

THE REPUBLIC FOR WHICH IT STANDS

The United States during
Reconstruction and the
Gilded Age, 1865–1896

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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 & labor
 Jes'ism less than human
 on 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

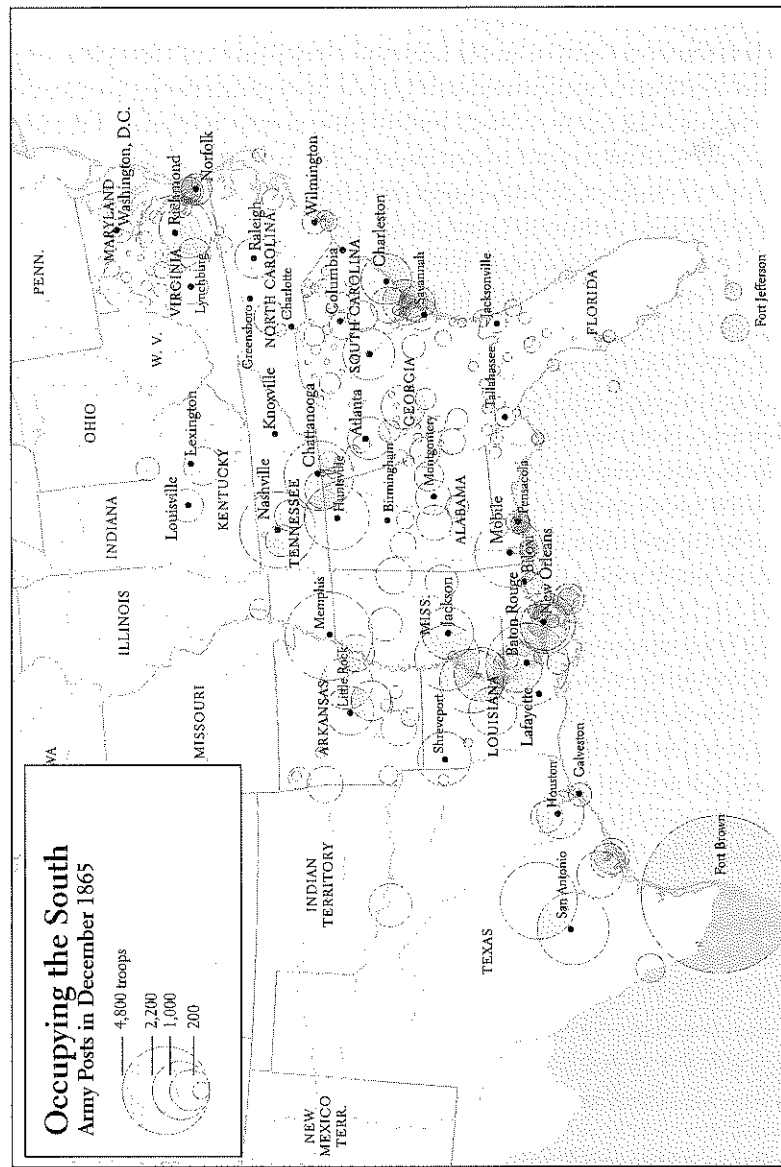
When Lee surrendered, the South was barely occupied by the army and slavery only partially uprooted. Nearly 75 percent of the enslaved remained in slavery. Force had begun the abolition of slavery, and only force could fully end it. In April the Union Army held some eighty towns and cities, but elsewhere 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 McChee 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 re-admitted 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.

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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 wartime 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 freedpeople. 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 possés 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. Coups 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 Emancipation* (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/bluestevens1.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 law suits, 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 n

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, 2

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.

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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

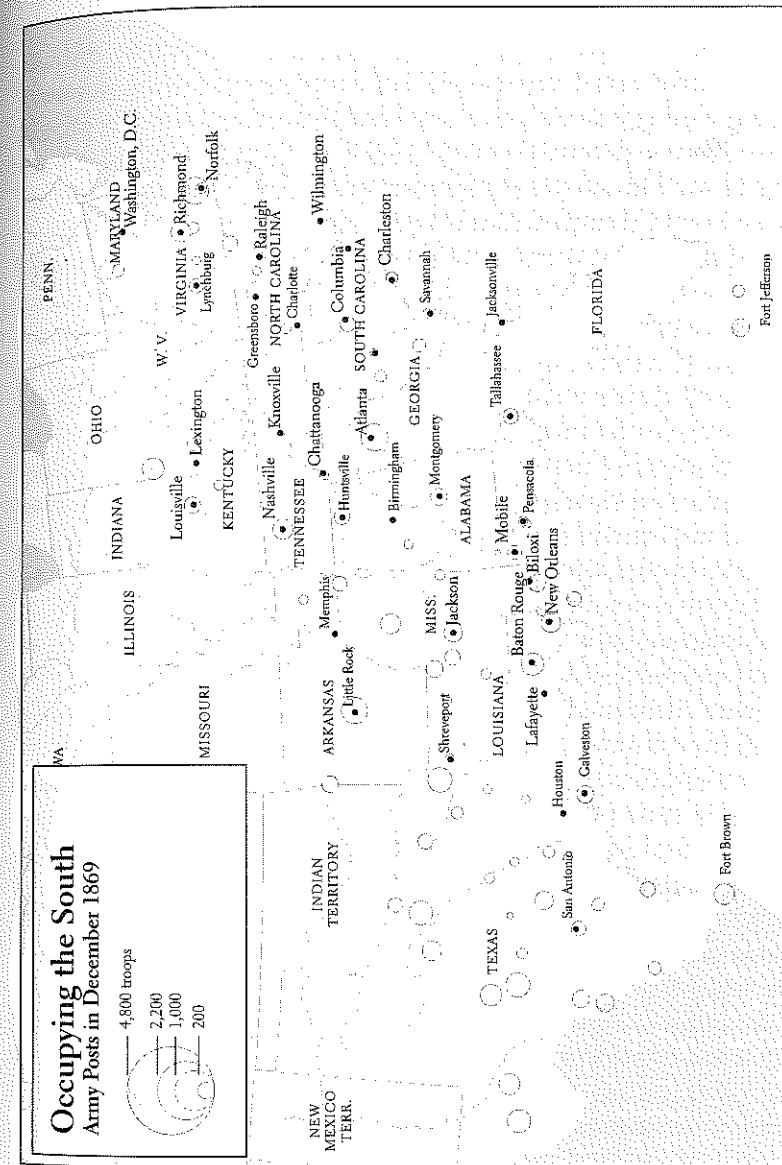
The bureau was typical of the federal government's administrative apparatus in the wake of the Civil War. On paper, it was powerful, with a sweeping mandate and the legal means to enforce it. On the ground, it was understaffed, underfinanced, and incapable of achieving its goals. Hugo Hillebrandt, a 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 McGhee from Gregory P. Downs, *After Appomattox*; Basemaps: 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. 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 war 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 remain

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; Will 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); 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

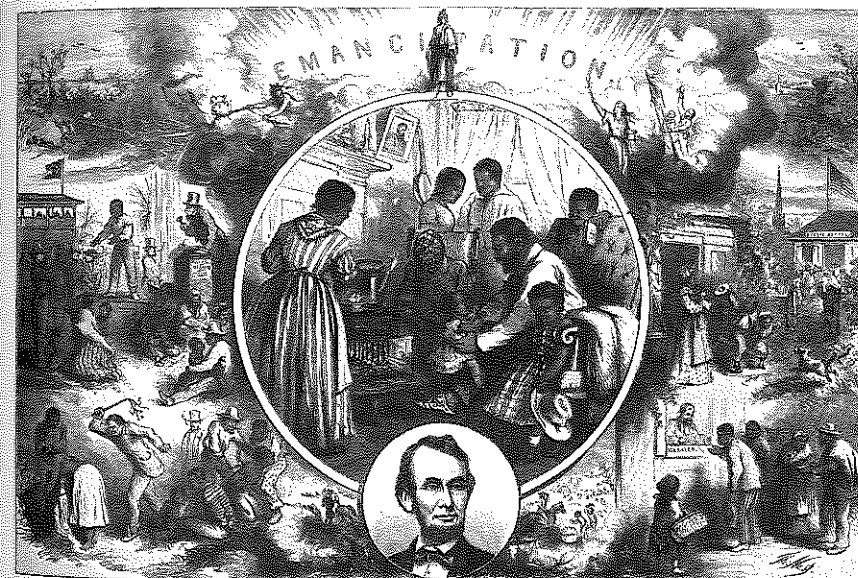
28. Jim Downs, *Sick from Freedom: African-American Illness and Suffering During the Civil War and Reconstruction* (New York: Oxford University Press, 2012), 6–8, 14–17.

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 freedpeople 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; Kantowitz, 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/mhco6>.

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 re-admission 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 "ascendance 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. Hershock, 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's. 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 of slavery, failure to enact universal suffrage seemed a betrayal. White women's 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 Democratic Party 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.



John Gast's "American Progress" (1872) is one of the most famous, and misinterpreted, lithographs in American history. More suited to antebellum ideas about Manifest Destiny than government- and corporate-sponsored expansion after the war, it is notable for what it leaves out. There is no army fighting Indians; the railroad follows, rather than leads. There is no government surveying and giving away land. The towns and cities are in the East rather than springing up quickly in the West. Library of Congress, LC-USZC4-668.

off the print's edge—while white Americans advanced. The American vanguard advanced on horseback and in covered wagons. In the middle ground, farmers plowed the earth, and behind them came railroad trains, and the telegraph. Floating above them all was a female figure draped in a white, diaphanous gown with the star of empire on her brow, a telegraph wire in one hand and a schoolbook, emblem of the public common schools, in the other. The lithograph pictured expansion as a providential folk movement that involved neither armies nor the state. It contradicted the realities of expansion during and after the Civil War.

Congress couldn't wait on Providence. The old expansion was too slow, too limited, and insufficient to save the country in the midst of a crisis. Congress had dispatched troops to conquer Indians and funded state efforts to slaughter them. They overcame the reasonable reluctance of American railroad men to build railroads in advance of actual settlement, and the unwillingness of most American farmers to establish farms in

areas that lacked ready access to markets, by offering subsidies to both. Congress reversed the order of march depicted in Gast's "American Progress." Endowed with federal subsidies, railroads would build in advance of actual settlement. Soldiers, who appeared nowhere on Gast's canvas, would protect them, and the railroads, along with the federal government, would induce settlers to follow.

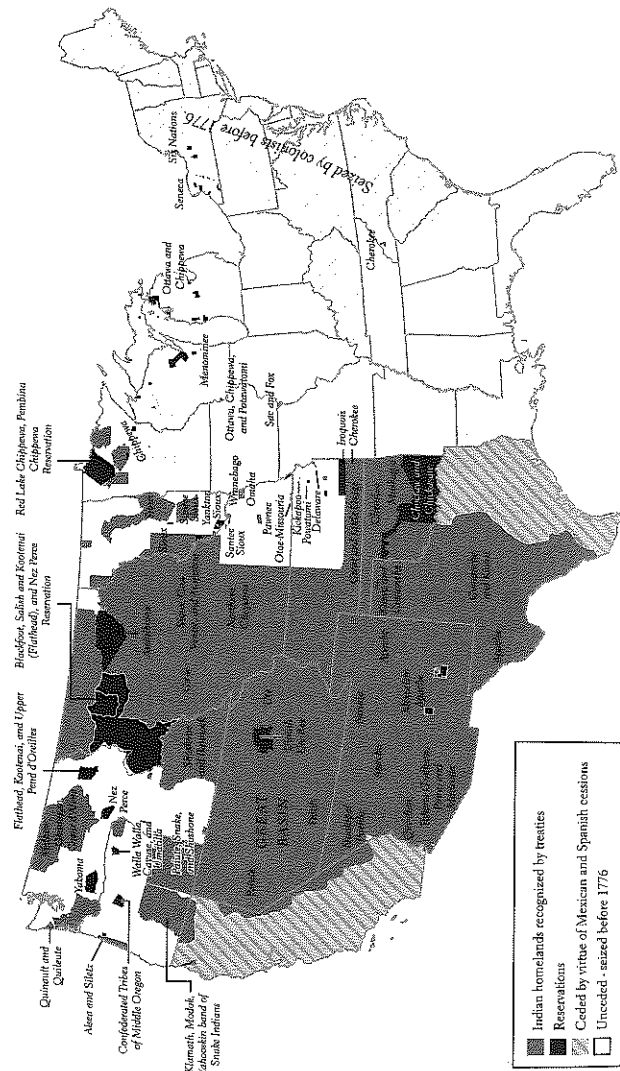
The violence unleashed by the Civil War in the West, like the violence in the South, needed to be mitigated and suppressed. In early March 1865, a little more than a month before Lee surrendered at Appomattox, Congress had responded to chaos and fighting in the West by creating a Joint Special Committee "to investigate into the present condition of the Indian tribes, and especially into the manner in which they are treated by the civil and military authorities of the United States." Committee chair Sen. James R. Doolittle of Wisconsin was a devout Baptist whose beliefs paralleled those of evangelicals drawn to the Freedmen's Bureau. He regarded the Declaration of Independence as the "new gospel of man's redemption," which made the Fourth of July "the birthday of God's Republic." His committee toured the West in three groups; it was the Western equivalent of Northern travelers reporting back from the South.³

The desire for peace and the persistence of war fed both the Western and Southern variants of the Greater Reconstruction, and in both sections Congress sought a blueprint for a new nation. In the West, too, Congress promoted free labor, contract freedom, and economic development that would yield even more American homes. Both Indians and ex-Confederates distrusted and resisted the coming of this new order, but they had little else in common. Confederates had aspired to independence, but they had failed to create a nation. The Indians remained semisovereign nations in treaty relation with the United States. The American struggle with them was imperial rather than an internecine conflict between citizens of the United States.

Northerners blamed the South for the Civil War, but in the fall of 1865 American negotiators at the Treaty of the Little Arkansas—in actuality a set of treaties—admitted that Americans had proved the war through "gross and wanton outrages" that had taken place at Sand Creek. They apologized and sought peace, but they also required access for the railroad and stagecoach lines projected across the southern and central Great Plains. For the next decade, Indian wars and railroads would remain linked. The treaties at the Little Arkansas created immense reservations

3. Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 1: 485–86; West, 299–307.

Indian Lands in January 1864



Sources: Based on data from Claudio Saunt, Sergio Bernardes, David Holcomb, and Daniel Reeves, University of Georgia, "The Invasion of America: How the United States Took Over an Eighth of the World," <http://invasionsofamerica.ehistory.org/>; Minnesota Population Center, National Historical Geographic Information System, Version 11.0 [Database]. Minneapolis: University of Minnesota, 2016 [state boundaries].

carved out of Texas, Kansas, and the Indian Territory (modern Oklahoma), but after Kansas and Texas objected to reservations within their borders, the government excluded that land from the reservations.⁴

During the rest of the 1860s American soldiers, treaty commissioners, and Congressional investigators crisscrossed the Central and Southern Plains, often at cross-purposes with each other. They talked to Indians, fought Indians, chased Indians, and investigated the treatment of Indians. They provoked war as often as they made peace.

War erupted because Americans threatened resources critical to the survival of Plains tribes. As the army reorganized and withdrew from the South, it deployed into the West, creating new posts, most of them small, isolated, and designed to protect the very travelers and railroad construction crews who precipitated conflict. The initial deployments were disasters. Companies sent west in 1865 refused direct orders to fight Indians. They wanted to go home. Three hundred men deserted three Illinois regiments.

The new forts demonstrated how undermanned and overextended the army was. Fort Phil Kearny in 1866 was one of three new posts to protect travelers on the Bozeman Trail, which followed the eastern front of the Rockies from the Oregon Trail to the gold fields of Montana. The travelers threatened some of the last prime bison grounds on the northern plains. The fort, about 150 miles north of Fort Laramie on the Oregon Trail, came under siege from Lakotas under a prominent *Ogle Tanka Un* or war leader, Red Cloud. The Indians cut the soldiers' animals off from the surrounding grasslands and soldiers from the scattered timber they needed for fuel. When Capt. William J. Fetterman marched out of Fort Phil Kearny to rescue a wood cutting party on December 21, 1866, most of his men were on foot because the fort's horse herd was so weakened and depleted. Fetterman had supposedly boasted that with eighty men he could ride through the entire Sioux nation, but his death alongside all eighty of his entire command did not result from his arrogance. It came instead from the deficiencies of a fort without easy access to either wood or grass, and his following the orders he received to cut off the Lakota attackers. Instead, they ambushed him. It was a costly and embarrassing defeat that became grist for rivalries within the army when Fetterman's commander sought to place the blame for the disaster on him. The truth of the fight disappeared beneath a mountain of re-terminations, cover-ups, myth making, and self-serving accounts.⁵

4. West, 308–9; Francis Paul Prucha, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900* (Norman: University of Oklahoma Press 1976), 13–14.

5. For desertions and refusal to fight, see Gregory Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA: Harvard University Press, 2015), 102; Calitri Shannon Smith, "Give Me Eighty Men": Shattering the Myth of the Fetterman Massacre," *Montana: The Magazine of Western History* 54, no. 3 (2004): 44–59.

Fort Wallace on the Smoky Hill River in Kansas provoked a similar conflict that also revolved around travelers, grass, horses, and wood. In creating the fort, the soldiers destroyed a large grove of cottonwoods that gave the river its Cheyenne name, Bunch of Timber. A mountain man, Uncle Dick Wootton, recalled later that the Arapahos and Cheyennes threatened to kill a white man for every tree the whites had cut down at Bunch of Timber. And, he added, "I reckon they did it."⁶

In January 1867 the Doolittle Committee finally issued its report; it was scathing, blaming the fighting on "the aggression of lawless whites." Gen. Winfield Scott Hancock, however, apparently did not read the report. Operating on faulty intelligence of impending Indian attacks, he launched a grandiosely titled Expedition for the Plains that spring. It consisted of eighteen companies of soldiers, including eight companies of the newly formed Seventh Cavalry under Lt. Col. George Armstrong Custer, and an artillery battery. Hancock marched prepared for "peace or war." His intent was to remove Indians "infesting the country traveled by our over-land routes." But the Cheyennes, Arapahos, and Kiowas that he was looking for were in their own country. It was the whites who were invaders.⁷

Hancock found members of the most militant of the Cheyenne warrior societies, the Dog Soldiers, and their Lakota and Arapaho allies on the Pawnee Fork of the Arkansas River. The Cheyennes, with the memory of Sand Creek still fresh, fled. Hancock burned their village. Custer, as flamboyant an officer as any in the army, pursued the fleeing Indians, who left a trail of burned ranches, stagecoach stations, and dead whites along the Smoky Hill River. Tired of fruitlessly chasing Indians, Custer force-marched his men, who did not love him, back to Fort Harker so he could visit his wife, who did. He was court-martialed for being absent without leave, for "conduct to the prejudice of good order and discipline," specifically for taking horses and a large escort so he could conduct private business and for ordering deserters killed on sight without trial, which resulted in the death of at least one soldier. Finally, he was charged with abandoning soldiers attacked by Indians. He was found guilty of all charges, but the sentence proved mild. He was suspended from the army without pay for a year. Grant, as the commander of the army, decided not to refer the murder to a civil court for trial.⁸

6. West, 275–76, 308–10; William R. Petrowski, "The Kansas Pacific Railroad in the Southwest," *Arizona and the West* 11, no. 2 (1969): 129–46.

7. Prucha, *The Great Father*, 485–92; Paul Andrew Hutton, *Phil Sheridan and His Army* (Lincoln: University of Nebraska Press, 1985), 30–33; William Y. Chalfant, *Hancock's War: Conflict on the Southern Plains* (Norman, OK: Arthur H. Clark, 2010), 157ff.

8. T. J. Stiles, *Custer's Trials: A Life on the Frontier of a New America* (New York: Knopf, 2015), 255–57, 273–76, 293–98; Chalfant, 157ff.; Hutton, 30–33.

Congress again tried to put an end to the fighting by establishing the Indian Peace Commission in June 1867. This time the army suspended offensive operations and operated in tandem with the reformers. The government intended the commission to be an exercise in coercive benevolence. The commissioners, some of whom were reformers and some soldiers, were to deal with Indians as members of semisovereign tribes.⁹

The question for the commissioners was not whether the United States would expand into Indian country, but rather how. Their goal was to overcome Indians without the necessity of expensive wars and embarrassing atrocities such as Sand Creek. The immediate requirement was to open up a corridor across the Central Plains that would allow transcontinental railroads already building west—particularly the Union Pacific and Kansas Pacific—to proceed. As the commissioners stated in their final report, "Civilization must not be arrested in its progress by a handful of savages." The West was to be the home of "an industrious, thrifty, and enlightened civilization." The question was one of means and not ends.¹⁰

The Indian Peace Commission was a major step in the Greater Reconstruction of the West, a project that involved a vast spatial rearrangement of a kind that later generations would call nation building and still later generations would call ethnic cleansing. Existing populations would be concentrated and moved; new peoples would migrate into the region. Both involved demarcating a new Western space in a region where jurisdictional, sovereign, and property lines had never been firm. The railroad land grants, the surveying of the public domain, the Homestead Act, and an Indian policy that marked specific tribal territories and then created reservations were all aspects of the new spatial arrangement. The new lines would be drawn in blood. Preparing the way for and building railroads often provoked the Indian wars they were supposed to prevent.¹¹

Advocates of the Peace Commission could appear as "friends of the Indian," because the alternative was on such vivid display. Wars of extermination—genocide—would decline in California following the Civil War, but they continued in the Southwest, particularly in Arizona. Americans, sometimes with the collaboration of the army and sometimes on their own, waged an avowed war of "extermination against the Apaches," a group the *Weekly Arizonian* described in 1873 as "the most

9. Prucha, *The Great Father*, 488–92.

10. Prucha, *American Indian Policy in Crisis*, 20–21.

11. The idea of parallel Southern and Western Reconstructions is one that I have borrowed from Elliott West, particularly in his superb book *The Last Indian War: The Nez Perce Story* (New York: Oxford University Press, 2009); Brian Balogh, *A Government out of Sight: The Mystery of National Authority in Nineteenth-Century America* (Cambridge: Cambridge University Press, 2009), 292.

treacherous, blood-thirsty, implacable fiends that roam anywhere on the face of the earth." The government disavowed extermination. Yet in practice the Peace Commission and the peace policy that followed sought the same ends as army officers who urged violent solutions: the cession of Indian lands, the confinement of Indian peoples to reservations, and their transformation into monogamous Christians who would live like surrounding whites. Outside of California, parts of Oregon, Nevada, and Arizona, this was a program of coerced assimilation rather than extermination.¹²

In October 1867 the commissioners met the Comanches and other southern plains tribes at Medicine Lodge Creek in what is now Kiowa County, Kansas, to negotiate a treaty to replace the failed Little Arkansas treaties. Initially, the large majority of Cheyennes were not present; they were fifty miles away conducting the Massaum ceremony, the most sacred in their ceremonial cycle. The Cheyennes cleansed the Sacred Arrows, among the holiest objects they possessed, and in doing so renewed the world. At Medicine Lodge the commissioners negotiating with the Comanches, Kiowas, Arapahos, and Plains Apaches were outlining a new world of agriculture and reservations. The Indians made clear they wanted no part of it. When it became apparent from the speeches in council that the Indians would not agree to the treaty as presented, the commissioners obfuscated. Given the lack of interpreters and long chains of interpretation through several languages, confusion was inevitable. The government later claimed, and the Indians later denied, that the Medicine Lodge Treaty abrogated the commitments made at the Little Arkansas to compensate the Cheyennes and Arapahos for Sand Creek. When points were in dispute, the commissioners sometimes prevaricated. The Indians living south of the Arkansas River believed they had retained their country and the right to hunt buffalo wherever they found them. They would take the Americans' advice on farming within reservations should the buffalo disappear. These were not, however, the terms of the treaty, and the commissioners did not alter the treaty to reflect the Indians' understanding. The Senate made things worse. Distracted by their battles with President Johnson, senators would not consider the treaty for a year and so the promised annuities were delayed.¹³

When the Cheyennes arrived, the council with them proceeded in much the same way as those with the other tribes, although many of the

12. Madley, 317–59; Karl Jacoby, *Shadows at Dawn: A Borderlands Massacre and the Violence of History* (New York: Penguin Press, 2008), 112–29.

13. Chalfant, 465–90; Hutton, 33–35; West, *The Contested Plains*, 310–11; Prucha, *American Indian Policy in Crisis*, 20, 117.

leading chiefs remained too suspicious of Americans to sign anything. The Cheyennes thought they had agreed only to allow travelers to pass through their territory on overland trails and permitted whites to build the railroads. In return they received annuities and retained the country between the Arkansas and the Platte rivers. The treaty actually deprived them of that country. Capt. Albert Barnitz, who was at the treaty negotiations, had no illusions about the results. The Cheyennes, he wrote, "have no idea that they are giving up, or have ever given up . . . the country north of the Arkansas. The treaty amounts to nothing, and we will certainly have another war, sooner or later, with the Cheyennes."¹⁴

In a sense, the war with the Comanches never ceased, although the Comanches did not regard themselves as at war with the United States. They took the American promise in the Medicine Lodge Treaty of 1867 of the right to hunt below the Arkansas River as an acknowledgment of their ownership of the land and their right to keep Texans out of Comancheria. Comanches appeared at their Indian Territory agency to collect annuities under the treaty and then returned to Texas to raid there and into New Mexico and Mexico. They viewed their relations with the United States as different from their relations with the Texans, Mexicans, and other Indian nations. In 1868 the tacit truce between the army and the Comanches badly frayed, and a Comanche band skirmished with Sheridan's troops.¹⁵

Like the Comanches, Gen. Phil Sheridan in 1867 did not regard Texas as being at peace with the United States; nor was he particularly sympathetic to those Texans who had settled in Comancheria and faced attack from the people they had dispossessed. Sheridan's opinion mattered because he commanded the Fifth Military District, which included Texas and Louisiana. He also had the support of Ulysses S. Grant. As one of Grant's aides put it, the two generals had "the friendship of chieftains." As the government sought peace on the Great Plains in the summer of 1867, simmering controversy between Texas Gov. James W. Throckmorton and Sheridan had come to a head. Their confrontation fed the crisis in Washington, D.C., that would lead to President Johnson's impeachment and helped fuel Grant's election, but just as significantly, it radiated west, illustrating how events in the South and West linked into a Greater Reconstruction.¹⁶

14. Chalfant, 493–501; Hutton, 33–35.

15. Pekka Hämäläinen, *The Comanche Empire* (New Haven, CT: Yale University Press, 2008), 324–25.

16. "James W. Throckmorton," in *Handbook of Texas Online*, <https://tshaonline.org/handbook/online/articles/ftb36>; Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA: Harvard University Press, 2015), 182.

Texas and Sheridan embodied the southern and western variants of Reconstruction. Sheridan disliked both Texas and Texans. He appropriated a joke applied to many places in the United States after the Civil War. Asked how he liked Texas, he replied, "If I owned hell and Texas, I would rent out Texas and live in hell."¹⁷

Freedpeople in Texas could be excused for thinking that Texas was, in fact, hell. According to a Freedmen's Bureau official, they were "frequently beaten unmercifully, and shot down like wild beasts, without any provocation." Ex-Confederates insisted they were provoked, and they listed the provocations: "putting on airs," "sassiness," "impudence," "insolence," and "disrespect."¹⁸

The relentless violence against freedpeople outraged Sheridan, who was a dangerous man to antagonize. Throckmorton opposed the pending Fourteenth Amendment and thought the Texas legislature should have the opportunity to reject the Thirteenth, which was the product of "a parcel of experimenting, humbugging, rascally, fanatical hounds of hell who have served the devil all their lives." He predictably refused to protect Unionists and freedpeople. This was not a promising route for reentering the Union, and Throckmorton became Sheridan's enemy. In his short, brave, and often thoroughly unpleasant person, Phil Sheridan personified the latent power of the federal government, and if any man deserved Phil Sheridan, it was Throckmorton.¹⁹

The violence against freedpeople occurred in many places across the South, but the confrontation between Throckmorton and Sheridan in Texas also involved the deaths of white settlers at the hands of Indians. The Comanches had used the Civil War to reemerge as a formidable enemy of Texas and reclaim parts of their homeland. They raided to rebuild their horse and cattle herds, which compensated for the reduced numbers of bison. As they had for a century, the Comanches took captives in Texas, Mexico, and New Mexico to replenish their own diminished

17. Hutton, 22–25; William L. Richter, "It Is Best to Go in Strong-Handed": Army Occupation of Texas, 1865–1866," *Arizona and the West* 27, no. 2 (1985), 113–42.

18. Hutton, 20, 25; Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery* (New York: Knopf, distributed by Random House, 1979), 278–80; "James W. Throckmorton"; Mark W. Summers, *The Ordeal of the Reunion: A New History of Reconstruction* (Chapel Hill: University of North Carolina Press, 2014), 100–101; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988), 119, 307.

19. The best account of Sheridan is Hutton, *Phil Sheridan and His Army*, 20–25; Edward M. Coffman, *The Old Army: A Portrait of the American Army in Peacetime, 1784–1898* (New York: Oxford University Press, 1986), 238–39; Summers, 99–100; "James W. Throckmorton."

numbers. Throckmorton demanded that the military cease interfering with civil officials in Texas and that Sheridan deploy his troops to protect border settlements.²⁰

Although the Union Army stationed more troops in Texas than in any other Confederate state, they were insufficient to cover all needs. Sheridan had to choose between applying force to protect citizens—freedpeople and Southern Unionists—or to conquer Indians who were resisting invasion from ex-Confederates. He preferred to protect freedpeople and white Unionists. He stated the issue in Texas succinctly: "If a white man is killed by the Indians on an extensive frontier, the greatest excitement will take place, but over the killing of many freedmen in the settlements, nothing is done." Throckmorton appealed to President Johnson, who overruled Sheridan, leading Sheridan, with the implicit support of Grant, to defy Johnson. Using his authority under the Reconstruction Act, Sheridan removed Throckmorton from office in late July 1867. Johnson, in retaliation, removed the "tyrant" Sheridan the next day.²¹

Johnson transferred Sheridan to the West, having him exchange places with General Hancock, who was sympathetic to the president. Hancock had proved better at precipitating Indian wars than winning them, and he was happy enough to leave the Great Plains behind. Sheridan moved to the District of Missouri, part of the larger Department of the Missouri under the command of William Tecumseh Sherman. There, he would shed his reticence about attacking Indians and become the mailed fist of the Greater Reconstruction.²²

Reconstruction in the West involved the same paradox as in the South: the expansion of individualism and contract freedom—hallmarks of a liberalism ideologically opposed to strong governments—under the sponsorship of a newly powerful state. As in the South, the federal government assumed new powers and demanded rapid and transformative change. The federal task was easier in the West. The transformation at the heart of the Greater Reconstruction had begun earlier there, and the U.S. territorial system (which some Radicals had wished to use as a model to reconstruct the South), allowed the president to appoint the governors and Congress to veto acts of territorial legislatures. The territories west of the Missouri River took much longer to transition to statehood than had been the case farther east. This was partially because Protestants feared a Catholic state (New Mexico) and a Mormon state (Utah), and partially

20. Hämaläinen, 312–17.

21. "James W. Throckmorton"; Downs, 142–44, 182–83; Foner, 119, 307; Hutton, 20, 24–25; Richter, "It Is Best to Go in Strong-Handed," 133–34.

22. Coffman, 239; Hutton, 24–27.

because of political rivalries revolving around control of the Senate, but it was largely the result of the slow pace of settlement in the arid and semi-arid West. Congress created thirteen Western territories between 1861 and 1888, but during those years only four—Kansas (1861), Nevada (1864), Nebraska (1867), and Colorado (1876)—joined California and Oregon as Western states.²³

In the West the federal government boldly undertook policies considered too radical for the old Confederacy. Acting as an imperial state against semisovereign tribes, it forced the cession of Indian lands and redistributed them to both individuals and corporations, in effect instituting the land redistribution that was rejected in the South. Congress voted direct federal subsidies to corporations, something they largely refused to do in the South. The army attacked and disciplined noncitizen Indians in ways the government never attempted with citizen Southerners after the Civil War.²⁴

In 1867 American achievements in the West still consisted largely of bold talk. The United States claimed rather than controlled most of the land west of the Missouri River. Most of the Great Plains, the Great Basin, and the Rockies remained Indian Territory, a legal classification for unceded land. Yet conquest had begun. In the Far West only the Modocs, Nez Perce, and Bannocks would mount violent resistance to the Americans in the 1870s. In the Great Plains, Rockies, and the Southwest there was much wider opposition, including the Apaches, Comanches, Utes, Lakotas, Cheyennes, and Arapahos, none of whom had as yet been decisively defeated. American citizens had penetrated the interior West, but their settlements remained ruptures in the much larger expanse of Indian country. By and large only precious metals and wheat, which went by ocean from California, could be profitably shipped to the East and Europe. Indians and non-Indians west of the Missouri lived in a world that, although deeply affected by an emerging industrial order, still relied on human and animal muscles as well as wood for the energy that sustained life. In such things the West resembled northern Mexico, which it blended into, creating a common borderland that neither the United States nor Mexico could fully control, and western Canada, whose borders also existed largely on paper. The West was far more like the *pampas* of Argentina and southern Chile

23. Elliott West has suggested that the Greater Reconstruction began earlier in the West than in the South. Elliott West, "Reconstructing Race," *Western Historical Quarterly* 34, no. 1 (2003): 6–26; Richard White, "It's Your Misfortune and None of My Own": A History of the American West (Norman: University of Oklahoma Press, 1991), 171–77.

24. Prucha, *The Great Father*, 491–92.

than the eastern United States. All would undergo similar transformations during the late nineteenth century.²⁵

Reconstructing this vast territory into a replica of the Northeast and Midwest was made even more daunting by the same limited administrative capacity that hindered the government in the South. The army, as blunt a tool as it was, remained the most effective instrument for achieving the government's ends. In the West as in the South, the presence of the army was the best indicator of Greater Reconstruction's chances of success, and neither region had sufficient soldiers to control events.²⁶

The Civil War Army had been the iron fist of an armed democracy, but the postwar regular army of thirty thousand men managed to be both the American democracy's least democratic place outside of a prison and a reflection of the nation's hardening class divisions and growing inequality. African Americans, immigrants—mostly Germans and Irish—and the poor supplied most of the army's manpower, and they had virtually no chance of advancing into the officer corps. A person did not have to be desperate to enlist in the regular army, but it helped. Men enlisted, as General Sherman observed, during "winters and hard times" and deserted in the spring or while on campaign. Enlisted men's pay might be a refuge in times of depression, but it fell well below civilian wages in good times. Between 1867 and 1891 the annual desertion rate was about 15 percent, with a peak of 33 percent in 1871 and 1872. Courts-martial did not stem the tide. With good reason, ordinary soldiers regarded military justice as an oxymoron. Yet the army paradoxically became a tool of last resort to secure a democracy in the South and extend by force democratic governance at the expense of Indian peoples across the West.²⁷

Except for the ex-slaves, the army was a Northern and immigrant institution, in part because northern cities were where the army opened its recruiting offices. The recruitment of black units proved slow. A few black

25. Benjamin Madley, "California's Yuki Indians: Defining Genocide in Native American History," *Western Historical Quarterly* 39, no. 3 (2008): 303–32; for the Comanches, Hämäläinen, 321–41. Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border* (Princeton, NJ: Princeton University Press, 2011), 50–79; for the fighting following the Civil War, Hutton; for a survey of Western Indian wars, Robert M. Utley, *The Indian Frontier of the American West, 1846–1890* (Albuquerque: University of New Mexico Press, 1984); Benjamin Hoy, *A Wall of Many Heights: The Uneven Enforcement of the Canadian-United States Border* (Stanford, CA: Stanford University Press, 2015), 203–95.

26. Elliott West, whose term the Greater Reconstruction I borrow, has dated the beginning of this larger Reconstruction well before the Civil War. West, "Reconstructing Race," 6–36.

27. Coffman, 218, 220, 224–25, 346–49, 371–81; Kevin Adams, *Class and Race in the Frontier Army: Military Life in the West, 1870–1890* (Norman: University of Oklahoma Press, 2009), 20–24, 156–58.

veterans immediately reenlisted; others returned to the army as they recognized the limited opportunities for black men in the Reconstruction South. After 1869, black soldiers, serving under white officers, made up about 10 percent of the regular army, and black cavalry about 20 percent of its mounted force.²⁸

A rigid caste line separated officers and men. Soldiers were poor when they entered and poor when they left, which was why so many deserters stole and then sold their equipment. Officers were quite literally officers and gentlemen, and the government paid them and granted them privileges that allowed them to live as gentlemen. Promotions arrived with glacial slowness, but deflation increased the real value of officers' wages so even a second lieutenant received a salary that put him in the top 10 percent of Americans in income. Officers read widely, and they wrote: ethnology, natural history, geology, poetry, and fiction. Officers' wives lived at the posts and the officer corps entertained lavishly. Servants, often soldiers, prepared the meals. As Elizabeth Custer, George Armstrong Custer's wife, remembered, "Nothing seemed to annoy my husband more than to find me in the kitchen." Champagne, oysters, ice cream, and fresh vegetables graced officers' tables. Hardtack, beans, and often rancid bacon were the regular fare of enlisted men, who if they did not buttress their rations with their own purchases faced the danger of scurvy. Soldiers received little military training and were notoriously bad shots. They were laborers in uniform—building forts, improving roads, and repairing buildings. Their own barracks were vile, and if they had families, the living quarters around the posts as late as the 1890s were described by the surgeon general as "wretched" and "a disgrace."²⁹

Yet for all its failings, the army was comparatively honest and efficient. It was an armed bureaucracy, which is why the government employed it or delegated its officers at various times to administer Indian reservations, staff the Freedmen's Bureau, police new national parks, conduct geological surveys, and enforce land laws. At the end of the Civil War the government lacked alternative reliable bureaucratic institutions.

28. Coffman, 328–33; Adams, 25–28, 64–72; William A. Dobak and Thomas D. Phillips, *The Black Regulars, 1866–1898* (Norman: University of Oklahoma Press, 2001), 3–24.

29. Coffman, 215–34, 265, 278–79, 305–9, 336–37, 340–46, 350–57; Sherry L. Smith, *Sagebrush Soldier: Private William Earl Smith's View of the Sioux War of 1876*, ed. William Earl Smith (Norman: University of Oklahoma Press, 1989), 7–8, 22–23, 78–86, 106–18; Don Rickey, *Forty Miles a Day on Beans and Hay: The Enlisted Soldier Fighting the Indian Wars* (Norman: University of Oklahoma Press, 1963), 17–32; Adams, 18–20, 38–46, 48–64, 156–57.

I

The weakness of existing federal institutions in the West, the inordinate dependence on the army for basic tasks of governance, and eruption of violence on the Great Plains would have mattered less if Congress had not so greatly expanded the government's ambitions in the West by passing some of the most consequential legislation in American history. In the space of a few years during the Civil War, Congress restructured both the methods and the pace of American expansion. The Pacific Railway Acts (1862, 1864) and other land grant legislation that followed, the Morrill Act (1862), and the Homestead Act (1862), respectively sought to create basic infrastructure over roughly two-thirds of the nation's territory, establish a public university system, and provide free farms for anyone—man or woman, citizen or immigrant eligible for citizenship—who was willing to work the land for five years to gain title. Although most of the elements in these acts had been proposed before, their combination and successful passage was revolutionary. The government abandoned the lingering constraints on American expansion and subsidized the rapid occupation of the remainder of the continent by American farmers, miners, and businesspeople.

Railroad land grants were central to this new dispensation. Deeply in debt and fearing the loss of California and other Western territories to the Confederacy, Congress sought to use land to secure capital to build railroads they thought necessary to hold the West for the Union. It was an audacious gamble, an attempt to use largely unceded Indian lands to subsidize the railroads that would expedite the conquest of Indians while simultaneously spurring the development of Indian homelands by Americans. It spawned Indian treaties and conflicts with the Indians that otherwise could have been postponed.

Congress resorted to taxless finance because it had few other choices if it wanted to build transcontinental railroads in the 1860s. Private capital was unwilling to build them because for those seeking a profit from selling transportation the scheme was mad. So how else could a country that was burdened with war debt and so near insolvency that it was precipitously dismantling its army and endangering Reconstruction in the South embark on a project that demanded large federal subsidies to succeed? By using land grants and federal credit, the promoters of the railroad could secure the necessary capital at no ultimate cost to the taxpayer or the government beyond the price of acquiring the land from the Indians. Taxless finance was the equivalent of the free lunch that nineteenth-century saloons served to attract customers; what the government gave with one hand, it intended to recoup with the other. Just as the price of the lunch

was folded into the cost of the drinks that customers bought, so too the cost of the gift to the railroads would be folded into the ultimate cost of the remaining land.

To understand how taxless finance was supposed to work, imagine a railroad line as the crease in a black-and-red checkerboard. Each of the black squares in the checkerboard corresponded to a section of public land a mile square. The government gave these sections to the railroad company, while each of the red squares remained part of the public domain and available to settlers. For the original Pacific Railway, as the combination of the Union Pacific from Omaha to Sacramento was called, this checkerboard extended ten miles on each side of the tracks. Land grants to other roads stretched even further out from the tracks. The government, however, doubled the price of the red squares from \$1.25—the base rate—to \$2.50 per acre. On paper, the government had lost nothing through subsidies to the railroad; the country had gained railroads, and the railroads, by quickly selling off the checkerboard's black squares, as required in the acts, would promote settlement and raise money to pay back the loans necessary to build the road. Even as formidable a critic as Henry George, eventually the most famous reformer in the nation, initially regarded the logic behind the land grants as "plausible and ably urged."³⁰

Congress was taken with this system, and railroad promoters seeking subsidies lobbied avidly for it. To get aid, railroads gave in return; the promoters were free with stocks and bonds in Washington. Congressmen proved much more likely to see the value of those railroads they had a stake in. Oakes Ames, both a congressman from Massachusetts and a director of the Union Pacific, brushed aside the qualms of colleagues as he proffered shares in the *Crédit Mobilier*, the construction and finance company of the Union Pacific, which was certain to make money no matter what happened to the railroad. "There is no law nor reason," he declared, "legal or moral why a member of Congress should not own stock in a road any more than why he should not own a sheep when the price of wool is to be affected by tariff." Ames's choice of investments was better than his choice of analogies. Just as there were rather transparent reasons a member of Congress should not accept an offer to buy a flock of sheep at a discount and then vote to impose a tariff on wool, there were reasons congressmen

30. For survey, Hildegard Binder Johnson, *Order Upon the Land: The U.S. Rectangular Land Survey and the Upper Mississippi Country* (New York: Oxford University Press, 1976); Henry George, *Our Land and Land Policy*, Complete Works of Henry George (New York: Doubleday, Page and Company, 1904, orig. ed. 1871), 8: 24.

should not accept an offer to acquire stock in a corporation whose profitability depended on the legislation that came before them.³¹

Between 1862 and 1872 Congress gave individual railroads gifts the size of small and medium states. The federal grant to the Union Pacific roughly equaled the acreage of New Hampshire and New Jersey combined. The main line of the Central Pacific got slightly more land than there was in Maryland. The Kansas Pacific, one of the branches connecting with the Union Pacific trunk, had to settle for the equivalent of Vermont and Rhode Island. The Northern Pacific received the equivalent of New England. In all, the land grant railroads east and west of the Mississippi received 131,230,358 acres from the United States. If all these federal land grants had been concentrated into a single state, think of it as "Railroadiana," it would have ranked third, behind Alaska and Texas, in size. The railroads also received state land grants totaling 44,224,175 acres, or an area roughly the size of Missouri, with 33 million acres alone coming from Texas, whose lands were not part of the federal public domain. Finally, cities and towns gave the railroads valuable lands for depots and yards as well as other subsidies.³²

The strongest indication that the logic of taxless finance might be flawed was the refusal of experienced railroad men, who looked to make a profit on the sale of transportation, to undertake the transcontinentals even with the subsidies. They left the Pacific Railway to storekeepers, such as the Big Four who undertook the Central Pacific, and speculators. The owners of the Union Pacific, Central Pacific, and Kansas Pacific hoped to make a killing not by running railroads but by gathering subsidies, insider construction contracts, and financial manipulation.³³

Serious building began only at the end the war. Of the numerous transcontinentals subsidized by Congress, only the Pacific Railway actually extended its lines to the Pacific Coast in the 1860s and 1870s. That it succeeded where other transcontinentals failed had less to do with the skill of its managers than with a second subsidy that only a few railroads received. The government loaned the Pacific Railway U.S. bonds, whose interest the government would pay until the bonds came due and whose principal the government guaranteed. By selling these bonds, rather than their own far riskier bonds, to start construction, these roads operated on state credit.

31. Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York: Norton, 2011), 62–66.

32. I have borrowed this from White, *Railroaded*, 24–25; "Public Aids to Transportation: Volume II: Aids to Railroads and Related Subjects" (Washington, DC: U.S. GPO, 1938), table 13, 29, 111; "Report of the Auditor of Railroad Accounts, House Ex. Doc. 1, 46th Congress, 2nd Session" (1911); *ibid.*, table 13, 113–15.

33. White, *Railroaded*, 1–38.

The grant inadvertently provided a bonus. The legislation was so badly written that the railroads had to pay only simple rather than compound interest, and they did not have pay back either interest or principal for thirty years. To sweeten the deal further, the government took merely a second mortgage, which gave private investors who bought the first issue of the railroads' own bonds priority in collecting the money owed them.³⁴

Railroad land grants and loans of federal credit were simply the first layer in a cake of subsidies to induce Western settlement. The 1862 Homestead Act provided the opportunity for farmers to claim 160 acres of land on the public domain. If a settler worked the claim for five years, he or she would pay only a small fee to gain title. As one congressional advocate put it, the act was suitable reward for "the soldiers of peace—that grand army of the sons of toil, whose lives from the cradle to the grave are at constant warfare with the elements, with the unrelenting obstacles of nature and the merciless barbarities of savage life."³⁵

Giving land to both corporations and settlers might seem to make an oddly layered cake since land given to corporations could not go directly to homesteaders. Congress, however, reasoned that Western lands had little value without the access to markets provided by railroads. And Congress believed that there would be plenty of land left for homesteading outside the railroad checkerboard. In 1867 the public domain contained 1.145 billion acres. Subtracting the railroad land grants (125 million acres), the lands granted or eventually granted to states (140 million acres), and eventual Indian reservations (175 million acres) still left 705 million acres of land for homesteaders.³⁶

Land seemed so abundant because Congress ignored both a popular early nineteenth-century myth about the West that was already in decline—the Great American Desert—and the environmental reality that had helped prop up the myth: aridity. Over much of the West there was not enough dependable rainfall to sustain agriculture without irrigation. The 100th meridian forms an invisible north-south line that roughly divides the lands to the east, on which crops can usually be grown without irrigation, from

34. White, *Railroaded*, 22–23.

35. Benjamin Horace Hibbard, *A History of the Public Land Policies* (Madison: University of Wisconsin Press, 1965), 327–33, 383–85; "The Homestead Act, Free Land Policy in Operation, 1862–1935," in Paul W. Gates, *The Jeffersonian Dream: Studies in the History of American Land Policy and Development*, ed. Allan G. Bogue and Margaret Beattie Bogue (Albuquerque: University of New Mexico Press, 1996), 40–43.

36. Paul Wallace Gates, "The Homestead Law in an Incongruous Land System," *American Historical Review* 41, no. 4 (1936); Paul W. Gates, *History of Public Land Law Development* (Washington, DC: [for sale by the Superintendent of Documents, U.S. GPO], 1968), 395–99.

those on the west, which require irrigation. The line is only a rough one because the climate on the Great Plains is cyclical; periods of drought and years of adequate rainfall alternate unpredictably. Staying east of the 100th meridian did not entirely eliminate danger. Between the 98th and 100th meridians, agriculture was risky but usually successful.

Congress acted as if fertile prairies, arid plains, and scorching deserts were all the same. The same land laws, the same survey grid, and the same set of subsidies extended across the public domain from the Mississippi to the Pacific, no matter the value of the land. In imposing a homogeneous grid on a varied landscape, Congress created a set of fundamentally spatial problems that would come back to haunt the country.

Congress did eventually adjust, but in a way that made things worse. The Homestead Act proved relatively useless in the semi-arid region beyond the 100th meridian, but lawmakers passed additional legislation—the Timber Culture Act (1873) and the Desert Land Act (1877)—to supplement it. Both embodied dreams of environmental transformation, and both enabled considerable fraud. The Timber Culture Act imagined turning patches of the Great Plains into forest and promised 160 acres to anyone planting and maintaining 40 acres of trees in the "western prairies." An 1878 amendment reduced the acres to be planted to 10. The act might better have been called the Fictitious Forest Act. Most of those who planted trees saw them die, and speculators did not bother to plant at all. They claimed to have planted trees in order to hold the land until they could force an actual settler to purchase a relinquishment. Dead trees and trees never planted amounted to the same thing in the end. The General Land Office (GLO) reported large areas with many Timber Culture claims and no trees. The government granted two million acres under the act in Kansas, Nebraska, and South Dakota.³⁷

The land system proved dysfunctional and often corrupt. It granted land to those who did not need it and did not develop it, while denying it to many of those who did need it, but that was not the intent. In the late 1860s the various pieces of legislation seemed to fit together like parts of a jigsaw puzzle. Each would complement others and create a harmonious whole. The key pieces depended on the railroads building quickly, expeditiously disposing of their land grants at low cost, and having the General Land Office efficiently administer the resulting flood of transactions.

37. Donald Worster, *A River Running West: The Life of John Wesley Powell* (New York: Oxford University Press, 2001), 339; Hibbard, 414–20.

II

No pieces in the Western puzzle were more important than the railroads, but the railroads faced conditions that varied widely across the West. The Middle Border, the arid interior, and the Pacific Coast differed in physical conditions and in Indian resistance, and the railroads in each served different functions. The so-called transcontinentals (which were not true transcontinentals since their termini were usually on the Missouri River) had tracks in all three regions, but in many respects they functioned as separate though connected railroads rather than a single line. The St. Louis and Chicago roads of the Middle Border, which linked those cities to the lands east of the 100th meridian, formed the first and most powerful system. The roads along the Pacific Coast constituted a second system. The trunk line of the Pacific Railway that ran between California and the 100th meridian was the third system, which later transcontinentals paralleled and amplified. This third system created the weak link.

In the Middle Border whites already heavily outnumbered Indians. Both settlers and railroads desired Indian lands, and the battle between them created bitter political conflicts to which the Indians became mere bystanders. The corruption of the Lincoln, Johnson, and Grant administrations put the tribes in an impossible position. During the Civil War, Sen. Samuel Pomeroy of Kansas, who provided the inspiration for Senator Dilworthy, "the golden tongued statesman," of Mark Twain's co-authored novel *The Gilded Age*, perfected the device of using Indian treaties to give Indian lands directly to railroads at bargain prices. The epitome of the technique came when James Joy, who acquired the Leavenworth, Lawrence, and Galveston Railroad in 1869, tried to push through Congress an 1868 treaty with the Osage in Kansas that granted the railroad eight million acres of Osage land for twenty cents an acre, nothing down. This treaty came before Congress amidst huge public uproar in 1871.³⁸

White settlers were outraged; they had squatted on the Osage Reservation in the expectation the Indians would be evicted and the land would be theirs. They were right about the eviction. What the squatters did not expect was to have to pay Joy for the land they had seized from the Indians. Among the squatters was the Ingalls family, whose residence in Kansas from 1869 to 1871 inspired Laura Ingalls Wilder's *Little House on the*

38. H. Craig Miner and William E. Unrau, *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871* (Lawrence: Regents Press of Kansas, 1978), 47-48, 116-19, 121-32; Paul W. Gates, *Fifty Million Acres: Conflicts over Kansas Land Policy, 1854-1890* (New York: Atherton Press, 1966), 137-39, 153-93; Mark Twain and Charles Dudley Warner, *The Gilded Age: A Tale of to-Day*, 2 vols. (New York: Harper & Brothers, 1915, orig. ed. 1873), 1: 198.

Prairie. That the Ingalls family was squatting, illegally taking Indian land, was not featured in the *Little House* books.³⁹

Barring overbuilding, railroads east of the 100th meridian would not lack for traffic. The settlement of the Middle Border formed one of the clearest American successes of the 1860s and 1870s, and the railroads were central to it. In 1873 the directors of the Burlington and Missouri claimed that without the B&M the land along its route would have "remained almost an entirely unoccupied territory." This seemed railroad hyperbole, but it was largely true. Railroads were necessary to the settlement of the region; except for lands along the Mississippi and Missouri Rivers, there was no other way to get crops to market.⁴⁰

Most of the railroads, both the transcontinentals and those lines running into Chicago and St. Louis, that actually completed their lines—a major caveat—disposed of their land east of the 100th meridian as the act required. Not only did the law require that they do so, but the railroads needed revenue from land sales and traffic to pay interest on their bonds. Rapid settlement was in the railroads' best interest since all the western railroads were freight roads hauling bulk commodities: wheat, lumber, coal, corn, and livestock. The settlers would produce the grain and livestock and consume the coal and lumber as well as manufactured goods that the railroads carried west. The so-called Chicago Roads—the Burlington system, the Rock Island, the Chicago and Northwestern, and others—became the most powerful in the West. They connected in Chicago with the great eastern trunk lines, the New York Central, the Pennsylvania Railroad, and the Baltimore and Ohio.⁴¹

To ensure settlement, the Burlington, the Kansas Pacific, and others running through Iowa, Kansas, and Nebraska quickly created publicity bureaus to attract settlers. They subsidized newspapermen to write stories boosting the areas through which they ran. They advertised in Europe as

39. Frances W. Kaye, "Little Squatter on the Osage Diminished Reserve: Reading Laura Ingalls Wilder's Kansas Indians," *Great Plains Quarterly* 23, no. 2 (Spring 2000), 123-40; Penny T. Linsenmayer, "A Study of Laura Ingalls Wilder's *Little House on the Prairie*," *Kansas History* 24 (Autumn 2001), 169-85.

40. David M. Emmons, *Garden in the Grasslands: Boomer Literature of the Central Great Plains* (Lincoln: University of Nebraska Press, 1971), 25-46; James B. Hedges, "The Colonization Work of the Northern Pacific Railroad," *Mississippi Valley Historical Review* 13, no. 3 (1926), 311-42; Richard C. Overton, *Burlington West: A Colonization History of the Burlington Railroad* (Cambridge, MA: Harvard University Press, 1941), 388, 455; Gilbert Courtland Fite, *The Farmers' Frontier, 1865-1900* (New York: Holt, Rinehart and Winston, 1966), 28-33.

41. William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: Norton, 1991), 83-93; White, *Railroaded*, 158-59; Scott Nelson, *A Nation of Deadbeats: An Uncommon History of America's Financial Disasters* (New York: Knopf, 2012), 157.

well as the United States. The Kansas Pacific printed circulars and booklets in Swedish, German, Danish, Welsh, Italian, and other languages. The efforts of these roads complemented those of land bureaus established by the states. The railroads charged more for their land than did the government, but the railroads, unlike the government, allowed settlers to buy on credit and provided excursion tours so they could view their potential new homes.⁴²

Following the channels created by the railroads, migrants moved west, hewing roughly to the line of latitude on which they began their journey. In the 1860s, northern New England, New York, Pennsylvania, and Ohio all had more emigration than immigration, with Ohio and New York being the biggest net losers. For the rest of the century every state east of the Mississippi had more emigration than immigration, as did Utah, Nevada, Louisiana, Missouri, and Iowa. Kansas, Iowa, and Missouri received the most immigrants. Iowa, the most dynamic state, held the anomalous position of having slightly more emigrants than immigrants while still ranking third among the states with the most people moving in.⁴³

The problem with the government's subsidies to railroads in the Middle Border was that they were unnecessary. Experienced railroad men saw that freight railroads could yield a profit with or without subsidies; subsidies were a windfall to induce them to build railroads that they would have built anyway. To get the land, they built more quickly. The best evidence for this is South Dakota, which, by historical accident, was the only state in the Middle Border not to get substantial land grant railroads. Nevertheless by the 1880s it had a railroad network as dense as and more efficient than those of neighboring states. There was no need to subsidize railroads that would have been built, albeit more slowly, without subsidies.⁴⁴

If the land grants were not necessary to secure railroads in the Middle Border, then their main effect was to lessen the amount of land available for homesteading. Taxless finance forced farmers to pay for land they would have otherwise gotten for free. Those who did homestead had to take less desirable land further away from the railroad lines or take 80

42. Emmons, 27-30, 104-24; Allan G. Bogue, "An Agricultural Empire," in *The Oxford History of the American West*, ed. Clyde A. Milner, Carol A. O'Connor, and Martha A. Sandweiss (New York: Oxford University Press, 1994), 285-87; Walter T. K. Nugent, *Into the West: The Story of Its People* (New York: Knopf, 1999), 69.

43. Fred A. Shannon, *The Farmer's Last Frontier: Agriculture, 1860-1897* (New York: Harper and Row, 1968, orig. ed. 1945), 38-39.

44. John Hudson, "Two Dakota Homestead Frontiers," *Annals of the Association of American Geographers* 63, no. 4 (1973): 448; White, *Railroaded*, 485-90.

rather than 160 acres in the government land available in the checkerboard. There were other consequences; the rapid settlement stimulated by railroads led to immense amounts of grain and livestock that glutted markets and drove down prices, leading to an agricultural crisis that sporadically plagued farmers for most of the rest of the century. Finally, the withdrawal of land until railroads determined their final route frustrated settlers seeking title, and the rush of settlers into the West overwhelmed the easily overwhelmed General Land Office.

The situation along the Pacific Coast was both similar, in that railroads served a metropolitan center, in this case San Francisco, and different, in that they largely served as feeders for ocean commerce. The Central Pacific and, later the Southern Pacific, were profitable railroads so long as they ferried traffic in and out of San Francisco and other ports on San Francisco Bay. Like the roads on the Middle Border, they certainly profited by the subsidies, but their monopoly over traffic in California until the 1880s made the West Coast lines of the Big Four (who preferred to call themselves "the Associates") lucrative as long as they remained within California. There was no reason for the federal government to subsidize a system that became a hated monopoly and, because of their land grants, controlled land as well as traffic.⁴⁵

The third part of the railroad system was the long stretch between the 100th meridian and the Pacific Coast. This stretch of railroad was instrumental in repositioning the army to the West, in creating the Peace Commission, and in other expansions of federal activity. It deeply influenced events, but it had lost its original rationale before it was ever built. With the Confederacy defeated, there was no longer any danger of California leaving the Union. Nor with the Suez Canal, under construction half a world away, was there any hope of capturing the China trade. Building railroads through remote mountains, immense deserts, and arid plains where there was precious little traffic demanded new justifications.

Indians provided part of the new rationale. In 1867 General Sherman proclaimed the Pacific Railway "the solution of the Indian question." Railroad officials formed a hallelujah chorus. As Grenville Dodge of the Union Pacific later wrote, "Experience proves the Railroad line through Indian Territory a Fortress as well as a highway." That there might be no need to fight the Indians if railroads were not being built into their country went unremarked. The wars railroads helped provoke became justification for their construction.⁴⁶

45. White, *Railroaded*, 162-69.

46. Hutton, 41; White, *Railroaded*, xxiii.

Developing the interior of the continent, always a component of the plan, now took pride of place as an economic rationale for the transcontinentals. The question was, What would railroads carry in the vast expanse between the 100th meridian and the Pacific Coast?

Clarence King recognized an opportunity this question presented. Only twenty-five years old in 1867, but possessed of "supreme audacity," he lobbied for, and obtained, the command of a federal survey to explore the 40th Parallel between the Rockies and the Sierras and catalog the mineral resources along the route of the Pacific Railway. Knowledge became a federal production, and the point of knowledge was development. King might have been the most complicated man in America. Secretive, and eventually leading a double life, he was also paradoxically a genius at self-promotion. While working on the California Geological Survey, he had written sketches of life in the Sierras that he sent to William Dean Howells's *Atlantic Monthly*; they were published as *Mountaineering in California* in 1872. The book remains a classic of scientific adventure.⁴⁷

King's civilian survey formed a small step in the development of the Western bureaucracies that made the West the kindergarten of the American state. It gave the government an administrative capacity that extended beyond the army. The Army Corps of Topographical Engineers had been critical to both the American exploration of the West and the creation of an initial infrastructure of crude roads. Lt. George Wheeler tried to recapture the army's antebellum domination of exploration, but King and other civilian surveys proved formidable competitors. The West proved not to be big enough for both the civilian surveys and the army. In the summer of 1873 surveyors from Wheeler's command and Ferdinand Hayden's Geological Survey met on remote mountain peaks around the headwaters of the Arkansas, duplicating each other's work.⁴⁸

King, Hayden, and John Wesley Powell hitched their careers to the rise of federal power. Along with Powell, King became, as oxymoronic as it may sound, the era's first charismatic bureaucrat. Working first with the California Geological Survey, he climbed mountains and exposed diamond hoaxes. Powell, the reserved scientific amateur in contrast to King's flamboyant man of science, more than matched him in adventure and

47. Martha A. Sandweiss, *Passing Strange: A Gilded Age Tale of Love and Deception across the Color Line* (New York: Penguin Press, 2009), 47–70; William H. Goetzmann, *Exploration and Empire: The Explorer and the Scientist in the Winning of the American West* (New York: Knopf, 1966), 358–89, 435–66; Clarence King, *Mountaineering in the Sierra Nevada* (New York: Scribner's, 1911); Patricia O'Toole, *The Five of Hearts: An Intimate Portrait of Henry Adams and His Friends, 1880–1918* (New York: C. N. Potter, 1990), 33.

48. White, "It's Your Misfortune and None of My Own," 130–35; Goetzmann, 467, 477–88.

attracting the attention of the press. And he outlasted him. The one-armed Union veteran successfully ran the Colorado River through the Grand Canyon in 1869. Ultimately, he would become the most influential federal bureaucrat in the West.⁴⁹

The geological surveys were both a way to justify the railroads and a gift to private development; Congress gave a second gift to miners that was nearly as valuable as the land it gave to railroads. The Land Ordinance of 1785 had reserved "one third part of all gold, silver, lead and copper mines" for the public, and later legislation reserved coal lands and waterpower sites. For all practical purposes, however, the government had abandoned its original claims before the Civil War. During the California Gold Rush miners created an extralegal code, which became law in the Mining Act of 1872. It granted open access for exploration on public lands and the exclusive right to mine a discovery. The law was democratic in that claims were cheap—\$2.50 to \$5.00 an acre—and limited in size, and claimants could retain their claims only as long as they worked them. Controversies over competing claims, however, made them expensive and kept lawyers busy for the rest of the century and beyond. Mining companies could and would extract hundreds of millions of dollars of minerals with enormous environmental consequences and no compensation to the public, which was left bearing the cost when things went badly.⁵⁰

In California hydraulic mining, which washed away the sides of mountains to get at the underlying gold, sluiced so much debris into the rivers that it raised the riverbeds above adjoining farmlands. In floods the debris settled on fields and orchards, creating the rock piles that scar the Sacramento Valley to this day. Without expensive dredging, the rivers became unnavigable. The debris eventually made its way into San Francisco Bay, smothering oyster beds and harming fisheries. Not until 1884 did the courts ban the dumping of hydraulic mining wastes in the rivers.⁵¹

49. Worster, 201–96; Goetzmann, 358–89.

50. Carl J. Mayer, "The 1872 Mining Law: Historical Origins of the Discovery Rule," *University of Chicago Law Review* 53, no. 2 (1986): 624–28; Rodman W. Paul, *Mining Frontiers of the Far West, 1848–1880* (New York: Holt, Rinehart and Winston, 1963), 172–75.

51. Paul A. David and Gavin Wright, "Increasing Returns and the Genesis of American Resource Abundance," *Industrial and Corporate Change* 6, no. 2 (1997): 217–20; Robert Lloyd Kelley, *Gold Vs. Grain, the Hydraulic Mining Controversy in California's Sacramento Valley: A Chapter in the Decline of the Concept of Laissez Faire* (Glendale, CA: A. H. Clark, 1959); Andrew C. Isenberg, *Mining California: An Ecological History* (New York: Hill and Wang, 2005), 17–53.

In the arid interior Indians resisted expansion of the railroads. The federal government judged the Pacific Railway to be critical for American policy, but other roads and trails could be sacrificed. Peace commissioners met the northern plains tribes at Fort Laramie in the spring of 1868, although the Lakotas fighting under Red Cloud to close the Bozeman Trail did not come to the council. Those Lakotas present agreed to withdraw from the area south of the Platte River and to cease attacks on the railroads and their construction crews. In return, they were to receive annuities and services, including education. The Americans, for their part, agreed to abandon the Bozeman Trail and the forts that guarded it. The sacrifice was a small one. The new transcontinental railroad would allow the United States to construct a new trail to the Montana gold fields along the west side of the Big Horn Mountains. Red Cloud signed only after the army burned its forts north of Fort Fetterman in the summer of 1868.⁵²

The treaty also represented a compromise between the intentions of the reformers to educate, acculturate, confine, and pacify the Lakotas, and the Lakotas' desire to preserve their northern buffalo grounds from penetration by the Americans. In addition to paying the Indians annuities and granting them services, the commissioners recognized the country north of the Platte and east of the Big Horn Mountains as unceded Indian country. The United States prohibited any white person from settling, occupying, or even passing through the region without the consent of the Indians. At the same time, however, the treaty provided for the eventual subdivision of the reserved land into individual holdings and the transformation of the Lakotas into Christian farmers, something most of them had no intention of becoming. American violations of the treaty would eventually yield more war and, still later, spawn litigation that continues into the twenty-first century.⁵³

The Americans secured treaties, but they did not secure peace. They simply changed the location of the fighting. Warfare became most intense between the Platte River and the Arkansas River, which the commissioners regarded as an American corridor through which the railroads could build and migrants could move. Fighting also continued in Texas. The Comanches interpreted the Medicine Lodge Treaty as a validation of their claims in exchange for rights of passage granted to Americans but

52. Prucha, *The Great Father*, I: 493–94.

53. *Ibid.*, 493–95; Charles J. Kappler, compiler and ed., “Treaty with the Sioux, Brule, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Sans Aers, and Santee—and Arapaho, 1868, Apr. 29, 1868. | 15 Stats., 635. | Ratified, Feb. 16, 1869. | Proclaimed, Feb. 24, 1869, in *Indian Affairs: Laws and Treaties*, Vol. II, *Treaties*” (Washington, DC: U.S. GPO, 1904), 998–1007.

not Texans. The Comanche attacks that prompted Governor Throckmorton's rage were not checked by the treaty.⁵⁴

How little the treaties had done to curb the violence became apparent in August 1868 when a Cheyenne, Arapaho, and Lakota war party riding against the Pawnees turned instead against American settlers on the Saline and Solomon rivers in Kansas. They killed fifteen men and raped five women. Sheridan, now in command on the southern Great Plains, acted predictably. His troops' goal, in the words of his commander, General Sherman, was to ensure that “these Indians, the enemies of our race and our civilization, shall not be able to begin and carry out their barbarous warfare.” In the flash of an eye, with the Peace Commission barely departed, the policy of peace gave way to racial war.⁵⁵

Military officers could sound bloodthirsty, but it is a mistake to equate them with the Indian haters who certainly did exist in the West. Sherman was no friend of the Indians despite being named after Tecumseh, the great Shawnee leader. He became a member of the Peace Commission, but he never believed that the treaties would yield peace; yet even he protested American policy. “The poor Indians are starving,” he said. “We kill them if they attempt to hunt and if they keep within the Reservation, they starve.” Other generals would be even more sympathetic to the Indians they fought, and many high-ranking regular army officers were at best ambivalent about their role in smashing Indian resistance. Gen. George Crook regarded the Indians as a wronged people, blaming “greed and avarice on the part of the whites,” for the Indian wars, and in this he echoed Gen. John M. Schofield's denunciation of government Indian policy as “greed and cruelty.” Even Sheridan thought that “we took away their country and their means of support, broke up their mode of living, their habits of life, introduced disease and decay among them, and it was for this and against this they made war. Could any one expect less?”⁵⁶

In the summer of 1868, the army once more proved no match for mobile Plains warriors, who inflicted significant damage on American settlers, killing 110 people. When the army managed to confront and fight them, the army usually lost. Maj. Frank North's Pawnee Scouts—Pawnees who fought as a separate army unit—proved more effective.⁵⁷

54. Hämmäläinen, 322–24.

55. West, *The Contested Plains*, 311; Hutton, 38.

56. Adams, 16–17; Prucha, *The Great Father*, 489–90; Hutton, 33–35, 180–82; David Howard Bain, *Empire Express: Building the First Transcontinental Railroad* (New York: Viking, 1999), 349–52; Coffman, 255–56; Richard N. Ellis, “The Humanitarian Generals,” *Western Historical Quarterly* 3, no. 2 (April 1972): 169–78.

57. West, *The Contested Plains*, 310–12; Hutton, 35–51; Mark Van de Logt, *War Party in Blue: Pawnee Scouts in the U.S. Army* (Norman: University of Oklahoma Press, 2010), 80–109.

What the army could not accomplish on the open plains in the summer, it could achieve in the winter when the Indians were confined to the river valleys for shelter and to feed their horse herds. Sheridan deployed the Seventh Cavalry under the command of Custer, who had been reinstated. Custer's destination was the Washita River in Indian Territory. The Cheyenne peace chiefs Big Mouth and Black Kettle, whose band had been the victims at Sand Creek, asked for peace, but they were told that only Sheridan could grant it. Warriors from their bands had been raiding, and Sheridan was no longer interested in negotiating. His instructions to Custer were to find the Cheyennes and their allies along the Washita River, "to destroy their villages and ponies; to kill or hang all warriors, and bring back all women and children." Sheridan was not particular about which Cheyennes Custer attacked.⁵⁸

Custer followed the trail of a Cheyenne raiding party to the Washita. There were certainly raiders in Black Kettle's camp, but Black Kettle had long been the leading advocate of peace among the Cheyennes. The Seventh Cavalry attacked at dawn on November 27, 1868. Most of the village was sleeping. One of Black Kettle's last acts was to fire his rifle into the air to wake his people. He then caught one of his horses, mounted it with his wife, and tried to escape the onrushing soldiers. The troopers shot him and his wife down in the middle of the river, where they died.

The soldiers killed about a dozen warriors along with twenty or more women and children at the Washita. Many more were wounded. Custer lost twenty men, including an entire detachment that was cut off as Kiowas, Arapahos, and Cheyenne warriors swarmed in from villages down river—villages a more adroit or cautious commander would have known were there. Custer, never one to downplay his success, exaggerated the number of warriors who died and reduced the number of women and children. He destroyed the lodges and supplies that the Cheyennes would need for the winter. He methodically shot the village horse herd. He took captive more than fifty women and children. When he rejoined Sheridan, Custer and other army officers arranged to have the youngest and prettiest captive women brought to their tents at night.⁵⁹

Custer was already famous for his exploits during the Civil War, but his attack at the Washita made his reputation as an Indian fighter. An attack on a sleeping village, the killing of twenty women and children and a handful of warriors would seem a pretty slim basis on which to build a

58. Hutton, 56–63.

59. Jerome A. Greene, *Washita: The U.S. Army and the Southern Cheyennes, 1867–1869* (Norman: University of Oklahoma Press, 2004), 116–38; Chalfant, 513–14; Stiles defends Custer's actions and tactics during the fight, 316–27; Hutton, 60–76.

western military reputation, but reputation in the wake of the Civil War was more about self-promotion than soldiering. Custer was a master of self-promotion. He already had a clear path to follow. Sam Patch, Davy Crockett, and P. T. Barnum had pioneered American celebrity. Custer followed them. He recounted his exploits in the *Galaxy Magazine* between 1872 and 1874, and serialized articles became a book, *My Life on the Plains*.⁶⁰

The dead Cheyennes enhanced Custer's fame, but they also earned him enemies. By targeting Black Kettle and the most peaceful of the Cheyennes, Custer brought back all the memories of Sand Creek and loosed a wave of objections from reformers and Indian Department personnel. Custer's numerous enemies, within and outside the army, attacked him. Sheridan defended him. For such a hard man, Sheridan was remarkably thin-skinned. He bridled at criticism and justified the dead Cheyenne women and children by building on the actual Smoky Hill river raids to conjure up graphic, detailed, and apparently largely invented depictions of innumerable white women repeatedly raped and then murdered. He portrayed Custer as their savior.⁶¹

The real loss for the Indians at Washita was measured not in the warriors killed, but in the recognition by other bands that they, too, were vulnerable in their winter camps. Continued campaigning by Sheridan's troops did not lead to a climactic battle; it did not have to. No longer safe, the Indians were hungry and cold and had weakened horses. All but a few Kiowas refused to join the Cheyennes and Arapahos in renewed war, and more and more of the southern Plains Indians agreed to move onto the reservations where both rations and troops awaited them.⁶²

By summer only the Dog Soldiers under Tall Bull seemed bent on war. They headed north hoping for Lakota and Arapaho allies along the Platte and found a few. Sheridan sent the Fifth Cavalry to pursue them. Their chief scout was William F. Cody, a man who lusted for celebrity as much as George Armstrong Custer and was far smarter. But Pawnee Scouts, not Cody, tracked down the Dog Soldiers and their Lakota allies. The Americans attacked Tall Bull's camp at Summit Springs in northeastern Colorado on July 8, 1869. The Dog Soldiers fought bitterly, bravely, and ultimately hopelessly. They shot the two white women they held captive even as the attacking Americans and Pawnees shot down Cheyenne women and children. Tall Bull died fighting while covering the retreat of

60. Greene, 193; George A. Custer, *My Life on the Plains* (Chicago: Lakeside Press, 1952); Paul E. Johnson, *Sam Patch, the Famous Jumper* (New York: Hill and Wang, 2003), 161–84.

61. Greene, 192–93; Hutton, 95–100.

62. Hutton, 77–114.

his family, after killing his horse and using its body as a shelter. Wolf with Plenty of Hair looped his dog rope around his body, drove in the red stake to which the rope was tied, and prepared to die in place. He fell, his body riddled with bullets, the stake still in the ground. The battle at Summit Springs ended the Dog Soldiers as an effective military force. It also secured the American corridor across the Great Plains. The railroads could proceed with little risk.⁶³

The Union Pacific building westward and the Central Pacific eastward joined their tracks at Promontory Summit, Utah, on May 10, 1869. Those completing the railroad self-consciously dramatized the moment. There was first of all the golden spike. Prepared beforehand and unfortunately inscribed with the wrong date, it was ceremonially tapped and then removed. Two engines, one from each railroad, stood nose to nose surrounded by the dignitaries brought to the site for the speeches and celebration. When Leland Stanford, the president of the Central Pacific and ex-governor of California, tapped the final spike, which was wired to the telegraph paralleling the track, it sent a signal east as far as New York and west to Sacramento and San Francisco that triggered celebrations thousands of miles away. As badly built as the road was over large stretches, it was a great technological achievement. Technology had apparently subdued nature, and development could now proceed.⁶⁴

Economically, the completion of the Pacific Railway turned out to be anticlimactic. Completing a railroad was not equivalent to running trains on it, at least successfully, and nature was not so easily subdued. The winters of 1869–70 and 1871–72 shut down large portions of the Central Pacific and Union Pacific for weeks at a time, stranding passengers and goods. The problems on the Central Pacific only encouraged other railroads—the Atlantic and Pacific, the Texas and Pacific, the Northern Pacific—to plunge ahead, confident they had better routes and that lines on a map would translate into parallel lines of iron. They would not arrive for years, if ever; meanwhile, the Pacific Railway hardly proved a boon to the West Coast.

In the late 1860s business interests on the West Coast radiated optimism about the railroads, but Henry George, a printer and radical journalist, had a sense of foreboding. In 1867 J. W. Forney, the well-connected newspaperman who drank with Andrew Johnson the night before he gave his ill-fated inauguration speech in 1864, visited San Francisco. For the most part, he stressed the familiar and recited the pieties of progress. San

63. West, *The Contested Plains*, 308–16; Hutton, 110–11; Louis S. Warren, *Buffalo Bill's America: William Cody and the Wild West Show* (New York: Knopf, 2005), 111–13.

64. White, *Railroaded*, 37–38.

Francisco was a progressive American place—a prosperous and substantial city of nearly two hundred thousand, with impressive buildings, good hotels, churches and synagogues, banks, steamship companies, and railroads—that faced out over the Pacific and connected with Asia and Latin America.

At the city's edges, the substantial and the American, however, seemed to melt into the exotic. There was, Forney wrote, “a Chinese city” within San Francisco, which had itself not lost its “pervading Spanish tone.” The climate was Mediterranean and “grapes, oranges, figs, and pomegranates of the tropics” grew alongside the more familiar fruits and grains of the North. The city, which would be dominated by Irish and German immigrants for much of the century, had nearly as many students in Catholic schools as public schools, and it had a substantial Jewish population. The ride from the city to the Cliff House, then six miles outside San Francisco on the Pacific, was, Forney wrote, like “a ride into the suburbs of Cairo or Alexandria, in Egypt. All was Oriental—the low houses, the Eastern sand and verdure, the veiled hills in the distance gave the scene a strange glamour hard to define.” But when he looked at the four-in-hand driven by William Ralston, the president of the Bank of California and then the richest man in the city, “the delusion was exchanged for the fact that I had an American host, who, like our chief, Colonel Scott,” combined “brain-labor” with conviviality and balanced his moneymaking with “works of charity and benevolence.” California had the “flowers and the fruits of the tropics” but men like Ralston were “the sturdy growth of the North, who do not lose their vigor by transplantation.” J. W. Forney and William Ralston expected that California would only grow more Northern and prosperous with the arrival of the transcontinental railroad in 1869.⁶⁵

Henry George was one of the few skeptics. George loved California. Although a venomous racist where Chinese and African Americans were concerned, he praised the city and state's “cosmopolitanism, a certain freedom and breadth of common thought and feeling, natural to a community made up from so many difference sources, to which every man and woman had been transplanted—all travelers to some extent, and with native angularities of prejudice and habit more or less worn off.” The result had been “a feeling of personal independence and equality, a general hopefulness and self-reliance and a certain large-heartedness and open-handedness which were born of the comparative evenness with which property was distributed, the high standard of wages and comfort, and the latent feeling of every one that he might ‘make a strike,’ and certainly could not be kept down long.” Instead of connecting California's

65. “San Francisco through Eastern Eyes,” *San Francisco Evening Bulletin*, Sep. 19, 1872.

diversity and difference with the exotic, George used them to configure a community whose core values were much like Lincoln's Springfield. The railroad, he feared, would destroy his California.⁶⁶

In 1868 George had published "What the Railroad Will Bring Us" in the *Overland Monthly*. Like Forney, he praised San Francisco's growth and California's possibilities, but overestimated the immediate impact of the transcontinentals. Unlike Ralston, Forney, and other boosters, however, he warned that the benefits of the railroad would be more than offset by the losses Californians would incur. Men like Ralston, who were speculators and "captains of industry," employed men in "gangs" undercutting the "personal independence—the basis of all virtues" that had characterized the state and its people. George feared that the benefits of the railroads would flow to the Ralstons of the world; the losses would be borne by working people. The spawn of California's millionaires would be its numerous and desperate poor.⁶⁷

Neither George's fears nor Ralston's hopes ever fully came to fruition. California and San Francisco grew far more slowly after the arrival of the Pacific Railway than they had before it. The explosive growth California expected the railroad to carry did not arrive on schedule. In 1860 California, with 379,994 people, dwarfed the newer states of the Middle Border in population, although not in the number of farms. It had more than twice the population of Minnesota and three times the population of Kansas. It soon lost that lead. California certainly grew, reaching 1,208,130 people by 1890, but its growth rate and population fell behind its rivals. Kansas was bigger than California by 1880 and had 1,427,096 people by 1890, when Minnesota, with 1,301,826 people, was also more populous. Minnesota also had more than twice as many farms as California in 1890, while Kansas had three times as many. California at least compared favorably with Nevada, which lost population after the arrival of the railroad. In comparison with the Middle Border, California's economy stagnated.

Shipping goods from the West Coast to Gulf and Eastern ports by steamship and then by railroad across Panama remained far cheaper and often nearly as fast as shipping them by rail. In 1873 Jay Gould of the Union Pacific complained of competition from steamships, saying that it was "outrageous that we have to carry our California business at so low rates. First the Union Pacific and Central Pacific, and later other transcontinentals, paid the Pacific Mail Steamship Company to raise its rates and shrink its fleet in order to maintain traffic on the transcontinental. A government

66. Henry George, "What the Railroad Will Bring Us," *Overland Monthly and Out West Magazine* 1, no. 4 (October 1868): 297–306.

67. *Ibid.*

subsidy for railroads, and another for the Pacific Mail, thus ended with an arrangement to raise the cost of commerce.⁶⁸

The irony of public subsidies to the railroads was that subsidized railroads were most successful where they least needed subsidizing: within the Middle Border and along the Pacific Coast. Chicago and St. Louis anchored the railroads of the Middle Border and received the wheat, corn, and cattle they funneled out of the fat lands of America. San Francisco anchored the Central Pacific and later the Southern Pacific, railroads that poured the wheat of the Central Valley into the ports of San Francisco Bay. These systems were the bookends of the transcontinentals, but commercially neither system really needed to be linked to the other. Little traffic flowed between them, and the traffic from the Mississippi Valley and the East could go more cheaply by water.

The railroad land grants acted as a kind of black hole, drawing in settlers and distorting the rest of the land system. Lands near the railroads were preferable to those farther away and settlers were willing to pay for railroad lands rather than take up free land on the public domain. But this was not their only effect. As the West beyond the 100th meridian failed to develop as rapidly as predicted, the railroad lands there threatened to become a burden to the railroads. They were reluctant to survey the land or take title to it since this would open the land to taxation. About 90 percent of the Central Pacific's land in Nevada and Utah was patented only in the 1890s. By law the subsidized railroads had to sell their land within a few years of completion. East of the 100th meridian this was not a problem, but west of it the railroads would be saved from forfeiting their land grants only by the courts. In *Platt v. Union Pacific Railroad*, the Supreme Court accepted the argument that the railroads mortgaging their lands had disposed of them under the terms of the law.⁶⁹

In 1869 Americans remained hopeful about the West's place in the Greater Reconstruction. Despite all the blunders and misjudgments, the creation of a free labor society in the Middle Border was under way. Elsewhere in the West the process already seemed more dubious, but the larger ideals of free labor and contract freedom and their ultimate result—the republican home—still seemed within the grasp of those who strived.

68. Maury Klein, *Union Pacific* (Garden City, NY: Doubleday, 1987), 314; White, *Railroaded*, 47–48, 165–67.

69. David Maldwyn Ellis, "The Forfeiture of Railroad Land Grants, 1867–1894," *Mississippi Valley Historical Review* 33, no. 1 (1946): 27–60; Leslie E. Decker, *Railroads, Lands, and Politics: The Taxation of the Railroad Land Grants, 1864–1897* (Providence, RI: Brown University Press, 1964), 52–55, 60, 70–116; *Platt v. Union Pacific R. Co.*, 99 US 48, 25 L. Ed. 424 (1879); White, *Railroaded*, 130.