it to give from two to four times as much aid to whites as blacks. Its real power depended on the military. It never had more than nine hundred agents in the field at any one time.⁴⁵

The Freedmen's Bureau fell under the jurisdiction of Edwin Stanton and the War Department. At its head was Maj. Gen. Oliver Otis Howard, the "Christian General." Howard had lost his arm in the war, but not his belief in the millennial mission of the United States. The feelings of Howard and the superintendents he appointed toward the freedpeople arose from Northern evangelical faith in uplift and personal and national salvation. All of Howard's original assistant commissioners were Protestant. Most were college-educated at a time when few attended college, and virtually all were from the Northeast and Midwest. Most had served in the military, but few were career soldiers. Like Howard, they did not think black people were their equals, but they shared his immediate goal of bringing them opportunity and justice, by which they meant "protection, land, and schools." Unlike the Radical Republicans in

44. Perman, 132–33; Downs, *After Appomattox*, 74–78; Sefton, 5–11.

45. Paul A. Cimbala, *Under the Guardianship of the Nation: The Freedmen's Bureau and the Reconstruction of Georgia, 1865–1870* (Athens: University of Georgia Press, 1997), 1, 22–29; Mark Wahlgren Summers, *The Ordeal of the Reunion* (Chapel Hill: University of North Carolina Press, 2014), 57; Paul A. Cimbala, *The Freedmen's Bureau: Reconstructing the American South after the Civil War* (Malabar, FL: Krieger, 2005), ix, 8; 23–24; Isenberg, 178; Downs, *After Appomattox*, 46–47.

Congress, Howard did not stress the vote. His goal was not immediate black political influence.⁴⁶

Abolitionist women, working inside and outside the bureau, were among the most forceful advocates of aid to freedpeople. They connected the Freedmen's Bureau with larger ambitions to use government to push reform, and saw the employment of women by the bureau and elsewhere in the government as a step toward equal rights and suffrage for women. Josephine Griffing's vehement advocacy of freedpeople and women's rights within the bureau led to her dismissal.⁴⁷

Only a slim majority in Congress recognized that the freedpeople needed substantial assistance and were willing to grant it under the general welfare clause of the Constitution. The bureau had four divisions: Land, Educational, Legal, and Medical. The ex-slaves were sick and needed care; they were largely illiterate and needed education. Health and literacy seemed obvious requirements for contract freedom that would involve negotiating the sale of bodily labor. The Legal Division would supervise the contracts the freedpeople negotiated with their ex-owners.⁴⁸

Land became the most contentious issue. The Land Division was the bureau's feeblest branch but one that reflected both the freedmen's deepest hopes and the grudging congressional recognition that contract freedom alone might be too weak a reed to support the hopes of emancipation. The ex-slaves wanted land, particularly the abandoned and confiscated land held by the federal government. A Virginia freedman, Bayley Wyatt, made the case for the ex-slaves' right to land powerfully and simply: "we has a right to [that] land. . . . [D]idn't we clear the land and raise de crops. . . . And didn't dem large cities in the North grow up on de cotton and de sugars and de rice dat we made?" Rufus Saxton of the Freedmen's Bureau echoed this. The land would be payment for "two hundred years of unrequited toil." Many of the four million freedpeople believed the land would be given them at Christmas of 1865 or in 1866.⁴⁹

46. Cimbala, *Under the Guardianship of the Nation*, 1, 22–29; Cimbala, *The Freedmen's Bureau*, ix, 8, 11, 13–14, 28; William S. McFeely, *Yankee Stepfather: General O. O. Howard and the Freedmen* (New Haven, CT: Yale University Press, 1968), 11–12, 17–19, 62–64, 69–81, 88–89.

47. Carol Faulkner, *Women's Radical Reconstruction: The Freedmen's Aid Movement* (Philadelphia: University of Pennsylvania Press, 2006), 90–95.

48. Downs, *Sick from Freedom*, 61–64.

49. Hahn, 9, 127–52; Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery*, (New York: Knopf, dist. Random House, 1979), 363; Foner, 105; Cimbala, *The Freedmen's Bureau*, 52–53.

Although Congress had passed wartime measures to distribute confiscated land among "loyal refugees and freedmen," the federal government controlled only 900,000 acres taken during the war. The law creating the Freedmen's Bureau authorized that agency to set aside individual allotments of no more than 40 acres each from confiscated and abandoned lands for loyal refugees and freedmen. They were to rent it for up to three years with the prospect of eventual purchase.⁵⁰

For some freedmen, the policy had already borne enough fruit that the issue was not receiving lands, but keeping them. Much of the land seized by Northern armies had benefited whites rather than blacks. Freed slaves had cultivated lands in the Sea Islands, lower Louisiana, and the Mississippi Valley, but not always in ways of their own choosing. Many had worked for wages, growing cotton for loyal planters, Northern carpet-baggers, and speculators who leased the land from the federal government. But as the war drew to a close, Gen. Sherman's Special Field Order No. 15, issued on Jan. 15, 1865, established what amounted to a black reservation on the Sea Islands off the South Carolina and Georgia coasts and along coastal rivers as far south as the St. John's River in Florida. Here forty thousand freedpeople obtained plots of land covering 400,000 acres.⁵¹

During the war General Sherman had made Rufus Saxton "the inspector of settlements and plantations" for this reservation. By the time O. O. Howard made him an assistant commissioner of the Freedmen's Bureau for the state of Georgia, he had become a champion of freedmen and a believer in the necessity of land redistribution. In August 1865 Saxton wrote that when the ex-slave "is made a landholder, he becomes practically an independent citizen, and a great step towards his future elevation had been made."⁵²

Like Saxton, Howard initially relied on land acquisition as the engine that would turn freedpeople from slaves to citizens. Given the eventual decline of so many Southern white small landholders into tenancy and poverty, in hindsight landholding hardly seems a panacea. In 1865, though, redistribution of land abandoned by fleeing planters or seized by Union armies still looked like a motor for change. It would weaken the hold of the old planter elite on Southern society. It would create a landowning class among the freedmen that would ensure their devotion to the Republican Party. And it would undercut the system of subordinated labor on which plantation agriculture depended. If black people owned land, they would have an

50. Hahn, 129; Cimbala, *The Freedmen's Bureau*, 8.

51. Foner, 50–61; Cimbala, *The Freedmen's Bureau*, 4–5.

52. Cimbala, *Under the Guardianship of the Nation*, 2–5.

alternative to the gang labor that Southerners believed cotton demanded. By Howard's own estimation, however, the government had confiscated 0.002 percent of land in the South, and so only a fraction of freedpeople could have obtained farms without much greater confiscation.⁵³

Thaddeus Stevens, the Radical Republican leader in the House, was ready to confiscate more land, but land confiscation and redistribution touched deep ideological nerves in the United States. In one sense, massive land redistribution was the basis of the American republic. The U.S. government took Indian lands, peaceably through treaties if it could and forcibly or through fraud and war when it thought necessary. The government then redistributed these ceded or conquered lands to white citizens. Southern redistribution, in essence, was about whether Southern whites could be treated as Indians and Southern blacks could be treated like white men. Furthermore, the wide distribution of land had deep roots in republican theory from Jefferson onward. Americans regarded land as the key source of personal independence and an independent citizenry as the cornerstone of the republic. As the *New Orleans Tribune*—the voice of Louisiana Radicalism and black rights—wrote, “There is...no true republican government, unless the land and wealth in general, are distributed among the great mass of the inhabitants...no more room in our society for an oligarchy of slaveholders or property holders.” This belief in the broad distribution of property as the core of a republican society and the dangers the concentration of wealth presented had numerous variants that could be found in Jefferson, Jackson, and Lincoln.⁵⁴

The redistribution of land to freedmen, however, prompted opposition, practical and principled, that extended well beyond those whose lands were at risk. Some objected that the legislative confiscation of the estates of traitors without individual trials violated the Constitution's prohibition on bills of attainder. This objection seemed to carry more weight when the land would go to black men than just to white men. Johnson had argued for the redistribution of plantations to whites. The forty acres and a mule that freedmen hoped for meant that independent black farmers would compete with small white farmers. Ordinary Southern whites saw their status threatened. It was hard for them to see white independence as not depending on black subordination. They denounced it as agrarianism, a word associated with policies that redistributed property downward.⁵⁵

53. Downs, *After Appomattox*, 79; Cimbala, *The Freedmen's Bureau*, 54–55.

54. Foner, 63; Hahn, 142.

55. Simpson, *The Reconstruction Presidents*, 77; Daniel W. Hamilton, *The Limits of Sovereignty: Property Confiscation in the Union and the Confederacy During the Civil*

Saxton and other assistant commissioners who sought to distribute land found themselves stymied. In Georgia, the bureau controlled no land outside the coastal reservation. In Mississippi, Assistant Commissioner Samuel Thomas considered a policy of leasing land to freedmen but abandoned it because it would “require a hero to execute it, and military force to protect the Freedmen during the term of the lease.” He warned that without adequate protection, the Emancipation Proclamation itself would be a dead letter in Mississippi. To leave the freedmen to the care of the state of Mississippi “with all their prejudices and independent of national control” would be to relegate the freedpeople to virtual slavery.⁵⁶

On July 28, 1865, Howard issued Circular 13, ordering the assistant commissioners to divide the confiscated and abandoned lands under federal control into forty-acre plots for lease to freedmen, who were to have three years to purchase the land at its 1860 value. Future pardons by the president would not affect the status of abandoned or confiscated property. The circular attracted opposition beyond the South, and the key opponent was Johnson.⁵⁷

Within a month, Johnson overturned the order. He stripped the bureau of the right to allocate lands, a right embodied in its congressional charter, and ordered the army to stop distributions. It would take until the next year for the freedmen's hopes for redistribution to die. Howard floated a much smaller plan that Johnson also rejected. Some assistant commissioners hedged and delayed on the restoration of lands that had been redistributed through 1866. Thaddeus Stevens would attempt to resurrect the issue by advocating the confiscation of the lands of all Confederates worth \$10,000 or more for redistribution. This would provide enough land for the freedmen but leave the lands of 90 percent of the residents of the South untouched. But in renewing the bureau in July 16, 1866, Congress validated the restoration of lands to white Southerners in the Sherman Reservation, the belt of abandoned plantations in the Georgia Sea Islands and coast that Gen. Sherman had turned over to freedmen.⁵⁸

War (Chicago: University of Chicago Press, 2007), 26; Ranney, 44–45; Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850–1896* (Cambridge: Cambridge University Press, 2001), 161–62; Foner, 235–37.

56. Cimbala, *The Freedmen's Bureau*, 16; Cimbala, *Under the Guardianship of the Nation*, 3.

57. McFeely, 91–106; Cimbala, *The Freedmen's Bureau*, 52–53.

58. Cimbala, *The Freedmen's Bureau*, 56–57; Hahn, 146; Palmer Beverly Wilson and Holly Byers Ochoa, “Reconstruction, September 6, 1865,” *Pennsylvania History* 60, no. 2 (1993): 203; Downs, *After Appomattox*, 78–79; McFeely, 107–29.

With Johnson having blocked the redistribution of land, the Freedmen's Bureau put enormous pressure on the freedmen to enter into contracts. Agents regarded labor as the quickest way to wean the freedmen from dependence on the government, to resurrect the Southern economy, and to teach the freedmen the lessons of free labor. Contracts, as Howard put it, were not only a mark of freedom but a form of discipline: "If they can be induced to enter into contracts, they are taught that there are duties as well as privileges of freedom." By signing contracts black people would prove that they "deserved" freedom.⁵⁹

Such language was revealing. Howard imagined the Freedmen's Bureau as part of a larger effort to regenerate the nation. Like many Protestants of the period, he had partially secularized the old Protestant notion of rebirth. Ideas of rebirth and regeneration virtually always required suffering, and this was the prescription for freedmen. Eliphalet Whittlesey, the assistant commissioner for North Carolina, saw blacks as entering a hard apprenticeship. Only suffering, he believed, could make them "the equal of the Anglo-Saxon." Slavery, apparently, had not been hardship enough.⁶⁰

Republicans embraced contract freedom like a secular gospel. The Freedmen's Bureau promoted contract freedom, articulated its meaning, and praised its virtues. The agents of the bureau presented freedom as a series of contracts, particularly labor contracts and marriage contracts. Some ex-slaves and many blacks who had been free before the war embraced it. In November 1865 delegates to a freedmen's convention in South Carolina extolled the right to sell their labor, the right to be paid for their work, the right to move from job to job, and the guarantee of the "sanctity of our family" as markers of freedom.⁶¹

Actual labor contracts, however, varied widely and were often hard to mistake for freedom. There were standard bureau contracts, but there were also contracts written by the employers. And there were oral contracts. In some places, such as the sugar fields of Louisiana, slaves would use contracts to their own benefit. The bureau hoped to supervise all contracts, but white Southerners often had the contracts executed before a local magistrate. Given the discrepancy in the power and status of

59. Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge: Cambridge University Press, 1998), 36–37.

60. McFeely, *Yankee Stepfather*, 17–19, 71–83, 89–90; T. J. Jackson Lears, *Rebirth of a Nation: The Making of Modern America, 1877–1920* (New York: Harper, 2009), 18–19, 31, 56–57; Cimbala, *The Freedmen's Bureau*, 15, 17–18, 62, 64–76; Edwards, 67–68.

61. Stanley, 38–40; Laura F. Edwards, *Gendered Strife & Confusion: The Political Culture of Reconstruction* (Urbana: University of Illinois Press, 1997), 47.

those making the contracts, the illiteracy of many ex-slaves, and white Southerners' resort to violence and coercion, the possibilities of abuse were manifold.⁶²

The first labor contracts negotiated by the Freedmen's Bureau certainly seemed evidence that the new order differed only in the details from the old. In South Carolina, Charles C. Soule, a white officer in the black Fifty-fifth Massachusetts Infantry, described how he talked to thousands of whites and blacks, explaining to the whites "the necessity of making equitable contracts with their workmen, of discontinuing corporal punishment and of referring all cases of disorder and idleness to the military authorities." In this, he seemed messenger of a new order. But to freedpeople he also said, "Every man must work under orders . . . and on a plantation the head man who gives all the orders is the owner of the place. Whatever he tells you to do you must do at once, and cheerfully. Remember that all your working time belongs to the man who hires you." Soule told the freedpeople "you will have to work hard, and get very little to eat, and very few clothes to wear," and husbands and wives on separate plantations would not live together. The new freedom might seem reminiscent of the old slavery. But, "remember even if you are badly off, no one can buy or sell you." Soule thought, "only actual suffering, starvation, and punishment will drive many of them to work." It was no wonder that many ex-slaves initially regarded men like Soule as "rebels in disguise."⁶³

Contracts could produce exactly the kind of subordinated labor force ex-slave owners desired. The bureau's fear of black dependency often created black dependency by driving freedpeople into contracts that impoverished them and made them reliant on their old masters. Bureau agents were right in thinking that the mere fact of a contract forced the white employer to recognize the black employee as his legal equal, but this triumph was purely nominal and yielded only marginal benefits to black laborers. At their extreme, contracts were little more than slavery under another name. In South Carolina in the immediate aftermath of the war, William Tunro in South Carolina asked his former slaves to sign a contract for life. Refusal led first to the expulsion of Robert Perry, his wife, and two others from the plantation, and then to their pursuit and murder by Tunro's neighbors.⁶⁴

62. Cimbala, *The Freedmen's Bureau*, 64–76; Edwards, 67–68.

63. Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860–1870* (Cambridge: Cambridge University Press, 1994), 28–29; Carole Emberton, *Beyond Redemption: Race, Violence, and the American South after the Civil War* (Chicago: University of Chicago Press, 2013), 56–57.

64. Hahn, 153–56; Saville, 23.

Contracts could replicate conditions that the freedmen thought emancipation had ended forever. In many areas of the South contracts ran for a year. The freedmen agreed to labor "for their rations and clothing in the usual way," which is to say the same way as they labored under slavery. Many often received very little beyond this. *The New Orleans Tribune*, the most consistent advocate for the rights of the freedmen, attacked the idea that an annual contract was compatible with free labor. Why, it asked, was it necessary for freedmen to have to sign yearlong contracts when northern workers could quit their jobs and take another at any time? Answering its own question, it said the aim of the contracts was to replicate the old system and tie the laborers to the plantation.⁶⁵

Freedmen rebelled against such contracts, but as bad as the contracts were, the bureau at least tried to ensure that white employers upheld their terms. The very fact that a black person had any recourse against abuse by a white person outraged many Southerners. John F. Coutts of Tennessee found the mere presence of the bureau was humiliating.

The Agent of the Bureau... requires citizens (former owners) to make and enter into *written contracts* for hire of their own negroes... When a negro is not *properly* paid or fairly dealt with and *reports* the facts, then a squad of Negro soldiers is sent after the *offender*, who is *escorted* to town to be dealt with as per the negro testimony. In the name of God how long is such things to last.⁶⁶

Just as American Indian peoples would later complain of the fraud and injustice of the Bureau of Indian Affairs while nonetheless seeing it as a necessary line of defense against even more rapacious whites, so most freedmen, with all their justified criticisms of the Freedmen's Bureau, saw it as necessary protection against white Southerners.⁶⁷

Johnson saw the bureau differently. His revocation of Howard's Circular 13 formed part of his wider war against the bureau. He systematically drove from office those agents denounced by white Southerners as too sympathetic to the freedmen. Howard, still a good soldier, neither publicly objected nor prevented the purge. Many of the men who replaced Howard's agents were Southern men with Southern attitudes. They often abused the freedmen and actively sought to subvert the bureau and use it as a shield against the army. The army, however, also maintained a presence within the bureau since freedmen's agents were often recruited from the Veteran Reserve Corps. These military men, many of them amputees,

65. O'Donovan, 126–32; Downs, *After Appomattox*, 110–11; McFeely, 150; Foner, 166–70; Cimbala, *The Freedmen's Bureau*, 66–67.

66. Foner, 168.

67. *Ibid.*, 167–69; O'Donovan, 132–38.

proved harder to purge. They were sometimes prompted by sympathy for the ex-slaves, but as often from a desire to make sure that the sacrifices of the war—and their own quite visible sacrifices—would not be in vain. They were tough men, hard to coerce, which meant in some cases they were murdered.⁶⁸

Such murders spotlighted the deep hatred of white Southerners for the Freedmen's Bureau. In Mississippi, Assistant Commissioner Thomas recognized by the end of 1865 that the "simple truth is that the Bureau is antagonistic to what white people believe to be in their interest." They were "determined to get rid of it, and are not particular as to the means adopted to gain their end."⁶⁹

Politically, Johnson used the presence of the army and the Freedmen's Bureau as both a carrot and a stick. Both he and Southerners recognized that without the army and the bureau the federal government lacked the capacity to enforce the laws Congress passed. If Southerners failed to accept his minimal conditions for readmission, then war powers, martial law, the army, and the Freedmen's Bureau would remain. If the ex-Confederates cooperated with him, the army and the Freedmen's Bureau would vanish from the South and the future political status of the freedmen would be left to the states.

What white Southerners would do to the freedmen if left unrestrained became clear as Presidential Reconstruction proceeded in the summer and fall of 1865 and Johnson's hope that the "plain people" of the South would reject the old planter elite were dashed. Ironically, Johnson himself now became an agent of the elite's return. Largely following the recommendations of his governors, he had pardoned those who had supported the Confederacy on the condition that they take an oath of loyalty to the United States and accept the end of slavery. He also agreed to pardon anyone elected to office, eliminating the advantage those loyal to the Union would have held. Schurz reported that some Southerners found the loyalty oath repugnant and humiliating and refused to take it, but for others it was merely instrumental. It gave them back their votes and potentially their power. They treated it with scorn and ridicule, but they took it. Johnson initially denied pardons to the highest-ranking Confederates; they had to apply for personal pardons. Petitioning for pardons became women's work, and it was both personal and tawdry. Lobbyists provided access to Johnson for a fee; the wives and daughters of Confederate leaders appeared, petitioned, and if necessary, begged and wept. The president issued seven thousand pardons by 1866. Southerners saw in amnesty,

68. Cimbala, *The Freedmen's Bureau*, 27–31; O'Donovan, 221–23.

69. Cimbala, *The Freedmen's Bureau*, 35.

the pardons, and the denial of votes to blacks Johnson's intention to promote "a white man's government," with control over suffrage vested in the states.⁷⁰

Johnson seems to have thought that pardoning leading Confederates would make them both grateful to him and dependent on him, but he soon learned that the opposite was true. He found *his* policies interpreted in the light of *their* actions, and men he had opposed, and whom Union armies had defeated, were now riding him. Even as border states disenfranchised ex-Confederates in the years immediately following the war, his provisional governors in the old Confederacy made appointments and adopted policies that saddled him with men the Republican Congress would never accept. South Carolina Gov. Benjamin Perry had "put upon their legs a set of men who . . . like the Bourbons have learned nothing and forgotten nothing." The Southern Bourbons, as they were known, were the most reactionary elements of the old plantation elite. Creating a Bourbon South was not Johnson's intent, but he did not encourage the alternatives. Those Southerners who urged even limited black suffrage, like ex-Confederate postmaster general John H. Reagan, became, at least for the moment, pariahs. To the old Southern elite, such as the ex-vice president of the Confederacy Alexander Stephens, the South depended on "the subordination of the African race." Or, as a white Mississippian put it, "Our negroes have . . . a tall fall ahead of them. They will learn that freedom and independence are different things."⁷¹

III

Johnson was aware of events in the South. He had dispatched emissaries to inquire "into the existing condition of things" and to suggest appropriate measures. Not all of these emissaries shared his convictions or his policies. Certainly, Carl Schurz did not. Johnson promised him that his accommodation with the older Southern leadership was tentative and contingent on their cooperation. He would withdraw the extended hand if there were not reciprocity and true reconciliation. But when Schurz reported to Johnson on his return, he thought the president "wished to suppress my testimony as to the condition of things in the South."⁷²

70. Perman, 70–81, 123–31; Foner, 184–85, 188–201; Summers, 67.

71. Foner, 192–93; Perman, 102–3, 153; Schurz, *Reminiscences*, 178–80; Hahn, 152; David Montgomery, "Strikes in Nineteenth-Century America," *Social Science History* 4, no. 1 (1980): 94; Blair, 271–73.

72. Perman, 41; Schurz, *Reminiscences*, 3: 202.

Schurz's letters and the report he eventually submitted could not have been clearer: accommodation was not working. "Treason," he wrote, "does, under existing circumstances, not appear odious in the south." Southerners were "loyal" only insofar as "the irresistible pressure of force" had forced them to renounce independence, and loyalty was little more than "the non-commission of acts of rebellion." He warned Johnson not to have any illusions about the governments taking form under his proclamations. Southerners met even Johnson's minimal requirements only in order to rid themselves of federal troops. They complained bitterly of receiving no compensation for their slaves and had not given up hope of eventually being paid. Many wanted the debts owed by the Confederate states assumed by the newly reorganized states, and they promised resistance to any federal excise taxes that would go to pay the Union war debt. But Southern recalcitrance was greatest in regard to the freedmen. Southerners continued to believe black people unfit for freedom, offering evidence not particularly persuasive to Northerners. "I heard," Schurz reported, "a Georgia planter argue most seriously that one of his negroes had shown himself certainly unfit for freedom because he impudently refused to submit to a whipping."⁷³

Outside of the protection of federal troops, freedmen who showed signs of independence and resistance risked their lives. The provost marshal at Selma, Alabama, Maj. J. P. Houston, reported "twelve cases, in which I am morally certain the trials have not been had yet, that negroes were killed by whites. In a majority of cases the provocation consisted in the negroes' trying to come to town or to return to the plantation after having been sent away. The cases above enumerated, I am convinced, are but a small part of those that have actually been perpetrated."⁷⁴

The violence went beyond that. Once freedpeople ceased to have value as property, Schurz wrote,

the maiming and killing of colored men seems to be looked upon by many as one of those venial offences which must be forgiven to the outraged feelings of a wronged and robbed people. Besides, the services rendered by the negro to the national cause during the war, which make him an object of special interest to the loyal people, make him an object of particular vindictiveness to those whose hearts were set upon the success of the rebellion." Southerners seemed irrevocably committed to the idea that "the elevation of the blacks will be the degradation of the whites."⁷⁵

73. Schurz, *Report*, 17.

74. *Ibid.*, 18.

75. *Ibid.*, 20.

Murders, whipping, and physical compulsion would, Schurz asserted, "continue to be so until the southern people will have learned, so as never to forget it, that a black man has rights which a white man is bound to respect," but when that moment was to arrive was anything but clear. For Schurz, the South in the summer of 1865 foreshadowed the future.⁷⁶

Henry Adams—a black man born into slavery in Georgia—came to Shreveport in Caddo Parish, Louisiana, in the latter part of 1865. He had been, as he put it, "at hard work my whole life." He was a faith doctor, a railsplitter, and a striving man, and he lived what Schurz described. In December 1865 he had a little wagon and was transporting produce to Shreveport when "a crowd of white men" waylaid him. They robbed him, took everything he had, and tried to kill him. Adams was not a man easily discouraged. The next year he traveled to De Soto Parish. He passed through a grim landscape. Six miles south of Shreveport, he saw the body of "a colored man" hanging from the limb of an oak tree. Six miles north of Keachi whites had burned the wagon "belonging to a colored man... with all his things: even his mules were burned." Near Sunny Grove he saw "the head of a colored man lying on the side of the road." He was again waylaid, this time by five men who demanded to know to whom he belonged. He replied he did "belong to God, but not to any man." "Well, by God," they said, "negroes can travel through here that don't belong to somebody, and we will fix you up right here." He was on "a pretty good horse," and that pretty good horse and the whites' bad marksmanship saved his life. White violence prompted Adams' enlistment in the army. He rose to quartermaster sergeant, learned to read and write, and was discharged in 1869.⁷⁷

The sullen resentment of the South, hardly surprising in the face of defeat and suffering, was as much in evidence at the Southern conventions ordered by Johnson as on the roads traveled by Adams. Some states refused to nullify secession, but simply repealed it with the implication that they could pass it again if they wished. Others would not abolish slavery but instead simply acknowledged that it had ceased to exist from force of arms. Mississippi petulantly refused to ratify the Thirteenth Amendment, outlawing slavery. It did so only in 1995, 130 years after enough states had ratified it for it to take effect. Johnson had added to his

76. Schurz, 20.

77. U.S. Congress. Senate Select Committee to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States. *Report and Testimony of the Select Committee of the United States Senate to Investigate the Causes of the Removal of the Negroes from the Southern States to the Northern States: In Three Parts* (U.S. GPO, 1880), 2: 101, 123, 128–29, 137–39, 154.

requirements that the states repudiate their Confederate war debts, yet both Mississippi and South Carolina refused to do so.⁷⁸

Johnson did not condone most of these outrages, and through much of the summer he supported the actions of the military in the South, but he lost his ability to control events. He made things worse with his overruling the policy of land distribution and removing key officials, thus crippling the Freedmen's Bureau. August and September saw him increasingly siding with the provisional governments in conflicts with the military. In August Gov. William Sharkey of Mississippi created a state militia, certain to be dominated by ex-Confederates. The Union commander, Maj. Gen. Henry W. Slocum, had ordered the plan dropped, and Johnson initially backed him, but then reversed himself. "The people must be trusted," he said. It went without saying that the people to be trusted were white, not black, people. That same month Johnson announced that black regiments would be removed from the South because whites found their presence humiliating and they were a danger to plantation discipline. Generals retained black soldiers in the South, but they tended to withdraw them to garrison duty along the coast. White veterans mustered out of the Union army were allowed to purchase their weapons. When black veterans in Louisiana were mustered out, they had to turn in their guns.⁷⁹

With Johnson increasingly undermining the army and the Freedmen's Bureau, the new Southern legislatures acted as if they had a free hand to impose their own racial order. Black people would have a choice: work for white people or starve. The only question, hardly a trivial one, was how they would work.⁸⁰

Mississippi enacted the first Black Code in the fall of 1865, and other states followed. U.S. Supreme Court Justice Samuel Miller asserted that the codes did "but change the form of slavery," but they were not a return to slavery. African Americans had civil rights—including contract rights—they did not possess under slavery: to marry, hold property, sue, and be sued. Yet the codes reminded both Northerners and freedpeople of a return to slavery because the most egregious of them—those in South Carolina, Mississippi, and Texas—defined black people as agricultural and domestic workers and their white employers as "masters." The laws were as close to apartheid as the United States ever came. They gave

78. McKittrick, 9–10.

79. Downs, *After Appomattox*, 80, 108–9, 111; Foner, 190; Hahn, 155; Perman, 43, 99–100, 135–36; Richard M. Velely, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004), 26–27.

80. Litwack, 365; Ranney, 45–46.

employers near absolute control of their laborers during the hours of labor (which South Carolina defined as from sunrise to sunset) and when they were not working. Employers retained the right of physically punishing their workers and docking their pay. In Florida black workers could be whipped for "impudence and disrespect."⁸¹

Southern legislatures recognized in Northern vagrancy laws a particularly useful means of subordinating black labor while contending that they, like the North, accepted freedom of contract. They exploited what seemed on the surface a glaring contradiction in the triumph of free labor: that men and women who asked for alms could be compelled to labor against their wishes in a jail or workhouse. Defenders of contract freedom, however, asserted that vagrancy laws actually validated contract freedom. Beggars had violated the rules of contract. They had asked for goods for which they gave nothing in exchange. They had left the world of the market and sought refuge in charity, dependence, and paternalism. Southern lawmakers contended that in passing vagrancy laws they did nothing that the North had not already done, and that in aiming them at the freedmen they only compelled them to work as the Freedmen's Bureau itself did. If the North could compel white paupers to work, why couldn't the South compel black paupers to work? If vagrants could be compelled to work, then the next step was to make virtually all black people vagrants and paupers under the law. In the North the new industrial economy would generate vagrants and paupers, but Southern legislatures in 1865 sought to manufacture them by legislation.⁸²

The general impoverishment of the ex-slaves made them particularly vulnerable to vagrancy laws. Although in certain sections of the South both custom and informal economies had allowed some slaves to accumulate property and many soldiers had saved their wages, most freedmen had no easy access to cash. The black codes were designed to make sure that lack of cash became a legally punishable offense, and they ensured that agricultural labor and domestic service were the only ways for African Americans to get cash. Mississippi defined "vagrant" so broadly that those who neglected their calling, did not support themselves or their families, or failed to pay annual poll taxes were all vagrants. In Alabama "any runaway, stubborn servant or child," any worker "who loiters away his time," or failed to comply with a labor contract was deemed a vagrant. The laws themselves thus produced vagrants, who could be punished by being forced to labor. Mississippi demanded special labor certificates for black

81. Downs, *After Appomattox*, 84–87; Ranney, 45–46.

82. Noralee Frankel, *Freedom's Women: Black Women and Families in Civil War Era Mississippi* (Bloomington: Indiana University Press, 1999), 56–58; Stanley, 98–100.

workers, and failure to possess them as well as failure to pay fines for labor violations or petty criminal infractions could all result in forced labor. Any black workers who quit their jobs without what their employers regarded as a good reason were subject to arrest, and arrest, of course, could result in hiring out for forced labor.⁸³

What vagrancy laws did to adults, apprenticeship laws did to children. Except for a few "industrious" and "honest" freedpeople, the black codes declared black parents incapable of raising children. Southern courts sundered black families as effectively as the slave trade by assigning black children, without their or their parents' consent, to white employers. Sometimes, as in North Carolina, Mississippi, and Kentucky, the courts sent children back to their old masters. The South created two distinct sets of laws, one pertaining to whites and the other to blacks.⁸⁴

Southern whites grew quite proficient at using the contracts as tools for the subordination of black labor. Southern whites could escape the Freedmen's Bureau's supervision of contracts by turning to Southern courts to enforce their own contracts with black workers. They also made agreements among themselves not to compete for laborers and not to rent or sell lands to black people. If all else failed, there was always violence. A barrage of beatings, whippings, mutilations, rapes, and murders of freedpeople by whites accompanied the black codes.⁸⁵

Johnson may have sympathized with the racism that inspired the black codes, but he did not endorse the codes. He did, however, accept the new government's legitimacy without granting them full authority. The military remained in place and martial law remained in force. These were the ambiguities of Presidential Reconstruction in practice.⁸⁶

IV

Until Congress was called to session in December 1865, the Republicans could do little about Johnson's policies, and they were hardly united about what they should do when they returned. They had achieved much during the Civil War. With Southerners gone and the remaining Democrats in a minority, Republicans had passed an ambitious program

83. Dylan C. Penningroth, *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2003), 45–78; Ranney, 46–47; Litwack, 366–71; Hahn, 141–42.

84. Edwards, 39; Frankel, 136–45; Ranney, 47–48.

85. Hahn, 155, 157; Cimbala, *The Freedmen's Bureau*, 70, 75; Frankel, 69; Litwack, 278–80.

86. Downs, *After Appomattox*, 84–87.

of national improvements to create small farms, build a modern railroad infrastructure, and fund universities. To finance the Civil War, they had borrowed and printed money backed only by the credit of the government. They remade the financial and banking systems to allow them to increase the national debt, which provided the funds to pay and supply armies. The national debt grew from about \$65 million to \$2.7 billion, about 30 percent of the Union's gross national product in 1865. To generate revenue, Congress had created an income tax and raised the tariff. The higher tariff reduced imports and thus did not yield a great deal more in taxes than a lower one, but it achieved another Republican purpose: shielding American industry from foreign competition. Republicans had forged as vigorous a political program for nation building as the United States would see until the New Deal of the 1930s.⁸⁷

This powerful federal government—the Yankee Leviathan—made Reconstruction not only a practical matter, but also an issue with ideological implications that divided Republicans. Some Radicals accepted the increase in federal power as permanent and beneficial. Other Radicals reverted to their antebellum liberalism. They countenanced the growth of federal power as a necessary war measure but, like other Republicans wary of too radical a Reconstruction of the South, were unwilling to accept it as the new status quo. These divisions, in part, reflected Republican origins. The party had arisen from an amalgamation of Whigs, who embraced government interventions in the economy, and orthodox liberals—many of them antislavery Democrats—to whom both government intervention in the economy and slavery were anathema.

Although the Republicans remained a sectional party rooted in the North, Radical Republicans were nationalists committed to a homogeneous citizenry of rights-bearing individuals, all identical in the eyes of a newly powerful federal government. The Civil War had undercut antebellum arguments for states' rights, which had become tainted, a code not for restraint and limited government but for slavery and oppression. Homogeneous citizenship formed the foundation of the Radical vision of Reconstruction. In practice it came to mean full civil, political, and social equality for freedpeople and confiscation and redistribution of land in the South. The core support of the Radicals lay in New England and areas settled by New Englanders, although other areas could also produce Radicals. Opponents, such as Democrat James Brooks of New York, denounced a homogeneous citizenship as undesirable and impossible.⁸⁸

87. Richard Franklin Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (Cambridge: Cambridge University Press, 1990), 162–73, 243–51.

88. Foner, 228–35, 237; Downs, 46.

Intellectually and ideologically, those committed to the full Radical program never constituted a majority of the party's representatives, but the Radicals formed the most influential wing of the Republican Party. The party's most powerful figures—Charles Sumner in the Senate and Thaddeus Stevens in the House—were Radicals who looked beyond the restoration of the old Union and sought to create a new nation from the ruins of the old.⁸⁹

As long as the Radicals emphasized the larger Republican goals of nationalism, free labor, and contract freedom, they could exert tremendous influence. The Republicans' political bet was that military victory and the success of their policies would remake the South and West in the image of the North, create a new national identity under a dominant federal government, and achieve benefits for their party. Freedmen in the South and Indians in the West were to be "raised up." Republican programs for the South and West were of a piece, and they were a variant of a larger pattern of state building in Italy, Germany, Mexico, Argentina, Japan, and elsewhere.⁹⁰

But broad common goals did not resolve underlying tensions between liberals and other Radicals. Liberalism, held strongly by some Republicans and weakly or hardly at all by others, was less a glue holding the party together than a solvent that, once the war was over, threatened to dissolve its unity. Liberalism had arisen in opposition to European aristocracy, monarchy, and established churches, particularly the Catholic Church. Liberals easily accepted the idea of a homogeneous citizenry since they conceived of society as a collection of autonomous rights-bearing individuals rather than an assemblage of classes, ethnic groups, or other collectivities. They made the contract between buyer and seller the template for all social relations. The endless web of individual contracts was how society constituted itself.⁹¹

Orthodox liberals embraced a laissez-faire economy, something other Radicals either paid lip service to or ignored, and a minimal government that was incompatible with Radical ambitions. Although liberals in Europe and the United States acknowledged the need for state intervention at numerous levels, they thought that economic well-being should be

89. Michael Les Benedict, *A Compromise of Principle: Congressional Republicans and Reconstruction, 1863–1869* (New York: Norton, 1974), 26–33, 34–35, 37–38.

90. Thomas Bender, *A Nation among Nations: America's Place in World History* (New York: Hill and Wang, 2006), 172–81.

91. Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, MA: Belknap Press of Harvard University Press, 1998), 78–79; Michael Les Benedict, "Laissez-Faire and Liberty: A Re-Evaluation of the Meaning and Origins of Laissez-Faire Constitutionalism," *Law and History Review* 3, no. 2 (1985), 293–331; Stanley, 1–24.

left largely to markets, which they equated with freedom and regarded as natural. Drawing on a deep Protestant heritage, liberals believed free choice as essential to morality and freedom and made the economy into a moral realm that depended on the free choice of its actors. Yet paradoxically for a group that arose in reaction to an established and entrenched European order, liberals were also fearful of a freedom that manifested itself in the popular movements, popular religion, and popular culture that flourished in the wake of war. Liberals tended to be ensconced in the elite institutions of American society.⁹²

Earlier in American history both Jeffersonians and Jacksonians paired democracy and laissez-faire. And some liberals with Jacksonian roots preserved that earlier orientation. Isaac Sherman, a New York businessman and financier and a reliable bankroller of liberal causes and publications, testified before the New York Assembly in 1875 that his goal was "to limit the sphere of Government and the number and sphere of officials" in order to give more room to "individual judgment and individual enterprise and competition, the great motor force in all free government." Because markets seemed to epitomize individual judgment, enterprise, and competition, liberals like Sherman held fast to a belief in the autonomy and moral authority of markets. As the Reverend Lyman Atwater proclaimed, "economics and ethics largely interlock." The market was the metaphor and model for all social order.

A rising generation of younger liberals held more complicated views. Rhetorically, E. L. Godkin of the *Nation* conflated all freedom with free markets: "the liberty to buy and sell, and mend and make, where, when, and how we please." Godkin, however, also acknowledged the limitations of markets in practice. He, at least in his early years, did not regard permanent wage labor as contract freedom. He and other younger liberals also differed from Sherman in their distrust of democracy. Godkin was eager to curtail political freedoms that he thought produced corruption and threatened anarchy. He recognized that the United States had become a multicultural nation deeply divided by class, and, since he thought democracy could work only in small homogeneous communities, American democracy had become dangerous.⁹³

Liberalism and Radical Republicanism were ideologies—simplified and idealized versions of how society should operate—and not descriptions of the far more complicated ways the North did operate. Northerners,

92. Rodgers, 77–79.

93. Joyce Appleby, "Republicanism and Ideology," *American Quarterly* 37, no. 4 (1985): 470; Nancy Cohen, *The Reconstruction of American Liberalism, 1865–1914* (Chapel Hill: University of North Carolina Press, 2002), 56.

in general, were both decidedly less liberal than doctrinaire liberals desired and less Radical than ardent Radicals wished. They were quite ready to regulate the economy and social life, if not always at the federal level, and they did not wholeheartedly endorse ideas of homogeneous citizenship. There were two intertwined threads of American thinking about freedom, rights, and equality. The brightly colored thread naturalized rights and made them universal: "all men are created equal." The second, more inconspicuous but also arguably more powerful, thread localized rights. This thread represented how Americans thought and acted in their specific and bounded communities. They understood each other less as discrete individuals than as members of groups defined by sex, race, wealth, kinship, religion, and persistence in the community. These groups were unequal, and their inequality was marked by differences in status and privilege. Local governance consisted of a collective order of duties and privileges rather than universal rights. As long as citizenship remained local, as it always had been in the United States, citizens were manifestly unequal.⁹⁴

Americans endowed their local governments with remarkable powers. Such governments in the United States had long regulated "public safety, public economy, public mobility, public morality, and public health." They controlled whom people could marry, what they could print, and what they could send through the mail. They regulated how citizens conducted their businesses, how they built their houses, what they could do in them, and how they managed their livestock. They determined where, and if, people could carry firearms and where and with whom their children went to school. Local governments intervened constantly in daily life. It never occurred to the vast majority of Americans that property was beyond public regulation or control or that its use should be left solely to private arrangements. But neither were Northerners necessarily ready to put this regulatory authority in the hands of the *federal* government.⁹⁵

As long as the Civil War raged, military necessity had suppressed the ideological contradictions between laissez-faire liberalism and the neo-Whig policies of other Radicals. Liberals could regard the Yankee Leviathan as an aberration, if a necessary one, produced by the requirements of war. Once the government ended slavery, free labor and contract freedom would flourish and the state would shrink and recede.

The ratification of the Thirteenth Amendment threatened to dissolve the Republican consensus. With slavery abolished, the most ardent liberals

94. Masur, 4–5.

95. William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), 51 and passim.

among the Radicals thought their work largely done. By distilling the essence of freedom into the right of self-ownership and the ability to dispose of one's labor by mutually agreed contracts, Republicans had forged a weapon that cut through defenses of slavery. Slaves did not own their own bodies, let alone their labor; they worked under compulsion. At the moment when the fetters were removed and the kneeling slaves stood as free men and women, the most ardent liberals thought victory achieved. William Lloyd Garrison, the nation's leading abolitionist, proclaimed the new age: "Where are the slave auction-blocks... the slave-yokes and fetters... They are all gone! From chattels to human beings... Freedmen at work as independent laborers by voluntary contract."⁹⁶

The slaves had supposedly entered a world of individualism, where their fate was in their own hands. As Clinton Fisk, assistant commissioner of the Freedmen's Bureau for Kentucky and Tennessee, told the ex-slaves quite sincerely, "Every man is, under God, just what he makes of himself." William Dean Howells, who was in 1865 writing for the *Nation*, exuded liberal orthodoxy when he endorsed Herbert Spencer's contention, already old in 1865, that all the state owed a man was a fair start in life.⁹⁷

Other Radicals, like white Southerners, were less blind to the realities of the freedpeople's condition. Contract freedom had, after all, triumphed over slavery only through the armed power of the federal government. Stevens and Sumner recognized that people experienced freedom only under the protection of the government's police power.⁹⁸

Despite the exhaustion following four years of brutal war, these Radicals did not think that the Thirteenth Amendment was the end of the struggle. Instead 1865 seemed to them a "golden moment" that needed to be seized. This idea animated a "Greater Reconstruction," covering the West as well as the South.⁹⁹

The Radicals' struggles to use the power of the federal government to attain this dream predictably created a contest between the Republicans on the one hand and Johnson and the Democrats and conservative Republicans who supported him on the other, but it also exacerbated tensions within the Republican Party. Alarmed by the desire of some Radicals for land redistribution and their far-reaching claims for equality, Republican conservatives pulled back. They would end slavery and

96. Benedict, *A Compromise of Principle*, 36–37; Stanley, 4.

97. Cimbala, *The Freedmen's Bureau*, 63; Kenneth Schuyler Lynn, *William Dean Howells: An American Life* (New York: Harcourt Brace Jovanovich, 1971), 131.

98. Downs, *After Appomattox*, 46, 134.

99. Elliott West, *The Last Indian War: The Nez Perce Story* (New York: Oxford University Press, 2009), xx–xxi; Cohen, 28–29.

guarantee freedpeople some basic civil rights, but they would proceed cautiously from there. They did not share the Radicals' desire to remake the South "root and branch." They still hoped for an accommodation with President Johnson. In between the Radicals and the Conservatives, and holding the balance of power were the moderate Republicans. For them restoring the Union often took priority over securing the rights of the freedpeople. The Moderates determined the shifting balance between the Radicals and conservative Republicans, which would be critical to Reconstruction politics.¹⁰⁰

Liberal Republicans were the wild card. With the ratification of the Thirteenth Amendment, some liberals shed their Radicalism as easily as soldiers removed their uniform, but thanks to Andrew Johnson and the Southerners who eventually supported him, many liberals did not desert Radicalism easily or quickly. The Black Codes did not look like either free labor or contract freedom. By the end of 1865, as Congress prepared to return to Washington, it seemed that Johnson's policies were squandering the fruits of victory and rewarding the actions of traitors.

Racism further complicated the nation's politics. Racism, like other beliefs, came in degrees. Many Radicals and most Republicans were racist; it would have been astonishing had they not been. Most Northerners in 1865 initially proved unwilling to move beyond granting civil liberties to black people. They balked at granting them political freedom—suffrage and the right to hold office—let alone social equality. Johnson was also a racist, but his racism was extreme. Johnson had what his private secretary described as "a morbid distress and feeling against the negroes." In this he reflected his Tennessee Unionist supporters. "It is hard to tell," William Brownlow, an old Tennessee Whig, declared of East Tennessee's Unionists, "which they hate most, the Rebels, or the negroes." In a discourse of white victimization common in the late nineteenth century, Johnson thought poor whites rather than blacks the real victims of slavery. Slaves had joined with their masters to keep the poor white man "in slavery by depriving him of a fair participation in the labor and productions of the rich land of the country."¹⁰¹

With the war over, Johnson feared the situation would worsen if the mass of freedmen obtained the vote. They would always be pliable tools of their masters on whom they would remain dependent. Giving African

100. Summers, 83–86; Benedict, *A Compromise of Principle*, 26–33, 42–56, 142–43; Moderate, Radical, and Conservative were porous categories, and politicians moved between them; Foner, 236–38; McKittrick, *Andrew Johnson and Reconstruction*, 53–55, 77–84.

101. Thomas, 440; Eric McKittrick, "Andrew Johnson, Outsider," in McKittrick, *Andrew Johnson: A Profile*, 68–77; Foner, 181; Simpson, *The Reconstruction Presidents*, 76.

Americans the franchise thus seemed to him antithetical to his ambition of ensuring that the Southern "plain folks"—the whites with whom Johnson sympathized most deeply—dominated the postbellum South. Privately, he supposedly declared that "this is a country for white men, and, by God, as long as I am President, it shall be a government for white men."¹⁰²

So long as Reconstruction seemed to be about the transfer of power from the old Southern elite to the plain people of the South, Johnson was enthusiastically for it. When Radicals, however, pressed for equal rights, citizenship, and even suffrage for the freedmen, then Johnson's devotion to a white republic surged to the fore. He thought that in this he had the sympathy of the Northern electorate, which thought of suffrage as a privilege rather than a right. In the fall of 1865 proposals to extend the vote to black men went down to defeat in Connecticut, Wisconsin, and Minnesota.¹⁰³

The status quo, however, was rapidly changing, and the man pushing the change most aggressively and rapidly was Thaddeus Stevens of Pennsylvania. Stevens came to consider Andrew Johnson "at heart a damn scoundrel," and when Congress came into session in December 1865, Stevens's opinions mattered. Stevens vociferously attacked the idea that the United States was a "white man's country" and that its government was a "white man's government." In this, he diverged not only from President Johnson but also from most Republicans. Stevens could not eliminate American racism, but that was not his aim. He wanted to topple as many of its supports as he could and link it to a failed past. The doctrine of a "white man's government" was a sibling of deceased Chief Justice Roger Taney's ruling in the *Dred Scott* decision that black men were "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." That "infamous sentiment," Stevens said with characteristic bluntness, had "damned the late Chief Justice to ever lasting fame; and, I fear, to everlasting fire." The upholders of white men's government risked the same fate.¹⁰⁴

102. Foner, 183–84, 186–87.

103. Ibid., 218–19, 222–24; 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), 12–15; Simpson, *The Reconstruction Presidents*, 85–86.

104. Thaddeus Stevens, Speech on Reconstruction, Dec. 18, 1865, Furman University: Thaddeus Stevens Papers On-line, <http://history.furman.edu/benson/hst41/blue/stevens1.htm>; Wish, 96–97; Annette Gordon-Reed, *Andrew Johnson* (New York: Times Books/Henry Holt, 2011), 100.

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Stevens wanted the franchise extended to black men, and he wanted to grant them a share of the Southern property that their labor had created. His egalitarianism went only so far. Women would remain outside the electoral process. The fixation of some Republican reforms on racial injustice could blind them to a staggering array of other problems emerging in an American society that denied women many of the rights Stevens wanted for black men. Those reformers who saw the inequities of gender and class most clearly, however, were, in turn, often aggressively racist in anchoring reform in the defense of white manhood and the white home. There was also an undeniable smugness in the Radicals' assumption that blacks, Southern whites, Indians, and poor Northerners all needed to turn themselves into replicas of successful and independent Northern white men. Still, Stevens's position was a brave and remarkable one in 1865.¹⁰⁵

The touchstone for American politics of Reconstruction at the end of 1865 was a question: What would Lincoln have done? Lincoln's ideal of a "government of the people, by the people, for the people" animated Reconstruction, but the phrase retained both its power and its ambiguity. Who were the people? The inhabitants of the United States often hated each other, and yet they could not avoid each other. Most Americans appealed to ideals of freedom, family, and home, but they often regarded other Americans as a threat to those ideals. Race, religion, ethnicity, and language divided Americans, but hate extended well beyond these bright markers. To say that Lincoln's policy probably would have fallen somewhere between the most punitive treatment of the South and the virtual abandonment of the ex-slaves that Johnson and his most ardent supporters advocated does not say much at all. It was in this expansive territory that Republican policies took root. Policy, in any case, was never going to be the product of a single individual, and the implementation of any policy would prove far more difficult than its formulation. The Civil War produced great structural change in the United States, and the forces set in motion were beyond the capacity of any individual to control, as Lincoln himself admitted.¹⁰⁶

When Congress reconvened, the government was forced to confront those changes, not only in the South, which dominated national attention, but also in the North and West. Reconstruction involved the West as well as the South, and although the North might consider itself the template for the new society destined to emerge from the war, that template had begun to show its own cracks and fissures.

105. Foner, 231–33.

106. Eric Foner, *The Fiery Trial: Abraham Lincoln and American Slavery* (New York: Norton, 2010), 331–36.

2

Radical Reconstruction

Killing Presidential Reconstruction could be done with congressional votes, but creating a substitute was akin to building a house during a hurricane, or rather two houses, since Republicans were also trying to create replicas of Lincoln's Springfield in the West. On the one hand, there were clear structural necessities: how to readmit the Southern states, how to pacify and occupy the West, how to define the new powers of the federal government, and how to turn former slaves into citizens. On the other hand there were questions of design: How full would be the equality offered freedpeople? What would be the relationship with Indian peoples once fighting stopped? And then there was the political weather, the buffeting onrush of events, many of them destructive and violent. That the builders in the 1860s were on the ground in the South and West and the architects' offices were, in effect, in Washington D.C. only compounded the problem. Congress could neither remake the South nor create a free labor West by proclamation. This would have to be done in hundreds of Southern towns and counties and across a vast expanse of the West. To one degree or another, it would depend on force and whether Congress or the president controlled the force embodied in war powers.

In December 1865, Congress faced the immediate practical question of whether to seat the newly elected Southern representatives arriving in Washington. If Congress seated the Southern delegations, the war power would come to an end once civil government was restored in all states. Southern Democrats, their representation increased by the abolition of slavery and with it the end of the three-fifths clause, would, in combination with Democrats from the North, threaten Republican dominance. As an Illinois Republican put it, "the reward of treason would be increased representation in the House" and an increase in the Southern electoral vote. Thaddeus Stevens foresaw a Democratic Party dominated by the South in possession of Congress and the White House: "I need not depict the ruin that would follow." To avert ruin, he suggested a Joint Committee on Reconstruction to decide the issue, and it became the focal point for investigations of conditions in the South. In testimony

behind closed doors, soldiers, Freedmen's Bureau agents, and Southern Unionists recited a litany of ongoing Southern violence, crime, and injustice against freedpeople and Radicals.¹

Moderate Republicans did not wish to break with Johnson, but they, as fully as Radicals, were determined to suppress the atrocities committed by ex-Confederates. Should accommodation with Johnson fail, the Radicals prepared the ground for unilateral action by Congress. They had three powerful constitutional weapons. The first was familiar: the right of Congress to determine its own membership, that is the power to reject members even if they had won election in their states. The second, untested, weapon was the constitutional clause guaranteeing every state a republican form of government. This was, in Senator Charles Sumner's words, a "sleeping giant." Nothing else in the Constitution gave "Congress such supreme power over the states." The third were the war powers that allowed the continuing occupation of the South.²

The power of the constitutional clause hinged on the definition of republican government, and Sumner, with his usual erudition, seized the ground for the Radicals. His speech stretched over two days in February 1866 and demanded forty-one columns of small print in the *Congressional Globe*. Sumner asserted that without equality of citizens before the law and full consent of the governed, a government could not be considered republican. It defined a standard that the North no more met than the South.³

In January 1866 Republicans offered the president two bills that they regarded as a workable compromise between the Radicals' desire to remake the South and Johnson's desire to readmit the South as it was to the Union. One bill expanded the duties of the Freedmen's Bureau and extended its life; the second guaranteed freedpeople basic civil rights. The proposed legislation gave the Freedmen's Bureau jurisdiction in cases involving black people in the South and assigned the agency direct

1. Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004), 28–29; Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA: Harvard University Press, 2015), 113–19; "Reconstruction," December 18, 1865 in Congress," in Beverly Wilson Palmer and Holly Byers Ochoa, eds., *The Selected Papers of Thaddeus Stevens* (Pittsburgh: University of Pittsburgh Press, 1998), Volume 2: April 1865–August 1868, 51.
2. Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988), 228–47; Michael Les Benedict, *A Compromise of Principle: Congressional Republicans and Reconstruction, 1863–1869* (New York: Norton, 1974), 142–43; Eric L. McKittrick, *Andrew Johnson and Reconstruction* (Chicago: University of Chicago Press, 1960), 274–76.
3. Downs, 118–29; Foner, 232–33.

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responsibility for protecting their rights. To do so, it could call on the military. Bureau agents could intervene against state officials denying blacks "civil rights belonging to a white person" and arraign those officials in federal court. This was Congress's response to Southern outrages and the Black Codes, but the bills did not give freedmen the vote, and they did not redistribute land. The Radicals supported them because the bills were all they initially could get and because they hoped that more ambitious measures would follow.⁴

The second proposal was the Civil Rights Bill of 1866, which passed the Senate in early February. It gave teeth to the Thirteenth Amendment and represented a breathtaking extension of federal power. In the words of Sen. Lyman Trumbull of Illinois, it guaranteed to all citizens the "fundamental rights belonging to every man as a free man": the right to make contracts, to sue in court, and have the state protect their property and person. Federal marshals, attorneys, and bureau agents could bring suit in federal court against any state officials or state laws that violated these protections. Maine Senator Lot Morrill proclaimed, "This species of legislation is absolutely revolutionary. But are we not in the midst of a revolution?"⁵

The revolution extended a homogeneous national citizenship with a specific set of rights over the entire country, but it had clear limits. The Civil Rights Act secured only *civil* equality, giving the freedpeople access to the legal system and protection from some kinds of discriminatory laws. It did not give them *political* equality: the right to vote and hold office. Nor did it give them *social* equality: free and equal access to public venues, from streetcars and railroad cars to theaters and schools. Primary jurisdiction for enforcing civil rights still remained in the state courts. Once state laws were stripped of overt discrimination, *de facto* discrimination by sheriffs, judges, or ordinary citizens would be hard to prevent under the act.⁶

In February Johnson vetoed the Freedmen's Bureau bill. He denounced it as unconstitutional and expensive and as encouraging black "indolence." Congress sustained, if barely, this veto, but Johnson remained the kind of man who was angry even in victory. As was the custom, on Washington's Birthday a crowd gathered before the White House to serenade the president, and Johnson gave an impromptu speech that provided more evidence that he should never give impromptu speeches. He

4. Foner, 239–51.

5. Downs, 121–23; Foner, 243–45.

6. 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), 117–18; Foner, 243–45.

equated Stevens, Sumner, and the abolitionist Wendell Phillips with the Confederate leadership. They were, he said, as bad as traitors since they too aimed to undermine the Constitution. The president referred to himself 210 times in a speech of little more than an hour, or three times every minute.⁷

As indiscreet as Johnson was in public, he was worse in private. A former slave owner, he rebuffed and insulted a black delegation headed by Frederick Douglass. Johnson told the delegation that it was poor whites, not blacks, who were the real victims of slavery in the South. After the delegates left, he told his private secretary: "Those damned sons of bitches thought they had me in a trap. I know that damned Douglass; he's just like any nigger, & he would sooner cut a white man's throat than not."⁸

There was method in Johnson's madness. His goal was a coalition of conservatives who would cross party and sectional boundaries to maintain a white man's republic. On March 27, Johnson vetoed the Civil Rights Bill as an attack on the rights of white people and as a move to centralize all power in the federal government. He began his veto message with the denunciation of a country that would protect "the Chinese of the Pacific States, Indians subject to taxation, the people called Gipsies, as well as the entire race designated as blacks, people of color, negroes, mulattoes and persons of African blood." This was the "mongrel republic" of Democratic nightmares.⁹

He also indicated that only he could speak for the nation; Congress spoke for parochial interests. This was a "modest" assertion, one of his enemies pointed out, for a man who became president only because of an assassin's bullet. Johnson's political calculation was that by framing the issue as a dual contest between the rights of whites and the rights of blacks, and between the expansion of the federal government and the preservation of local governments, he could not lose.¹⁰

Indiana Republican Oliver P. Morton, however, went straight to the weakness of Johnson's strategy. The battle remained what it had been all along: a choice between loyalty and treason, between North and South. Morton hoisted what became known as the bloody shirt: the call to remember northern sacrifices and the Democrats' taint of treason. "Every unregenerate rebel lately in arms against his government," Morton said,

7. McKittrick, 293–95; Foner, 247–49.

8. Hans L. Trefousse, *Andrew Johnson: A Biography* (New York: Norton, 1989), 241–42.

9. McKittrick, 314–19; Nancy Isenberg, *White Trash: The 400-Year Untold History of Class in America* (New York: Viking, 2016), 182–83; Michael Perman, *Reunion without Compromise: The South and Reconstruction: 1865–1868* (Cambridge: Cambridge University Press, 1973), 190–93; Foner, 250–51.

10. Foner, 249–51; McKittrick, 314–19.

"calls himself a Democrat." So did every bounty jumper, deserter, every man who "murdered Union prisoners by cruelty and starvation," every man who "shoots down negroes in the streets, burns up negro school-houses and meeting houses, and murders women and children by the light of their own flaming dwellings." The list went on as Morton mounted to his climax, aligning the president with the Democrats:

And this party...proclaims to an astonished world that the only effect of vanquishing armed rebels in the field is to return them to seats in Congress, and to restore them to political power. Having failed to destroy the constitution by force, they seek to do it by construction, with...the remarkable discovery that the rebels who fought to destroy the constitution were its true friends, and that the men who shed their blood and gave their substance to preserve it were its only enemies.

Morton was not a Radical; he was a leader of Indiana's conservative Republicans.¹¹

On April 6, 1866, Congress overrode Johnson's veto of the Civil Rights Bill. It was the first time in American history that Congress had overridden a presidential veto of a major piece of legislation. The Senate, however, obtained its necessary two-thirds majority only by expelling a New Jersey Democrat. In July the second attempt to extend the life of the Freedmen's Bureau succeeded. In passing a new bill over Johnson's veto, Congress gave the bureau power to enforce the Civil Rights Act and reinstated bureau courts.¹²

The passage of the Civil Rights Act signaled a permanent break between Johnson and Congress, but Johnson in his fury also alienated the army and deepened his estrangement from the secretary of war. Both Stanton and Union army officers felt increasingly threatened by civil suits for actions taken during the war and its aftermath. Grant, who had initially pushed demobilization, had changed his mind. He issued General Orders No. 3 in January 1866 to protect soldiers in the South from lawsuits, and had then allowed his commanders to use its rather vague and general provisions to protect freedpeople from the Black Codes. In an attempt to stop Congress from using war powers, on April 2 Johnson proclaimed the end of the rebellion everywhere but in Texas, though in practice the proclamation did not end martial law because the power to declare war, and restore peace, belonged to Congress and Southern representatives had not yet been restored to Congress. And even Johnson sought to limit rather than eliminate army authority. Officers were not

11. McKittrick, 318-19.

12. Ibid., 317-23; Foner, 250-51; William S. McFeely, *Yankee Stepfather: General O. O. Howard and the Freedmen* (New Haven, CT: Yale University Press, 1968), 246, 268, 271.

supposed to use military tribunals "where justice can be attained through the medium of civil authority," but they could use them when civil courts abused freedmen or Unionists and when state laws conflicted with federal laws. Still, the army remained nervous as Southern officials tried to arrest and sue U.S. soldiers. Far from defending the army and its officers, Johnson welcomed the Supreme Court's *ex parte Milligan* and *Garland* decisions in 1866, which indicated limits, as yet unclear, on the reach of martial law, and the *Cummings* decision in 1867, which ruled the iron-clad oath unconstitutional.¹³

The threatened army was also a weakened and overextended army. As the terms of volunteer enlistments expired, it continued to dwindle. By July 1866 there were only twenty-eight thousand soldiers in the entire South, and eighty-seven hundred of them were in Texas. Grant came to oppose further reductions of the military, but he, as well as Johnson, had initially sanctioned them despite warnings from officers on the ground. As the number of soldiers diminished, rural outposts were abandoned. By January 1866 the number of posts had already been reduced to 207; by September there were only 101. Without cavalry the troops could not patrol outside of towns and along rail lines. A Freedmen's commissioner in Texas expressed the basic spatial logic of Reconstruction: "The wrongs increase just in proportion to their distance from the United States authorities." As an army commander complained, it was impossible to stop Southern stragglers and marauders by telegraph. He needed cavalry. The change was particularly stark in the Deep South. There were only five posts in Mississippi by September 1866, five in Georgia, seven in Alabama, and fourteen in South Carolina.¹⁴

These troops were enough to give hope to freedpeople and Unionists but outside of the towns not enough to provide protection. Congress, concerned about both the cost of the military and the longstanding American fear of a standing army, debated the size of a new permanent force. The compromise army bill that resulted did not produce sufficient soldiers to provide garrisons everywhere needed in the South and the West, and for coastal forts. There would be ten cavalry regiments, two of which would be segregated black units, and forty-five infantry—four of which would be black and stationed largely in the West. On paper it would be fifty-four thousand men, about three times the size of the army in 1860 and smaller

13. Benjamin Platt Thomas, *Stanton: The Life and Times of Lincoln's Secretary of War*, ed. Harold Melvin Hyman (New York: Knopf, 1962), 473-88, 516-17; Downs, 105-6, 126, 146-48, 156-57; Harold M. Hyman, "Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment," *American Historical Review* 66, no. 1 (1960): 85-93; Thomas, 473-88, 516-17.

14. Downs, *After Appomattox*, 89-91, 103-8, 142, 152, 257-63.

than the number of troops stationed in the South outside of Texas at the beginning of 1866.¹⁵

I

The demobilization of the army gave unreconciled Confederates freedom and confidence. With one hand, the government had passed new laws and assumed new powers; with the other, it had eliminated much of its ability to enforce them. Efforts to create black independence faltered not only because of the conviction of some bureau agents that black people were by nature dependent but also because those who sought to protect black rights often lacked the means to do so outside of the cities and towns. There were too few agents, and there were far too few soldiers to call on to suppress violence and provide necessary aid.¹⁶

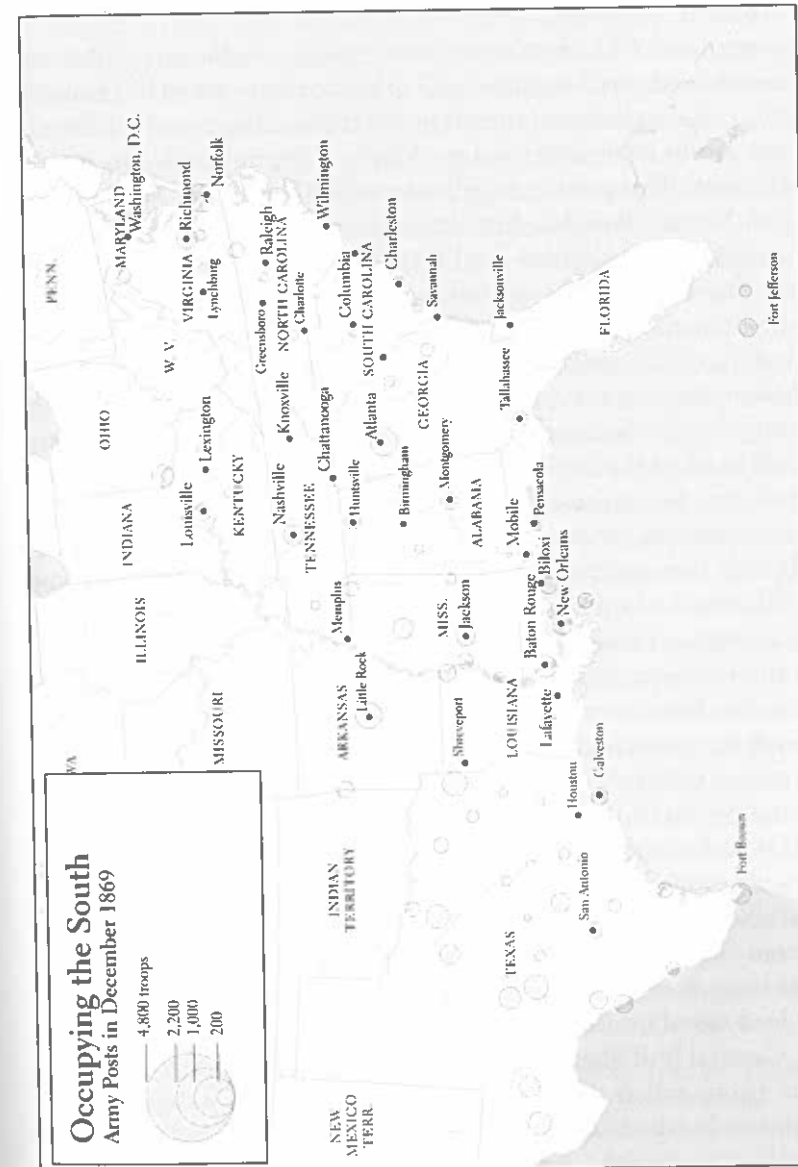
The bureau was typical of the federal government's administrative apparatus in the wake of the Civil War. On paper, it was powerful, with a sweeping mandate and the legal means to enforce it. On the ground, it was understaffed, underfinanced, and incapable of achieving its goals. Hugo Hillebrandt, a Freedmen's Bureau agent in North Carolina, lacked neither courage nor conviction. Born in Hungary, he had fought with Lajos Kossuth in the Hungarian Revolution, joined Garibaldi's Italian Revolution, and enlisted in the Union Army. Wounded at Gettysburg, he joined the Freedmen's Bureau in 1866. He found himself largely powerless as whites stole horses and mules from freedmen. Hillebrandt commanded four soldiers with no horses. When in May 1866 a freedwoman traveled to his office in Kinston to report the murder of a Union soldier nineteen miles away, Hillebrandt, who had been warned not to proceed without adequate force, could do nothing except let the body rot in the road.¹⁷

Without troops to overawe them, guerrillas and outlaws became more aggressive. In rural areas across the Deep South the withdrawal of troops was the prelude to violence and chaos. Southerners burned churches, shot isolated soldiers, and killed hundreds of freedpeople. In response

15. Downs, *After Appomattox*, 132–33, 141–45, 152–53.

16. Foner, 190; Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South, from Slavery to the Great Migration* (Cambridge, MA: Belknap Press of Harvard University Press, 2003), 155; Downs, 145; Perman, 43, 99–100, 135–36.

17. Gregory P. Downs, *Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861–1908* (Chapel Hill: University of North Carolina Press, 2011), 90–98.



Map adapted by Geoff McChes from Gregory P. Downs, *After Appomattox*; Basenaps: Minnesota Population Center; National Historical Information System; Natural Earth Data.

black refugees fled to garrisoned cities and towns while other freedmen, particularly in places with Union veterans, organized for self-defense. Black dockworkers in St. Augustine, Florida, armed and created what whites called a secret military organization. Elsewhere, in Jackson County, freedmen armed to protect a school.¹⁸

The movement of black refugees into the cities both during the war and after increased racial tensions and produced new waves of violence. In Memphis clashes between mustered-out black soldiers and the largely Irish police led to a confrontation on May 1, 1866, in which two policemen were shot. The police, supplemented by largely Irish mobs, descended on South Memphis, first singling out black men in uniform—current or discharged soldiers—and then killing blacks indiscriminately. In ensuing days the rioting spread back into Memphis proper. Gen. George Stoneman, in charge of the Union garrison, refused to intervene, although some of his subordinates did, largely ineffectually. For three days white mobs, with police and firemen as their core, attacked blacks, torching freedmen's schools and churches, killing, and raping. They invaded a shantytown housing the families of black soldiers. Forty-eight people died. All but two were blacks, and a large swath of black Memphis lay in ruins. No one was indicted; no one was punished.¹⁹

A little over two months later, violence ripped through New Orleans. Ex-Confederates had won the 1866 local elections in which blacks could not vote. Louisiana Radicals called a convention in New Orleans with the goal of enfranchising blacks and disenfranchising "rebels." The New Orleans police force, consisting largely of Confederate veterans, plotted to break up the convention. On July 30 the police and a white mob attacked a march of twenty-five convention delegates and two hundred supporters, mostly black veterans. The police and white mob were well armed; the Radicals were not. When the mob invaded the convention hall, they denounced the American flag as "a dirty rag" and ignored the white handkerchiefs the white Unionists waved as a sign of surrender. They beat to death or shot any black man they could seize. A carpetbagger described how, as a wagon carried away corpses one of the black men thought dead raised himself up, only to be shot through the head by a policeman. General Phil Sheridan, in charge of the occupation of Louisiana as well as Texas, called it an "absolute massacre by the police... perpetrated without the shadow of necessity." By the time federal troops drove off the police, thirty-seven people, all Radicals and thirty-four of them

18. Downs, *After Appomattox*, 145–46.

19. Stephen V. Ash, *A Massacre in Memphis* (New York: Hill & Wang, 2013): for tensions, 42–54, 62–86; for outbreak, 93–99; for riot, 100–58; for toll, 180–82.

black, were dead. Johnson would defend the New Orleans authorities and blame the riot on the Radicals.²⁰

The slaughters in Memphis and New Orleans shocked the North both because of the carnage and because of their snarling challenge to federal authority. These were not attacks by nightriders; police led the crowds. Southern governments created under Presidential Reconstruction seemed little more than progeny of the Confederacy and children even more brutal than their parent. The Radicals used the violence to persuade the Northern electorate of the need for occupation of the South and the necessity for the Fourteenth Amendment, guaranteeing black civil rights.²¹

The Republicans had proposed the Fourteenth Amendment to the Constitution to enshrine the Civil Rights Bill of 1866 in the Constitution itself. They wanted to protect it from the Supreme Court and future congresses, a particular danger since the end of slavery meant the demise of the three-fifths clause, which would add a million and a half people and twenty congressional seats to the South's total. Unless black people could vote, those seats would probably be overwhelmingly Democratic. Politically, the Republicans also needed to provide a route to eventual peace as an alternative to Johnson's April announcement that organized resistance had ceased everywhere but in Texas. Johnson had not rescinded martial law or restored habeas corpus. His proclamation was purely for political and rhetorical effect.²²

The struggle to ratify the Fourteenth Amendment would continue into July 1868, but its critical framing came in the spring of 1866. The Republicans were divided. Stevens wanted the amendment to enfranchise blacks and strip leading rebels of political rights, but Republicans had not forged a consensus on either. They were also divided over whether suffrage should be extended to women, as a petition presented by Susan B. Anthony and Elizabeth Cady Stanton demanded. As finally approved by Congress, the amendment did not include black suffrage, but it sought to exact a price for treason. All those Confederates who had served in federal or state governments or in the military before the war and had taken an oath to uphold the Constitution were made ineligible for political

20. Foner, 261–64; George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (Athens: University of Georgia Press, 1984), 51–56; Paul Andrew Hutton, *Phil Sheridan and His Army* (Lincoln: University of Nebraska Press, 1985), 22–23.

21. In the case of Louisiana, the government had been created under Lincoln's wartime Reconstruction. Foner, 264; Perman, 209–28; Carole Emberton, *Beyond Redemption: Race, Violence, and the American South after the Civil War* (Chicago: University of Chicago Press, 2013), 50–51; Downs, *After Appomattox*, 149.

22. Foner, 253–61; Downs, *After Appomattox*, 127–28.

office without a two-thirds vote of Congress. The proposed amendment also torpedoed Southern plans to have the United States assume the Confederate debt and pay pensions to Confederate soldiers. Both would now be unconstitutional. At the same time, it ensured the payment of the Union war debt. Stevens guaranteed that ratifying the amendment would be a necessary but not sufficient requirement for the readmission of the Confederate states into the Union. If any state attempted to abridge the suffrage of male voters, except for crimes or participation in the rebellion, then it would lose a proportional amount of its representation in Congress.²³

The broad principles of the Fourteenth Amendment were clear. The Republicans sought to abrogate judicial interpretations of the Constitution that, in the name of federalism, had limited the extension of a uniform set of rights applicable to all citizens everywhere in the Union. Congress intended the new amendment to extend the guarantees of the Bill of Rights so that they protected citizens against actions by the states as well as by the federal government. The equal protection clause was supposed to ensure that no state discriminated among its own citizens or against the citizens of another state. The amendment would protect both new black citizens and white Unionists in the South. The Republicans desired a national citizenship with uniform rights. Ultimately the amendment was Lincolnian: it sought, as had Lincoln, to make the sentiments of the Declaration of Independence the guiding light of the republic. It enshrined in the Constitution broad principles of equality, the rights of citizens, and principles of natural rights prominent in the Declaration of Independence and in Republican ideals of free labor and contract freedom.²⁴

Still, Stevens was disappointed. He thought it patched "up the worst portions of the ancient edifice" rather than freeing all American institutions "from every vestige of human oppression." He regarded the amendment as an imperfect proposition, but he accepted it "because I live among men and not among angels." He believed that events were moving in his direction and more would be possible later. War powers remained

23. Michael Kent Curtis, *No State Shall Abridge: The 14th Amendment and the Bill of Rights* (Durham, NC: Duke University Press, 1986), 83-91; Perman, 209-28; William E. Nelson, *The Fourteenth Amendment: From Political Principle to Judicial Doctrine* (Cambridge, MA: Harvard University Press, 1988), 45-46, 57-58; Foner, 253-63.
24. Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge: Cambridge University Press, 1998), 55; Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York: Random House, 1998); Curtis, 70-77, 80-81, 86-89; Nelson, 64-90, 110-11.

in force, Southern delegates had not been seated, and the next Congress might go further.²⁵

The Southern violence that helped Republicans sell the Fourteenth Amendment undercut Johnson's attempts to legitimize the new Southern governments and to form a coalition to counter the Radical and moderate Republicans. The National Union Convention that gathered in Philadelphia in mid-August in the wake of the riots represented Johnson's attempt to join Southern conservatives with northern Democrats and conservative Republicans to form the basis for a new political party. But the convention only clarified the disunity among conservatives. There would be no new party, instead just a pledge from those in attendance to offer support for candidates in either party who would support Johnson. Despite the failure of the convention, Johnson decided to stake his political future on the congressional elections of 1866. He would campaign against the Radicals.²⁶

At the heart of Johnson's fall campaign was his bitter opposition to the Fourteenth Amendment. He pushed hard to restore power to the South before it could be ratified and take effect. In October the governor of Virginia requested surplus federal arms to equip his reactivated militia composed largely of Confederate veterans. Johnson acquiesced over Grant's objections, further alienating Grant and the army. In order to gain greater control over the army, Johnson schemed to send Grant off as ambassador to Mexico and to remove Secretary of War Stanton from office. Grant, Stanton, and Johnson became afraid to turn their backs on each other. Grant refused to go to Mexico and was far too popular for Johnson simply to dismiss. Stanton mistakenly feared Grant was double-crossing him and would betray him and side with Johnson. Stanton grew increasingly sympathetic to the Radicals and backed the Fourteenth Amendment that Johnson opposed.²⁷

II

When whites in 1865 warned the freedpeople that there was a big difference between freedom and independence, they highlighted a fundamental struggle that raged from the first days that the ex-slaves seized their freedom. It was a struggle of small daily battles that can be lost sight of amidst the larger political battles of Reconstruction. The contracts that

25. Downs, *After Appomattox*, 130; Foner, 253-55.

26. Foner, 264-68; Perman, 209-28; Downs, *After Appomattox*, 130-31.

27. Hyman, 93-95; Trefousse, 257; Thomas, 499-507.

the Freedmen's Bureau offered were a step up from slavery, but they were not independence from the dictates of white people, which freedpeople craved. Contracts still consigned black people to gang labor in fields even if, unlike the Black Codes, they seemed to make that labor consensual. The ex-slaves did not get the land they expected at Christmas of 1865 or in 1866, and those who had gained land lost it, but this did not change their determination to avoid the coerced field labor that had defined slavery for most of them.

White Southerners fixated on forcing black people into field labor because the cotton economy seemed to depend on it, but also because they considered such labor suitable to the nature of black people. In the immediate wake of the war, black people starved, sickened, and suffered horrific violence—and tens of thousands died. Southern whites and many Northerners did not consider this primarily a result of Southern persecution or failures of Northern policy. It was a result of the nature of black people, who were not capable of taking care of themselves once free.²⁸

The definition of the nature of black people was critical to their treatment and the resources allocated to them; those who claimed to be able to identify the supposedly innate qualities of black people would in large measure get to determine their fate. Southern whites had long considered black people not only theirs to own but also theirs to define. This did not change with emancipation. A Virginian who told a northern reporter, "No nigger, free or slave, in these Southern States, nor in any part of the known world, ever would work or ever will work unless he's made to" voiced the consensus of the South. The white South remained determined to have blacks continue to be dependent on whites, even as they asserted that the end of slavery erased their old paternalist obligations to slaves.²⁹

The South regarded the lash—the great symbol of coerced labor—and even more extreme violence as the necessary tools of order and prosperity. Without coercion, there would be only poverty and chaos. Radical Republicans, in turn, seized on the whip as the symbol of continued Southern barbarism and defiance.³⁰

28. Jim Downs, *Sick from Freedom: African-American Illness and Suffering During the Civil War and Reconstruction* (New York: Oxford University Press, 2012), 6–8, 14–17.

29. 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), 11; Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery* (New York: Knopf, dist. Random House, 1979), 363; Laura F. Edwards, *Gendered Strife & Confusion: The Political Culture of Reconstruction* (Urbana: University of Illinois Press, 1997), 33.

30. Emberton, 40–45.

Radical Republicans—black and white—presumed that black men and white men shared a common nature, and that centuries of slavery, the disruption and havoc of a long war, and the misery of hungry, sick, and desperate people would all burn off like a morning fog if black men could be men. Being male was mere biology; being a man meant protecting and supporting a wife, family, and home. A Thomas Nast drawing turned into a lithograph by the print shop of King and Baird in Philadelphia in 1865 captured the iconography of black freedom, black manhood, the home, and the actual desires of freedpeople. Nast contrasted scenes from slavery and freedom that he alternated around the lithograph's borders, but the centerpiece, overlapping with a smaller portrait of Lincoln, was a family at home that was indistinguishable except for the color of its occupants from portrayals of white families. A black father sat surrounded by his wife, children, and mother. He was presumably the same father portrayed as soldier and wage earner on the picture's borders.

The Nast lithograph, seemingly so clichéd and sentimental, actually undercuts a set of easy assumptions about Gilded Age Americans, black and white. To a greater degree than later Americans appreciate, they thought in terms of collectivities rather than individuals. They imagined their society as consisting of families, congregations, the wide



In *Emancipation* Thomas Nast positions the home as the goal and reward of ex-slaves following the Civil War. The drawings on the margins trace the history of black slavery and freedom; the centerpiece is the reward, the black home. Library of Congress, LC-DIG-pga-03898.

array of voluntary organizations who had massed for Lincoln's funeral processions. They gauged the success of an economy, and a life, more by its ability to produce homes than its ability to produce wealth. Americans gendered the home as a female space, but they also defined manhood around a very simple test: the ability to maintain and protect a family home.

The question—contested by Southern whites, freedpeople, and Northern whites alike—was whether a portrayal such as Nast's was a foolish fiction or the emerging reality. Were the freedmen, in fact, men? Freedmen asserted their manhood, but George Fitzhugh, a leading Southern intellectual speaking for the South, denied it. Fitzhugh had been one of the most extreme, effective, and clever defenders of slavery before the war, and he skillfully attacked the freedmen by attacking the Freedmen's Bureau, which he described as a "Negro Nursery." He claimed that the Republicans were acknowledging what the slaveholders had long known: "we told them the darkeys were but grown-up children that needed guardians, like all children." In compelling the freedmen to work and in taking care of their needs, the agents of the bureau had merely replaced the old masters. To be citizens, he argued, the freedmen "must first be made men, and the Bureau is a practical admission and assertion that they are not men."³¹

Fitzhugh's attack played on the fears of both Northerners, who suspected that the freedpeople were naturally dependent, and those of freedpeople, who suspected that the bureau's agents were at the time acting as if they had replaced the old masters in enforcing black dependency. The bureau often did internalize the slurs of white Southerners. Compelling black people to do field labor became a primary task of bureau officials, who worried about black reliance on federal aid. Real emancipation involved a freedom from idleness and vagrancy, which only work could secure.³²

Dependence was real. The suffering of freedpeople in the wake of the war had made many of them reliant on federal aid, but in this they were no different from white refugees. Still, this was charity, and to many bureau officials a reliance on charity was a form of slavery because it rendered its recipients dependent. Even though in some places, such as Alabama in 1865 and 1866, far more whites drew rations from the bureau than blacks, and even though over the life of the agency roughly a third of

31. Emberton, 65; Downs, *Sick from Freedom*, 72–74; Downs, *Declarations of Dependence*, 1–14.

32. Paul A. Cimbala, *The Freedmen's Bureau: Reconstructing the American South after the Civil War* (Malabar, FL: Krieger, 2005), 40–44, 64; Edwards, 25, 45–54, 66–67.

all rations went to Southern whites, the bureau's agents were fixated on black dependency.³³

The worst bureau contracts did deny independence and represented an implicit denial of black manhood, but such contracts did even more harm to women, particularly single women with children. One of the agonizing tragedies of slavery was the separation of families through the sale of parents or children; freedom promised to end this, but instead the sundering of mothers and children took new forms. During slavery, masters had welcomed black children in the same way they had welcomed colts and calves, as signs of future wealth. But in the postbellum era, unless they could obtain indentures on them through the Black Codes, employers regarded the children who came with their house servants as nuisances. They either refused to take them in at all or pressured their mothers to send them off to relatives.³⁴

Black women, married or unmarried, most acutely recognized that the new order was not a clear choice between independence and dependence. Freedmen asserted their manhood in the same manner as white men: the ownership of their wives and their labor. They challenged the racial order of the South while accepting and reinforcing its gendered power structure. Freedmen had grasped the essence of the marriage contract and pithily restated it. "I consider her my property," said one North Carolina freedman of his wife. And a Tennessee freedman declared of his wife, "I married her to wait on me." The Freedmen's Bureau usually allowed a married freedman to make labor contracts covering his wife and children since married freedwomen could not make contracts. Freedwomen, understandably, often did not see this as freedom. An anti-slavery feminist, Frances Gage, reported that freedwomen told her, "You give us a nominal freedom, but you leave us under the heel of our husbands."³⁵

Black women often got to choose only between competing patriarchs, but in the Reconstruction South acknowledging black male privilege offered them and their children some protection. Black men began to negotiate contracts with plantation owners for a squad or company, usually made up of relatives. Planters had to make concessions that they did not have to make to individuals. The squads might include women, but

33. Downs, *Declarations of Dependence*, 75–100; Cimbala, 42–43; Noralee Frankel, *Freedmen's Women: Black Women and Families in Civil War Era Mississippi* (Bloomington: Indiana University Press, 1999), 153–54; Michael W. Fitzgerald, *The Union League Movement in the Deep South: Politics and Agricultural Change During Reconstruction* (Baton Rouge: Louisiana State University Press, 1989), 18–19.

34. Frankel, 153–54; Downs, *Sick from Freedom*, 132.

35. Stanley, 48–50.

married women tried to withdraw from full-time field labor. They sought to devote most of their work to creating their own homes and raising their children. When black women delegated the negotiation of their labor contracts to black men to escape the conditions imposed by white men, they still often recognized the dangers of such dependence.³⁶

These negotiations to resist the restoration of forced labor were part of the larger political and social effort of black people to reconstitute in freedom a set of kinship connections, political practices, and voluntary organizations whose roots lay in slave times. Black heads of households sought to command the labor of their wives and children to work on their own crops and maintain their own households. Their resistance to gang labor prevented plantation owners from reassembling their labor forces, but most of the old elite held onto their land. A new system of tenancy and sharecropping emerged. Sharecroppers—who got a quarter to a third of the crop that they produced—and renters, who paid a fixed rent for the land, did the actual farming. Such arrangements represented a compromise between the planters' desire to bind labor to the land and the freedpeople's desire for their own land and autonomy.³⁷

Black sharecroppers and tenants shed the old vestiges of slavery, but they did not escape exploitation. Richard Crump, an ex-slave, recounted the experience of many: "We made crops on shares for three years after freedom, and then we commenced to rent. They didn't pay everything they promised. They taken a lot of it away from us. They said figures didn't lie. You know how that was. You dassent [*sic*] dispute a man's word then." Planters had been labor lords defined by their slave holdings; after the war they had become landlords defined by their land holdings.³⁸

Because independence proved elusive, freedpeople did cultivate ties of dependence, although not in the way Fitzhugh had imagined. That

36. Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860-1870* (Cambridge: Cambridge University Press, 1994), 103-10; Hahn, 66-73, 83; Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge: Cambridge University Press, 2008), 168-71, 179; Susan E. O'Donovan, *Becoming Free in the Cotton South* (Cambridge, MA: Harvard University Press, 2007), 162-207; Edwards, 24-65, 145-83; for a full discussion of black families, sexual relations, and gender relations, see Frankel, 79-118, 146-54.

37. Stanley Engerman, "Slavery and Its Consequences for the South in the Nineteenth Century," in *The Cambridge Economic History of the United States*, ed. Stanley L. Engerman and Robert E. Gallman (Cambridge: Cambridge University Press, 1996), 357. The continuities between black struggles for freedom and autonomy in slave and postslavery times are the theme of Hahn, *Nation Under Our Feet*; Gavin Wright, *Old South, New South: Revolutions in the Southern Economy since the Civil War* (New York: Basic Books, 1986), 84-89, 93-94; Frankel, 64-65, 71-78.

38. Wright, 17-50; Litwack, 448.

the bureau and the army were in retreat in late 1865 and 1866 did not mean they were everywhere without power to which freedpeople could appeal for physical protection and for enforcement of contracts and tenancy agreements. The result was a relationship of dependence at odds with ideals of free labor, manhood, and independence, but very much of a kind with the patronage that defined so much of the era. In action bureau agents often functioned like other Gilded Age politicians. They aided those who could make compelling appeals or could claim obligations.³⁹

It is hard to think of sharecropping and tenancy as a triumph, but in the first years of Reconstruction, as planters first refused to acknowledge the end of slavery and then resorted to violence to coerce freedpeople back into gang labor, they were victories of a sort. These were not the black homes Nast imagined; instead they were part of a more complicated reality in which black families were poised between independence and dependence both on landlords they feared and resented and on federal authorities whose assistance they needed. Freedpeople and white Southerners recognized that this world of tangled and desperate struggles allowed no easy division to be made between dependence and independence. These were distinctions not readily apparent in the tumult of Southern life.

What was developing in the South was a coercive labor system, which although not slavery, was not free labor either. It depended on extralegal violence, coercive laws, burdensome debt relations, and the use of convict labor to limit alternatives. The South was demonstrating that there were routes to capitalist development—both agricultural and industrial—that did not rely on free labor. The beneficiaries of this system—both those denounced as Bourbons and those praised as harbingers of a New South—were not opposed to economic progress. They embraced it; they just realized that they could achieve it without free labor.

III

As the presence of federal troops dwindled in late 1865 and early 1866, the battle between Congress and the president over the next form Reconstruction would take paralleled simultaneous political conflicts within the South. There political organization and organization for self-defense merged. The two were always connected.

39. Downs, *Declarations of Dependence*, 2-13, 76-77, 85-86.

The congressional campaign of 1866 featured a Unionist president who headed a Republican administration campaigning against the majority of the Republican Party. To defeat the Radicals and ensure the rejection of the Fourteenth Amendment, Johnson made a "swing around the circle," traveling from the East through the Midwest. He ended up delighting his enemies and appalling many of his supporters. With each stop, the crowds became more hostile, and Johnson grew angrier. He argued with hecklers, compared himself to the crucified Christ, and found himself abused in the press. To buttress his appeal, he brought along Grant, but this only led to his own speeches being drowned out by calls for the general. To Union veterans like Hamlin Garland's father, "Grant, Lincoln, Sherman, and Sheridan were among the noblest men of the world, and he [Dick Garland] would not tolerate any criticism of them." Grant's presence only made Johnson seem a smaller man.⁴⁰

In the 1860s there was no single election day, and by September when the Republicans carried Maine, the signs of a sweeping Republican victory were apparent. The Republicans carried the country north of the Mason Dixon line, increasing both their majority in Congress and the number of Radicals in their ranks. They rightly considered themselves "masters of the situation." If they stuck together, they could override the president on any legislation that he vetoed.⁴¹

The election of 1866 dashed the hopes of ex-Confederates for easy readmission and also for the rise of a new conservative party, while it raised the hopes of Southern Unionists and freedmen for new state governments under their control. Congress had already turned Washington, D.C., and the territories into laboratories for their policies and had pushed for political equality. Congress had enfranchised blacks in D.C. and made universal manhood suffrage a condition for the organization of new Western territories. The Republicans required Southern ratification of the Fourteenth Amendment if Confederate states were to be considered for readmission to the Union. Only Tennessee accepted these terms and reentered the Union in 1866. In the remaining ten states of the Confederacy a grand total of thirty-three legislators—or about three per state—voted in favor of the amendment. Southern conservatives, for lack of alternatives, embraced "masterly inactivity." They refused all compromise and waited for the Republicans to collapse. Congressional Democrats from the North sought to expedite that collapse by exacerbating

40. Trefousse, 264–65; Downs, 164–66; Hamlin Garland, *A Son of the Middle Border* (New York: Grosset & Dunlap, 1928), 8.

41. Trefousse, 267, 271; Foner, 265–72; Perman, 248–49.

Republican divisions. They sometimes sided with the Radicals to pass measures that they thought would prove disastrous and hasten the end of Republican rule.⁴²

The Republicans of the new Fortieth Congress responded by retreating to their caucus to work out their divisions before a bill came to the floor. When they succeeded, their two-thirds majority allowed them to reduce the president of the United States to little more than a legislative nuisance. But governing involved more than legislating. Johnson still retained his power as commander-in-chief, and the army was critical to the plans Congress contemplated for reconstructing the South. Johnson also had power over the Freedmen's Bureau, a department he loathed, which was housed in the War Department. Bitter and angry, Johnson moved increasingly closer to the old Southern leadership that he had spent his career opposing. He continued to replace Freedmen's Bureau officials who had Radical sympathies with conservative Southerners.⁴³

To deal with the South, the Republicans in February passed the Reconstruction Act of 1867. Along with the supplementary acts that followed, it became the centerpiece of what was variously called Congressional, Radical, or Military Reconstruction. Like so much of the legislation of the period, it was poorly written and unwieldy but also powerful and consequential. It divided the Confederate South, except Tennessee, into five military districts. The army was to protect freedpeople and Unionists from attacks on their lives and property and to supervise the calling of the state constitutional conventions. Congress required that blacks be able to vote for the delegates to the new constitutional conventions, while the Reconstruction Act denied the right to vote to those who had lost the right to hold office because of rebellion against the United States. Southern Unionists in particular insisted on these provisions to ensure the end of rebel rule. In terms of republican theory, however, they created an uncomfortable exception to the principle of government resting on the consent of the governed. The governments formed under the new constitutions could ratify the Fourteenth Amendment and apply to reenter the Union. Until these new governments were formed, the state governments created under Presidential Reconstruction remained in place, although the military could remove officials for violation of the Reconstruction Act.⁴⁴

42. Foner, 271–72; Trefousse, 264–65; Perman, 229–65; Masur, 272–76.

43. Benedict, 26; McFeely, 291–302; Downs, 146–55; Foner, 271–76.

44. Foner, 276–77; Perman, 269–72.

In some ways, the original Reconstruction Act was the high-water mark of Republican Radicalism and demonstrated the limits of power based on legislation alone. At least on paper, Congress had dramatically enlarged federal power and black rights. In December 1866 only about 0.5 percent of black adult males could vote. In December 1867 the figure rose to 80.5 percent, with the entire increase coming in the old Confederacy. This was sufficient for a group of Republicans, some of them Radicals, who were willing to move toward peace and the readmission of the Confederate states. The fate of Reconstruction in the still-defiant South would turn on access to the ballot and the strength of the new governments that voters would create. Other Radicals, however, led by Sumner and Stevens, did not believe the vote would be sufficient. They worked to maintain war powers, believing only force could protect black voters and civil rights, and they continued to push for confiscation and redistribution as well as integrated school systems. These bills failed. So, too, did their attempt to block an Occupation Bill that set the terms of peace. Peace Republicans set the terms: the Confederate states would have to pass new constitutions with biracial suffrage. There was a caveat. Until they did, war powers remained in force, and Congress had largely, but not completely, wrested control of those powers from the president.⁴⁵

Freedmen began to organize politically well before the Reconstruction Act guaranteed they could vote for delegates to the new constitutional conventions. They had no real alternative to the Republicans. As Douglass put it, "The Republican Party is the ship and all else is the sea." The Union League or Loyal League brought the freedmen on board. In Philadelphia, New York, and Boston Union Leagues were patriotic and patrician men's clubs, but in the South they became secret political clubs affiliated with the Republican Party. In upland Alabama and North Carolina some black men actively participated in Union Leagues organized by white men. But in many of these cases, white acknowledgment of black rights was contingent and partial. White Unionists needed allies against ex-Confederates, but they did not see blacks as their political equals and were not committed to black rights beyond the present emergency. In most of the South, therefore, blacks organized independent Union Leagues.⁴⁶

45. Richardson, 41–52; Foner, 275–80, 307–9; Valelly, 3; Downs, *After Appomattox*, 162–65, 168–74, 178.

46. Downs, *After Appomattox*, 193, 195; Trefousse, 264–65; Hahn, 177–89; Michael Kazin, *American Dreamers: How the Left Changed a Nation* (New York: Knopf, 2011), 66; Fitzgerald, 22–23, 10–16, 47–53.

Black people were new citizens, but they were also longtime Americans with typical American habits. Before the Civil War free blacks had begun to organize into voluntary societies, which ranged from churches to fraternal organizations with the usual accouterments of secret signs and rituals. The enthusiasm of antebellum Northern blacks for fraternal organizations had alarmed Douglass, who had denounced them as distractions from the fight against slavery. After the war, however, voluntary associations provided a foundation for political organization. A parade of freed-people in Mobile on July 4, 1865, featured not only two regiments of black troops, but the Mechanics and Draymen's Association, the Steamboatmen's Association, the firemen's Association, the Benevolent Society, the Daughters of Zion, the Sons of Zion, the Missionary Society, the Young Men's Association, and more.⁴⁷

Fertilized by the Reconstruction Act of 1867, the league grew at different rates in different places. The ability of freedmen to organize often depended on the ability and willingness of northern military officers and agents of the Freedmen's Bureau to aid and protect them. In Alabama, where the Union Republican Congressional Executive Committee, the Freedmen's Bureau, the African Methodist Episcopal (AME) Church, and the occupying army nurtured it, the league blossomed. In neighboring Mississippi, where protection was often lacking, the league withered. Since as the number of soldiers fell army protection was most dependable in cities and towns, league chapters often first took root there and spread into the countryside.⁴⁸

How the Union Leagues operated in different areas of the South depended on demography. In 1870 in South Carolina, Mississippi, and Louisiana black people formed a majority of the population, and in Virginia, Georgia, Florida, and Alabama they formed a large minority ranging from 42 percent in Virginia to 49 percent in Florida. But in all of these states overwhelmingly black counties existed alongside counties with very few black people. The black belt counties of Alabama and Mississippi were originally named for their soil, formed in the shallows of an ancient sea, not their people, but cotton and slavery had concentrated black people there. In areas where blacks formed fewer than 20 percent of the population, Union Leagues were not a threat to white dominance of local politics. Where the population was overwhelmingly

47. Litwack, 465–68, 471; Fitzgerald, 31–33; Hahn, 232–33; Valelly, 36–37; Stephen Kantrowitz, "'Intended for the Better Government of Man': The Political History of African American Freemasonry in the Era of Emancipation," *Journal of American History* 96, no. 4 (2010): 1001.

48. Hahn, 177–89; Fitzgerald, 22–23, 110–16, 147–53; Downs, *After Appomattox*, 193, 195.

black, there was initially little whites could do but complain. But where blacks numbered from one-third to two-thirds of the total population, whites were openly antagonistic, and the Union League was often forced to operate in secret.⁴⁹

Despite white alarm at the growth of the Union Leagues and the resistance of black workers to gang labor, it seemed for a moment in the spring and summer of 1867 that Southern conservatives had learned from the Civil War and would pull back from the violence washing over the South. Men who had rushed into a disastrous conflict now paused on the brink of a second struggle. Some of them urged that the South accept defeat and collaborate with moderate Republicans in seeking an accommodation. The alternatives, they thought, would be far worse. Accommodationists feared that resistance would make Reconstruction so protracted that the cost to whites would exceed the benefits of any eventual success. No matter whether moderates like former governor Joseph E. Brown of Georgia considered policy, expediency, or self-interest, they all counseled accommodation. Wealthy Southerners still feared Radical plans for confiscation of property would be resurrected unless the South cooperated.⁵⁰

The accommodationists, however, had illusions of their own. Convinced of black dependency, they believed that Southern whites knew the ex-slaves, had cared for them, and would look out for them, while Northerners would merely exploit them. But the masters found that their own houses and fields swarmed with Republicans unimpressed with their paternalism. As the Mississippi planter, former Whig, and future moderate Republican governor James Lusk Alcorn observed, "All which our people claim for the influence of the 'old master' on the freedmen is neither more or less than nonsense." With blacks resistant to the appeals of their former masters and most white Southerners dubious about any compromise with Republicans, the movement for accommodation proved stillborn.⁵¹

The political lines in the South hardened. The freedmen, except for those who depended on white patronage or were coerced by whites, were Republicans. The majority of Southern whites were Democrats, but a substantial number of whites in the South attached themselves to the Republican Party. They were willing, at least initially, to defend black

49. Foner, 283-85; Hahn, 180-88.

50. Mark Wahlgren Summers, *The Ordeal of the Reunion* (Chapel Hill: University of North Carolina Press, 2014), 118; Perman, 272-74, 282-84.

51. Perman, 272-74, 282-303; Hahn, 163-64, 198-200, 204; Foner, 291-94.

suffrage, and in alliance with blacks they gave the Republicans a majority of eligible voters in most Southern states, but it was a tenuous and fragile alliance.⁵²

There were two major groups of white Republicans in the South. The first were the so-called scalawags. Most had opposed secession, even if they later fought for the Confederacy. Others had remained Unionists during the Civil War. They had been thickest in the hill and mountain counties of the Appalachians, particularly in Alabama, Tennessee, and West Virginia, which had seceded from Virginia and become a new state. The Alabama hill country, like the border states, had seen a civil war within the Civil War as Unionists and Confederates fought and killed one other. A mutual campaign of murder and terror had continued during Presidential Reconstruction. This bitter legacy had led many Alabama Unionists to make common cause with freedmen. The Alabama Grand Council of the Union League argued that "in the nature of things the black man is your friend. . . . Shall we have him for our ally, or the rebel for our master?" Like the freedmen, they sought a political life denied them before the war.⁵³

The second group of whites who welcomed the black vote was the carpetbaggers (a term that seems not to have gained currency until 1868): Northerners who had moved to the South either as soldiers or seekers of opportunity in the wake of the war. Mostly male, young, and ambitious, carpetbaggers identified their own future with a progressive Republican South. To them, progress meant "free institutions, free schools, and the system of free labor." The search for opportunity led them into politics. They saw their politics as benefiting the freedmen and the freedmen's votes as benefiting them.⁵⁴

Freedmen, scalawags, and carpetbaggers depended on each other. "We must keep together, scalawags, carpetbaggers and niggers," a white Republican in North Carolina said, but the very need to say it meant that the task was challenging. These Southern Republicans had fundamental interests in common, particularly their fear of the old Southern elite, but they did not have all concerns in common.⁵⁵

52. Kazin, 66; Downs, *Declarations of Dependence*, 91; Foner, 283-85; Perman, 269-72.

53. Hahn, 198-200, 204, 208-9; Fitzgerald, 1-28, 42-43; Foner, 298-303; Kantrowitz, 1001; Summers, 286-303.

54. Thomas C. Holt, *Black over White: Negro Political Leadership in South Carolina During Reconstruction* (Urbana: University of Illinois Press, 1977), 3-4, 131, 153; Foner, 295-97, 302, 317-33; Hahn, 205-15.

55. Hahn, 208-9, 251-53; Foner, 348.

Most critically, their economic interests differed considerably. The scalawags wanted debt relief and low taxes. The usual form of debt relief—homestead protection and stay laws—prevented the seizure of land by creditors or tax collectors for debts incurred before 1865. Debt relief, however, would also aid the scalawags' enemies, the rich and heavily indebted planters, while hurting the black rural poor. With the defeat of redistribution, freedmen regarded tax sales and forced sales to pay debts as bringing cheap land onto the market and providing one of the few ways that they could obtain farms. Those black people who had gained freedom before the war, however, often had both some property and white patrons. They did not necessarily share the freedpeople's desire to redistribute the property of their patrons.⁵⁶

Carpetbaggers and scalawags also often opposed each other. Carpetbaggers objected to debt relief because they feared that it would scare off the capital on which development depended. They also wanted state subsidies for infrastructure, particularly railroads. Scalawags, in turn, were skeptical of plans for railroad subsidies because they would raise taxes.⁵⁷

The spread of the Union League provided a first step in a larger Republican effort to control the state constitutional conventions mandated by the Reconstruction Act. Registration of new voters involved political education, and political education produced not just black voters, but black registrars and eventually black delegates. A new political class was emerging. A wealthy Alabamian punned, "The political horizon is darkening."⁵⁸

The state constitutional conventions followed one after another in a narrow period between Alabama's, which met on November 5, 1867, and Florida's convention on January 20, 1868. Only Texas, whose convention did not meet until June 1, 1868, and which did not produce a constitution until the following February, fell outside this window. A second election followed in each state to ratify the constitutions and select officials in the new governments.⁵⁹

56. Holt, 58–61, 69, 128–31; Richardson, 53–57; Summers, 131–32; Michael Perman, *The Road to Redemption: Southern Politics, 1869–1879* (Chapel Hill: University of North Carolina Press, 1984), 31–32.

57. Holt, 3–4, 131, 153; Summers, 126, 131–32; Foner, 295–97, 302, 317–33.

58. Hahn, 191–98, quote, 198.

59. *Ibid.*, 202–15; Peter Kolchin, *First Freedom: The Responses of Alabama's Blacks to Emancipation and Reconstruction* (Westport, CT: Greenwood Press, 1972), 163; Martin E. Mantell, *Johnson, Grant, and the Politics of Reconstruction* (New York: Columbia University Press, 1973), 72–73; "Constitutional Convention of 1869," in

The conventions reflected Republican divisions. The largely white areas of the South elected Southern white men—the scalawags. More heavily black areas elected carpetbaggers and black representatives. The black representatives from urban areas tended to be men freed before the war, many of them of mixed race. In every state but South Carolina, Louisiana, and Florida, white delegates outnumbered black delegates, often heavily. In most states, white Southern Unionists dominated the delegations. Carpetbaggers formed about one-sixth of the total number of delegates.⁶⁰

For all their divisions, scalawags, carpetbaggers, and freedmen usually held to core democratic principles. They mandated universal manhood suffrage, making exceptions only in the case of traitors by denying the vote to leading Confederates. "Manhood and not property or color," as one Virginia delegate put it, was to be the basis of suffrage. The conventions abolished property qualifications and reduced residency qualifications. Principles were clear, but practices tended to be more ambiguous. In Florida and Georgia moderate Republicans, not Radicals, controlled the conventions and passed rules that would confine and limit the influence of black voters. Overall, the constitutions were surprisingly conservative documents.⁶¹

The Republican Party had achieved quick and remarkable success in 1867. It had swept the South and written the new constitutions. But the most astute Republicans recognized that this was but the beginning of the struggle. As Governor William Brownlow of Tennessee observed, "Never was such a conflict witnessed as we are to have."⁶²

The signs of the coming struggle were already apparent. Southern conservatives had never had any real chance to dominate the conventions. Their boycotts of the elections that selected delegates made little difference, but in some states they did have a real chance to reject the new constitutions. Congress had so sloppily drafted the Reconstruction Acts that they required a majority of registered voters, not just a majority of those who actually voted, to approve the constitutions. Abstaining was thus as good as voting no, and suppressing the vote by intimidating black voters promised to pay real dividends. Since the existing governments established during Presidential Reconstruction were to remain in power

A *Handbook of Texas Online* (Austin: Texas State Historical Association). <https://tshaonline.org/handbook/online/articles/nhco6>.

60. Foner, 316–30; Summers, 130–33; Holt, 37–38, 43.

61. Hahn, 212–15; Saville, 156–57; Summers, 133; Foner, 327–33.

62. Foner, 307.

until there was a new constitution, rejecting the constitutions would preserve the status quo with Democrats in control. Even with continuing military occupation, conservatives thought this preferable to being ruled by Republicans.⁶³

The call of Southern conservatives for principled and practical resistance to the new constitutions became inseparable from calls for white solidarity. Calls for white solidarity, in turn, quickly shaded into intimidation of blacks. And when economic intimidation by white employers proved insufficient, they turned to terror.

Many organizations arose to terrorize the South, but the Ku Klux Klan became the most notorious. Founded in Tennessee in 1866, the Klan emerged as the armed wing of the Democratic Party. It struck hard in Alabama and harder still in Mississippi. Klan night riding arose easily out of the antebellum slave patrols. Recruits were easy to find in a countryside full of bitter ex-soldiers inured to violence and unreconciled to defeat, but the Klan seems to have recruited largely from the sons of well-to-do slaveholding families who had lost wealth and standing following the war.⁶⁴

Terror quickly jumped from white attempts to suppress black economic independence to efforts to thwart black suffrage and destroy the Union Leagues. White terrorists assassinated Republican leaders in broad daylight. During October 1866 estimates put the number of black people murdered in Caddo Parish, Louisiana, at forty-two. In Bossier Parish a Negro hunt resulted in the murder of at least 162 freedpeople. Ironically, the success of freedpeople in escaping gang labor made them more vulnerable to the Klan. Scattered tenants and sharecroppers were easier targets than families gathered in what had been old slave quarters. In Mississippi intimidation and terror succeeded in defeating the constitution. In Alabama terror was but an element in a more complicated mix that derailed the constitution.⁶⁵

Terror created a political dilemma for the Republicans. Violence often accompanied American elections. Private militia companies paraded to the polls and partisans brawled. Parties hired thugs to intimidate

63. Foner, 332-33; Holt, 3-4, 35, 73; Perman, *Reunion without Compromise*, 304-12, 328-36.

64. Summers, 147-50; Perman, *Reunion without Compromise*, 340; Michael W. Fitzgerald, "Ex-Slaveholders and the Ku Klux Klan: Exploring the Motivations of Terrorist Violence," in Bruce E. Baker, Brian Kelly, and Eric Foner, eds., *New Perspectives on the History of the South: After Slavery: Race, Labor, and Citizenship in the Reconstruction South* (University Press of Florida, 2013), 143-156; Foner, 329-33; Fitzgerald, *Union League Movement*, 55, 56.

65. Foner, 425-26; Fitzgerald, *Union League Movement*, 55, 56; Summers, 147-50; Perman, *Reunion without Compromise*, 340.

the opposition. But until Reconstruction, violence did not lead to soldiers intervening in elections. Americans elected men with military reputations to office, but the army itself was supposed to remain outside of politics. Terror in the South made the army critical to politics. In the absence of effective state militias, only the army could protect voters and candidates.⁶⁶

Mississippi, Alabama, Texas, and also Virginia failed to reenter the Union in time for the 1868 elections. In the remaining Southern states the Republicans won electoral victories, but these did not always yield the results Radicals and freedmen expected. In Georgia, with the cooperation of Republican moderates, Democrats expelled all the black members from the legislature. They argued, accurately enough, that the law guaranteed blacks the right to vote, but it did not guarantee them the right to hold office.⁶⁷

IV

Johnson's struggle against the Radicals precipitated serious Republican attempts to remove the president from office. The drive for impeachment sprang from Johnson's contest with Edwin Stanton, but it was hard to separate the accusations against Johnson, which were important, from the larger political context. Impeaching Johnson would install a new president and would influence the upcoming 1868 election. Because the country lacked a vice president following the assassination of Lincoln, the 1792 law governing presidential succession would make Sen. Benjamin Wade, as president pro tempore of the U.S. Senate, president of the United States if Johnson were impeached and convicted. Wade was a Radical and already a candidate for the Republican nomination for president. William Dean Howells, who had briefly read law in Wade's Ohio law office, thought him a man not only of "great native power, but of wider cultivation" than most recognized. He had made his reputation by standing up "against the fierce proslavery leaders in Congress with an intrepidity even with their own." Making enemies did not scare him. Many moderates, who hated Wade, feared Johnson's impeachment would give Wade both the presidency and the Republican nomination in 1868. Chief Justice Salmon Chase, who would

66. Thomas, 531; Emberton, 136-62; Downs, *After Appomattox*, 118; Fitzgerald, 51-57, 79-90.

67. Foner, 453-54.

preside over the trial in the Senate, was also from Ohio, and he too wanted to be president. He, too, hated Wade. Wade, for his part, rightly saw Grant as his rival for the Republican nomination, and knew that unless something dramatic happened—such as Johnson's removal from office and Wade's ascension to the presidency—Grant was almost certainly going to be the nominee. Virtually every major politician involved in the trial thus had issues other than Andrew Johnson's innocence or guilt on his mind.⁶⁸

When Congress reconvened after Johnson's interim removal of Stanton, it refused to approve the secretary's dismissal. In January 1868 Stanton reclaimed his office, and when Grant supported him, Johnson felt betrayed. With both Stanton and Grant potential rivals in the presidential election that coming fall, his political future and his desire to end Reconstruction in the South seemed to depend on removing Stanton.⁶⁹

Stanton had originally intended to resign his office once Congress vindicated and reinstated him, but the Republicans urged him to stay. Without military protection, Reconstruction would fail, and Stanton was critical in blocking Johnson's subversion of the Reconstruction Act. Radicals promised to breathe life into the impeachment proceedings should Johnson take any further action against the secretary of war.⁷⁰

Johnson, nonetheless, once more dismissed Stanton and appointed Gen. Lorenzo Thomas—old, garrulous, and ineffectual—as interim secretary of war. When Johnson sent Thomas to inform Stanton of his dismissal, Stanton refused to yield the office. Instead, he went to court. The next Saturday morning Thomas, hung over and hungry, was arrested for violating the Tenure of Office Act, which Republicans had passed to prevent the removal of officials appointed with the Senate's consent until the Senate had approved their successor. Undeterred, Thomas made bail and returned to Stanton's office on Monday. Stanton put his arm around Thomas's shoulder, tousled his hair, and sent for a bottle. They had a few amiable drinks. "The next time you have me arrested, please do not do it before I get something to eat," Thomas told Stanton. He left again. Congress was not so amiable. News of Thomas's appointment created an uproar, and on a snowy February 4, 1868, the House, voting along party lines, impeached Johnson for violating the Tenure of Office Act.⁷¹

68. Hans L. Trefousse, *Impeachment of a President: Andrew Johnson, the Blacks, and Reconstruction* (New York: Fordham University Press, 1999), 156–57; Foner, 333–36; Summers, 136–40; for Howells on Wade, William Dean Howells, *Years of My Youth, and Three Essays* (Bloomington: Indiana University Press, 1975), 93–94.

69. William S. McFeely, *Grant: A Biography* (New York: Norton, 1981), 262–71.

70. Thomas, 583–91.

71. *Ibid.*, 583–91; Foner, 333–34; William Marvel, *Lincoln's Autocrat: The Life of Edwin Stanton* (Cambridge, MA: Harvard University Press, 2015), 439–41.

Much was at stake: the fate of four million freedpeople, the question of who would govern the South, and the constitutional relationship between the branches of government. What should have been high political drama began as comic opera.

Stanton barricaded himself in his office. His furious wife, tiring of the turmoil, urged him to resign and refused to send him the linens and food he requested. He put the building under heavy guard. His partisans saw him as heroic, but his enemies, and some of his friends, regarded him as ridiculous. William Tecumseh Sherman joked that he had less protection when traveling through Indian country than Stanton had in the heavily garrisoned War Department. Others laughed at the guards, telling Stanton no one would dare steal the building now.⁷²

Impeachment went forward because Republican moderates were convinced that a defiant Johnson was illegally subverting the will of Congress and attempting to block the Reconstruction of the South. Southern Unionists, whose political, and sometimes actual, lives rested on the outcome, hated Johnson. Republican anger and frustration initially overcame Republican differences.⁷³

Johnson, as usual, counted on popular support and was, as usual, deluded; his lawyers, most of whom were Republicans and all of whom were very good political tacticians, counted on time and delay. The longer the process took, the more emotions faded, as divisions reemerged and festered. Political rivalries could then shape the outcome. Even when they had passed the Tenure of Office Act, some senators had doubted whether it applied to Stanton since Lincoln had appointed him. While few saw Johnson as anything but impolitic and racist, these were not grounds for removal.⁷⁴

Johnson's lawyers got Johnson to do what he should have done long before: shut his mouth. They banned interviews, speeches, and told him not to testify. As the trial stretched into May, the defense became more confident. Johnson opened behind-the-scenes negotiations with some Republican moderates.⁷⁵

The Senate eventually acquitted Johnson, falling one vote short of the two-thirds needed to convict. Seven Republicans voted for acquittal. They did not put principle over politics; nor did they suffer political martyrdom as a consequence. Most remained prominent Republican politicians.

72. Thomas, 581–94; Trefousse, *Impeachment of a President*, 133–36.

73. Trefousse, *Impeachment of a President*, 131–45.

74. Annette Gordon-Reed, *Andrew Johnson* (New York: Times Books/Henry Holt, 2011), 135–38.

75. Trefousse, *Impeachment of a President*, 146–64; Foner, 335–37; Trefousse, *Andrew Johnson: A Biography*, 317–19.

Andrew Johnson rewarded the most celebrated of them, Edmund Ross of Kansas, with presidential patronage within weeks. Thaddeus Stevens deplored the outcome, but the "Old Commoner" was so sick that his black servants had to carry him around the Capitol.⁷⁶

With Johnson acquitted, the Republican convention nominated Ulysses Grant for president, while the Republicans in Congress moved to buttress their position in the next election by readmitting those Southern states with approved and ratified constitutions. Since ratification of the Fourteenth Amendment was a condition of readmission, that amendment had won the approval of enough states in early July 1868 to become part of the Constitution. But because the Radicals still did not trust the South, Congress drafted the Fifteenth Amendment, which would prohibit states from ever restricting suffrage on the grounds of "race, color or previous condition of servitude." Ratifying it would become a requirement for readmission for those Southern states still under military rule.⁷⁷

With the exception of California, every free state had ratified it. Californians, citing the state's diversity as a danger, objected to any movement beyond white male suffrage. Future Democratic senator John S. Hager described a California population that included "not only... the negro, but the Digger Indian, the Kanaka, the New Zealander, the Lascar, and the Chinese." Ratification did not end the struggle over the amendment and its meaning. Its final version emerged through important compromises, and its text underwent a descent from clarity to ambiguity in order to secure passage. Its ultimate language seems designed to mask disagreements about particulars while preserving agreement on general principles.⁷⁸

In the long run, the critical ambiguity of the amendment was its distinction between citizens and "persons." The framers of the amendment may have meant only to protect the rights of aliens, who were persons but not citizens. This they succeeded in doing, creating a set of constitutional rights for immigrants into the United States even when they were not citizens. But the courts also eventually expanded the definition of person by defining corporations as persons. What this meant and how much of the amendment's guarantee of equal protection under the law

⁷⁶ Trefousse, *Impeachment of a President*, 165–79; Andrew Johnson, 323–27.

⁷⁷ Foner, 338.

⁷⁸ Downs, *After Appomattox*, 127–30, 202–3; Joshua Paddison, *American Heathens: Religion, Race, and Reconstruction in California* (Berkeley: published for the Huntington-USC Institute on California and the West by University of California Press; 2012), 11, 17–18; Foner, 253–55.

rights of due process was owed corporations has evolved, and been disputed, ever since.⁷⁹

Impeachment had failed to remove Johnson, but the amendment he so hated had become law. Impeachment had proved in a different way to become a defining political moment. Of the principals, only Grant would emerge more powerful than before. Thaddeus Stevens died in August 1868. His funeral drew crowds second only to Lincoln's. Following his wishes, he was buried in an integrated cemetery in Pennsylvania. Grant refused to choose Wade as his vice president, and Wade lost his bid for reelection to the Senate in 1868. Grant largely ignored Stanton for months, but then nominated him to fill a vacancy on the Supreme Court. Before the Senate could confirm him, the ravages of Stanton's asthma killed him on Christmas Eve 1869. Chase, who had moved from Radicalism into the Democratic Party in a vain quest for the presidency, did not get the nomination. He died in 1873. Andrew Johnson's political career was over. By his death in 1875 his ironic achievement was secure. He had weakened the Southern Unionists from whom he had sprung and strengthened their conservative ex-Confederate enemies.⁸⁰

After twenty-one ballots, the Democrats in 1868 nominated the wartime governor of New York, Horatio Seymour. They were pushed by New York bankers and financiers frightened that the Democrats would nominate George Pendleton of Ohio. Pendleton was a soft-money man who wished to keep greenbacks in circulation. A return to the gold standard was coming to be a defining issue, splitting both parties along regional lines. Midwestern Democrats distrusted Seymour and his hard-money stance. Their party's choice for vice president was worse. Francis Blair, Jr., came from a corrupt and reactionary Missouri political dynasty tied to Andrew Johnson. Blair shared with Johnson a pathological fear of racial mixing that he thought would produce a "mongrel nation, a nation of bastards." He mistook the opinions of the Blair family for the opinions of the nation and made the Republicans, whom Democrats had been denouncing as revolutionary, seem the party of moderation and stability. Grant ran on the slogan, "Let us have peace," while Blair promised to use the army to restore "white people" to power in the South and disperse the new governments controlled by "a semi-barbarous race of blacks" whose goal was to "subject the white women to their unbridled lust." Even Democrats

⁷⁹ Curtis, 78–80, 117–32; Stanley, 57–58; William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), 9; Nelson, 49–59, 110–11, 116–17; Ruth Bloch and Naomi R. Lamoreaux, "Corporations and the Fourteenth Amendment," working paper, in possession of author.

⁸⁰ Trefousse, *Impeachment of a President*, 180–90; Thomas, 627–39; Foner, 344.

denounced his "stupid and indefensible" actions. The Republicans declared that Seymour "was opposed to the late war, and Blair was in favor of the next one."⁸¹

The campaigns to defeat Radical constitutions in the Deep South proved a dress rehearsal for the 1868 election. The Fourteenth Amendment disenfranchised only the Southern elite who had violated oaths of office. Many of the new Southern constitutions granted suffrage to all eligible ex-Confederates. Georgia, North Carolina, and Florida had no clauses disenfranchising ex-Confederates in their constitutions, and Louisiana had only a nominal one. The vast majority of ex-Confederates could vote. Democratic victories seemed likely if the Democrats could suppress the black vote. White employers redeployed their economic arsenal. The secret ballot was decades away, and employers threatened to dismiss workers who voted Republican. They seized the crops of tenants who attended league rallies. Merchants denied credit to freedmen who voted Republican. To coercion they added terror.⁸²

The election of 1868 in the South was one of the most violent in American history. When white terrorists expanded their attacks from recalcitrant black laborers to black voters, the increase in black self-defense organizations spawned rumors among whites of black aggression. Many white Southerners justified their own violence as preemptive and defensive.⁸³

How this reign of terror developed is apparent in the journals of an extraordinary Southern woman, Ella Gertrude Clanton Thomas. Ella Thomas was from Georgia, and she had been an antebellum Southern belle: rich, beautiful, and well educated. She was so used to depending on the labor of black women that she recalled she had wiped dishes dry only twice in her life before the end of the Civil War. She was thirty-four years old in 1868. Although her husband had bought a substitute to serve in the Confederate Army, he became one of those angry, and often increasingly pathetic, Southern men, who never could cope with the changes and economic losses of the war. Bitter, depressed, and a hypochondriac, he was also incompetent. A business failure in 1868 accelerated his downward slide. His wife was made of sterner stuff. Although embarrassed by financial failures, she accepted emancipation and the outcome of the war. "It is humiliating," she wrote, "very indeed to be a conquered people,

81. Summers, 142–44; Nicolas Barreyre, "Les échelles de la monnaie: Souveraineté monétaire et spatialisation de la politique américaine après la guerre de sécession," *Annales, Sciences Sociales* 69, no. 2 (2014): 454–55; Isenberg, 182; Foner, 338–41.
82. Perman, *The Road to Redemption*, 7–15; for Alabama, Kolchin, 174–75; Foner, 342–43; Fitzgerald, 209–10; Mantell, 132–34.
83. Saville, 222–31; Foner, 337–45; O'Donovan, 342–43; Rable, 68–70; Emberton, 155.

but the sky is so bright, the air so pure, the aspect of nature so lovely that I can but be encouraged and hope for something which will benefit us." Slavery had caused the war, and slavery was wrong. Like the more famous Southern diarist Mary Chesnut, she understood much that escaped her husband.⁸⁴

In the days preceding the election of 1868, rumors spread among the whites around Augusta that armed blacks were coming to burn them out. Such rumors were common across the South. Talk of this and the election dominated Ella's conversations, and she conversed with both whites and blacks. Ella Thomas and the black women who worked as her servants had no official place in politics, but they were immersed in politics. That the freedpeople were overwhelmingly Republican was clear to her. Her young servant Ned told her that "uncle Mac said if he had a son who was willing to be a Democrat he would cut his throat." The freedmen knew the whites were afraid of them; they were equally afraid of white violence. They planned to march to the polls as a company to protect themselves.⁸⁵

In Thomas's diary these days unfolded like scenes in a melodrama, with the action confined to the kitchen, the parlor, and the crawl space beneath the house. In one scene, her husband burst in, his coat covered in cobwebs, and sent Ned off so he wouldn't be overheard. He had been under the house, crawling about trying to hear their black servants' conversations. Alarmed and confused himself, he alarmed and confused the servants by telling them that "they" were coming to burn the house down that night. Ella Thomas didn't eavesdrop on servants. She walked into the kitchen and talked with them. She told them the white people did not want trouble, but would fight. Patsey, one of her servants, replied that she would stand with her husband, Bob, a Radical. Black women like Patsey became domestic enforcers for the Republicans across the South. They steeled men, shaming those who caved to white pressure and abandoning husbands and lovers who voted Democratic. Ella Thomas secretly admired this. She told her black employees that she was glad they were free.

84. Martha Hodes, *Mourning Lincoln* (New Haven, CT: Yale University Press, 2015), 166; *The Secret Eye: The Journal of Ella Gertrude Clanton Thomas, 1848–1889*, ed. Virginia Ingraham Burr (Chapel Hill: University of North Carolina Press, 1990), 1–16; Glymph, 143–45, 179–82.

85. For similar fears, Lou Falkner Williams, *The Great South Carolina Ku Klux Klan Trials, 1871–1872* (Athens: University of Georgia Press, 1996), 19–27; *The Secret Eye*, 293–96; Jonathan M. Bryant, "'Surrounded on All Sides by an Armed and Brutal Mob': Newspapers, Politics, and Law in the Ogeechee Insurrection, 1868–1869," in Baker, Kelly, and Foner, *New Perspectives on the History of the South*, 58–61.

Mr. Thomas overheard this conversation when he was again lurking beneath the floorboards.⁸⁶

Ella Thomas wrote in the privacy of her diary "that I do not in my heart wonder that the Negroes vote the Radical ticket, and to have persuaded them otherwise would be against my own conscience." The right to vote was within their grasp, and who "can guarantee that they will ever have it extended to them again? If the women of the North once secured to me the right to vote whilst it might be 'an honour thrust upon me,' I think I should think twice before I voted to have it taken from me." These were sentiments she dared not utter outside her own household.⁸⁷

On Election Day angry crowds of black men and white men clashed in Augusta. Federal troops appeared, and the police arrested a few black men. This seemed to restore quiet, but then a shot from the crowd killed Albert Ruffin, a deputy sheriff and white Radical.⁸⁸

This violence was mild compared with what occurred elsewhere. In September in Albany in southwest Georgia, the Young Men's Democratic Club had ordered and received five cases of repeating rifles. When 150 freedmen and a few women arrived in Camilla in Mitchell County for a Republican rally, they came en masse for protection with an array of old shotguns, sticks, and pistols for which they lacked ammunition. About half were unarmed. The sheriff ordered them not to enter town with their arms. They refused. The whites who awaited them were deputized and had repeating rifles. They fired at nearly point blank range into the rally on the town square. They hunted the fleeing survivors down with dogs. Shootings and whippings continued for days. At least ten and as many as fifty freedpeople died in the attack and in the days that followed. Black Republicans had a choice: flee, be killed, or vote Democrat. Seymour carried Georgia.⁸⁹

Terrorism also helped carry Louisiana for the Democrats. Armed whites in St. Landry Parish killed as many as 200 blacks in the course of the campaign. The army general in charge refused to intervene, instead warning blacks to stay away from the polls. He rejoiced that the "ascendancy of the negro in this state is approaching its end." A congressional investigation put the state's election toll at 1,081 dead. To counter the violence, General Meade and General Thomas, despite the end of martial law, deployed troops to protect polling places. The troops accomplished enough that

86. Hahn, 227-28; entry Nov. 1, 1868, in *The Secret Eye*, 293-96; Glymph, 152-54, 221, 225; Fitzgerald, 212; Saville, 169-70.

87. Entry, Nov. 2, 1868, in *The Secret Eye*, 296-98.

88. *Ibid.*, Nov. 3, 1868, 298-300.

89. O'Donovan, 260-62; Hahn, 289-91.

terror achieved its goal only in Louisiana and Georgia; elsewhere Grant carried the election. Republican dominance in the North remained largely intact. Grant got a safe 53 percent of the national vote and won the Electoral College vote 214-80.⁹⁰

With the inauguration of Grant, most of the South was back in the Union. Only Virginia, Texas, and Mississippi had not been readmitted. Georgia's readmission would be rescinded when it purged black representatives from the legislature. Reconstruction was hardly over, but it would proceed with reconstructed Republican governments in place across much of the South.

In the wake of the election, Congress in 1869 sent the Fifteenth Amendment to the states for ratification. It ended limitations on the right to vote by "race, color or previous condition of servitude." The requisite number of states ratified it in 1870. Douglass heralded it as the completion of a "grand revolution." It was, however, not the universal suffrage amendment that Ella Thomas privately, and many northern women in the anti-slavery movement publicly, desired. The presence or absence of single words had immense significance. The word "citizens" excluded Chinese since they were ineligible for citizenship. And the absence of the word "sex" from allowable exclusions meant states could deny women the vote, as all but the territories of Utah and Wyoming did. In 1870 in response to the Fifteenth Amendment, the citizens of Michigan made a simple but far-reaching alteration to their 1850 constitution. They struck out the word "white."⁹¹

In seeking to deracialize citizenship, Reconstruction emphasized its gendering. There was not a single set of rights. There was one set of rights for men and another, lesser, set for women. Nothing made this clearer than the ubiquitous marriage contract, which sutured together male authority and female subordination. Legally, women agreed to obey and serve their husbands in exchange for protection. The marriage contract was, however, a unique contract. Under the legal doctrine of coverture the identities of married women were subsumed into those of their husbands. His decisions were her decisions; her property was his property. He was the public face of the family and legally responsible for her and their children. Manhood, legally as well as culturally, meant protecting and supporting; womanhood meant serving and obeying. Because the wife's

90. Mantell, 143-47; Allen W. Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (New York: Harper & Row, 1971), 129, 135; Downs, *After Appomattox*, 206-9; Foner, 342-43.

91. *The History of Michigan Law*, ed. Paul Finkelman, Martin J. Herschok, and Clifford W. Taylor (Athens: Ohio University Press, 2006), 197-98, 444-49; Richardson, 80.

identity, property, and autonomy vanished into that of her husband she could make no further contracts. The marriage contract thus was a contract that took away a wife's right to make future contracts. Although legislatures had softened coverture somewhat in the years before the Civil War and allowed an easier escape through divorce, only an unmarried adult woman had legal standing and full control over her property.⁹²

To the minority of white women who were both liberals and active in the fight for women's rights, this gendering of liberalism was nonsensical, and to women who had long been active in the movement for the abolition, failure to enact universal suffrage seemed a betrayal. White women suffragists had formed the American Equal Rights Association in 1866, but the Fifteenth Amendment divided them. Lucy Stone became a leader of the American Woman Suffrage Association, which supported the extension of the suffrage to black men. Elizabeth Cady Stanton and Susan B. Anthony, who had fought to keep black rights and women's rights linked, opposed the Fifteenth Amendment until women received the vote. They felt betrayed by Wendell Phillips, whose conviction that this was the black man's hour and that women's suffrage was impossible in the present generation, denied them access to funds to campaign for universal suffrage. They thought women's suffrage a real possibility. The debate turned ugly. Stanton contrasted the freedmen's "incoming pauperism, ignorance, and degradation, with the wealth, education, and refinement of the women of the republic." She followed with attacks on immigrants and the working class and argued that it was better "to be the slave of an educated white man, than of a degraded, ignorant black one." Stanton and Anthony formed the National Woman Suffrage Association. Stanton allied herself with George Francis Train, the flamboyant and corrupt promoter of the Union Pacific Railway, who joined racism and women's suffrage even more blatantly than Stanton, and then in 1868 endorsed the Democrats and Frank Blair, agreeing with Blair that suffrage for black men ensured the rape and abuse of white women.⁹³

92. Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, MA: Harvard University Press, 2000), 28, 52–55; Stanley, 10–11.

93. Ellen Carol DuBois, *Feminism and Suffrage: The Emergence of an Independent Women's Movement in America, 1848–1869* (Ithaca, NY: Cornell University Press, 1978), 58–104; Faye E. Dudden, *Fighting Chance: The Struggle over Woman Suffrage and Black Suffrage in Reconstruction America* (New York: Oxford University Press, 2011), 10–11, 153–60; Lori D. Ginzberg, *Elizabeth Cady Stanton: An American Life* (New York: Hill and Wang, 2009), 121–23; Louise Michele Newman, *White Women's Rights: The Racial Origins of Feminism in the United States* (New York: Oxford University Press, 1999), 56–63.

Douglass was pained by Stanton's stance. He advocated a Sixteenth Amendment to give women the vote and praised Stanton personally. But he also argued that the case for black suffrage was more urgent than women's suffrage. "When women, because they are women, are hunted down through the cities of New York and New Orleans; when they are dragged from their houses and hung upon lamp-posts; when their children are torn from their arms, and their brains dashed out upon the pavement; when they are objects of insult and outrage at every turn . . . then they will have an urgency to obtain the ballot equal to our own." Many other advocates of women's suffrage, male and female, took a similar position.⁹⁴

The Radicals were fissuring. As in so many other things, Henry Ward Beecher, the country's leading liberal Protestant, was a flag in the wind. Beecher had a foot—and usually a sister—in both suffrage camps. Before the Civil War, he agreed with his sister Catharine that women were "to act as the conservators of the domestic state." He did not oppose women's suffrage but thought it premature and politically impossible. During and immediately after the war he became an advocate of universal suffrage. He retreated to neutrality when the women's rights movement erupted into its own civil war. His half-sister Isabella Beecher Hooker, who was an uneasy ally of Stanton, seemed to draw him to that side, but Lucy Stone persuaded him to become president of the American Woman Suffrage Association. Briefly there was a hope of reconciliation between the rival associations, but the animosities were personal as well as ideological. Henry's wife, Eunice, disliked Stanton and her ally and Beecher's old associate, Theodore Tilton. She refused to let them in her house. Catharine Beecher publicly opposed Henry's advocacy of immediate women's suffrage and Harriet Beecher Stowe joined her sister in opposition. She wrote her brother, "The man is and ought to be the head of the woman . . ." Voting would undermine women's place in the home. Caught between his sisters, rival organizations, and the deeper ideological crosscurrents they represented, Beecher retreated to his old belief that, whatever its merits, women's suffrage was premature and politically impossible. It became the conventional liberal stance.⁹⁵

It was not just Stanton and Anthony who pulled back from black rights. The Republicans were determined to make Washington, D.C., "an example for all the land." Congress had decreed the vote for freedmen, but as freedmen gained suffrage they demanded full equality. They desired not only civil and political equality, but also social equality: an end to

94. Dudden, 61–87; Ginzberg, 124–25.

95. Clifford Edward Clark, *Henry Ward Beecher: Spokesman for a Middle-Class America* (Urbana: University of Illinois Press, 1978), 197–207.

racial discrimination in schools; on public transport; in theaters, restaurants, and hotels; and in hiring. The resistance they ran into included many white Republicans. They did gain access to Washington's new streetcars and a share of city and federal government jobs, but they were far less successful in integrating schools and in attempts to gain social equality.⁹⁶

The reaction against attempts by black people to gain full equality merged with the reaction against increased taxes and corruption that sprang from the improvements funded by the Republican government of D.C. It was not Democrats but Republicans in Congress who began to restrict black suffrage rights. In 1871 Congress stripped Washington of its right to self-government, making it a federal territory with the chief officials appointed by Congress. Henry Cooke, Jay Cooke's brother, became governor and began a period of elite rule and limits on democratic governance in the name of economic progress. City funds found their way into Jay Cooke's bank. In 1874 the still-Republican Congress went further. It stripped D.C. of even territorial government status. The city would be run by a commission appointed by Congress; its citizens, black and white, lost the vote, while racial discrimination against blacks continued in schools, on jobs, and in housing. The limits of "equality" even among Republicans were becoming apparent.⁹⁷

When he was inaugurated, Ulysses S. Grant became the first American president who had actually resided in the trans-Missouri West. He had been an army officer in California and the Washington Territory before the Civil War. The West had been for him a place of some hope, much greater failure, and ultimately loneliness and depression, which drove him out of the army. When Grant in 1868 embraced the larger goals of Reconstruction—homogeneous citizenship, contract freedom, and a free labor economy—he would apply them to a South that he had helped conquer and to a West that in some ways had conquered him. In his inaugural, he endorsed the Fifteenth Amendment, which granted universal male suffrage for all citizens, as a necessary step toward homogeneous citizenship. Then, to the surprise of many, he turned to Indian policy, writing that "the proper treatment of the original occupants of this land—the Indians—is one deserving of careful study. I will favor any course toward them which tends to their civilization and ultimate citizenship." This was a logical extension of Reconstruction. Whether this was good or bad news for Indians remained to be seen.⁹⁸

96. Masur, 122–72.

97. Ibid., 207–27, 246–55.

98. McFeely, *Grant: A Biography*, 46–48, 289.

3

The Greater Reconstruction

On November 29, 1864, at Sand Creek in the Territory of Colorado, Col. John Chivington, a former Methodist minister, attacked a camp of Cheyennes who thought themselves under military protection. With Cheyenne men absent hunting, Chivington's command slaughtered roughly two hundred Indians, mostly women and children, in a bloody dawn assault that typified American tactics against Great Plains tribes. The Sand Creek massacre ignited war across the central Great Plains, which would continue even as the Civil War came to an end.¹

A mix of antislavery and racism had driven western Republicans to arms during the Civil War, but troops raised to counter the Confederate threat often fought Indians. Chivington had fought Confederates in New Mexico before Colorado Republican Gov. John Evans appointed him to command Colorado's Third Regiment of Volunteer Cavalry, raised in 1864 to counter a perceived Indian threat. In California, Republicans had not originated genocidal wars aimed at the "extermination" of Indians who resisted white occupation, but under Gov. Leland Stanford they had continued them, as well as policies that provided for indenture and forced labor of Indian children. Forced labor officially ended with the Emancipation Proclamation, but unfree labor in California continued longer in practice.²

An attack by American troops on Indian women and children was not how the mythic version of American settlement was supposed to proceed. Troops were not supposed to be involved at all; the Indians, like the bison, were supposed to fade quietly away. John Gast's famous 1872 lithograph "American Progress" portrayed the ideal course of events, drawing on traditional views of expansion. Indians and bison retreated—virtually vanishing

1. Elliott West, *The Contested Plains: Indians, Goldseekers, & the Rush to Colorado* (Lawrence: University Press of Kansas, 1998), 299–307.

2. Stacey L. Smith, *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina Press, 2014), 189–92; Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* (New Haven, CT: Yale University Press, 2016), 299–335.