Violence and Social Unrest: Implications of the Reconstruction Amendments for African Americans in the Post Civil War South, 1863-1877

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Alana Brooke Cross

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For my grandparents, Madelyn and Miller; whose love and support has underwritten this and every other endeavor—Thank you, always.

Also for my big brother Jr., my little sister KMD, and BG; it takes a village to shape a life, my eternal gratitude.
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"The slave went free; stood a brief moment in the sun; then moved back again toward slavery."

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Abstract

Freedom, citizenship, and manhood suffrage became rights promised by the 13th, 14th, and 15th Amendments to the United States Constitution. These rights became part of the social, political, and economic fabric of America after a long and bloody Civil War. Though Democrats and Republicans differed dramatically on their principles of equality for African Americans, these rights became part of the Constitution and propelled a nation and its citizens into a protracted and racialized civil war that lasted into the 1960’s. The Reconstruction Amendments granted former enslaved persons rights and privileges that were previously reserved for whites only. However, rights on paper were far different from the realities faced by many African Americans and their white Republican allies. White southern Democrats challenged these amendments, and eventually nullified them in practice, with the objective of repressing and re-enslaving African Americans inside the post Civil War South. Violence, Black Codes, and economic as well as political oppression inflicted through literacy tests and poll taxes ushered in a new era of American slavery by 1877.

Between 1865 and 1877, African Americans who had fought for freedom from chattel slavery and had won emancipation were being targeted because of the laws guaranteed by the Constitution. The Reconstruction Amendments along with the Civil Rights Act of 1866 and 1875 challenged the racial hierarchy of the South and white supremacy. Due in large part to white fears and attitudes, the implications of the Reconstruction Amendments had lasting affects on both Northern and Southern Black communities that carried over and into the 20th century. The violence and social unrest of Reconstruction were an extension of the Civil War and its consequences had a direct and
profound impact on the Civil Rights era which came to fruition almost one hundred years later.

This thesis will argue that the Reconstruction Amendments while promising rights and equality on paper did little to help African Americans facing violence, discrimination, and segregation in the post Civil War South. The 13th, 14th, and 15th Amendments made the volatile situation in the South worse for African Americans because the Federal government established no groundwork and provided little meaningful enforcement of the vague principles it guaranteed in the Constitution. These guarantees had no practical application and only served to inspire violence and facilitate white racism. What was needed were reforms and enforcement, on both federal and state levels, which promoted economic independence. While it is important to remember the positive potential of rights granted during Reconstruction by the Federal government and the Constitution, these laws propelled white supremacists into violent and malicious actions that had far reaching and devastating consequences for not only African Americans but the country as a whole.
Introduction
Roots of the Reconstruction Tragedy.

In the fall of 1876 the last free and open elections were held in four states in the South. From that time until the 1960’s African Americans in the South were overwhelmingly kept from the polls and denied their constitutional rights to participate as full citizens in the democratic process. For white southern Democrats this was a triumph; they had expelled the Black man from government, ended Congressional Reconstruction, and more importantly got their state and local governments back into white hands. In a 1876 conversation between Ben Tillman Jr. and then South Carolina governor Matthew Butler, Tillman stated “nothing but bloodshed and a good deal of it could answer the purpose of redeeming the state,” their goal, “was to terrorize negroes and demonstrate white superiority by killing as many as was justifiable.” Just weeks after their conversation these two men helped orchestrate a massacre in Hamburg, South Carolina. Tillman and his cohorts ruled the streets for four days killing and attacking African Americans and white Republicans, and it was only after Tillman declared, “we have killed a sufficient number to prevent nigger rule any longer,” that the violence ended, however from that point onward, elections were won and votes were cast by white men only.² That was the story of the Reconstruction South; white southern fears about former

² Quoted from The Bloody Shirt, The Benjamin Ryan Tillman Papers, South Carolinian Library, University of South Carolina. Testimony of Samuel B. Spencer, SCL1876, I, 72. Stephan Budiansky, The Bloody Shirt (New York: Penguin Group, 2009), 225. In Budiansky’s monograph the author discusses in his chapter, "The Passion Stirring Event at Hamburg," the causes and the consequences of the massacre. Republicans were expelled from state and local governments, as well as African Americans and replaced by white
enslaved people receiving rights propelled racial violence and the virtual re-enslavement of African Americans.

So why then did the violence that occurred in Hamburg, South Carolina and other communities across the South take place? This thesis will argue that violence and social unrest permeated the South during Reconstruction because African Americans were given constitutional rights. The ratification of three amendments- the Thirteenth which prohibited slavery in the United States, the Fourteenth which made all persons born in the United States citizens, and the Fifteenth, which allowed African American male suffrage-caused panic and paranoid fears in the former slave holding South. The Thirteenth and Fourteenth Amendments reversed the Dred Scott ruling (1857), "that neither black slaves nor their dependents are eligible to be citizens." In granting freedom and status as citizens, African Americans became exposed to hostile situations. First, they were no longer protected from violence, because they were no longer property of a master and, second, African Americans obtained rights that undercut the tenants of white supremacy.
and thus placed them in the cross hairs of racist whites. When African Americans exercised their newly granted constitutional rights, or at least tried too, they challenged the racial hierarchy and white supremacist rule. White southern Democrats responded to the ratification of the Reconstruction Amendments with the whip, the rope, and the bullet, to reestablish the “Old South.” Their objective was to repress and re-enslave African Americans, and reclaim what they believed to be a white man’s government. White southerners, many who were ex-Confederates, were able to make life worse for African Americans because the Federal government laid no groundwork for rights, had little meaningful enforcement, and believed rights on paper would be enough to protect African Americans and establish them as citizens.

Vague rights written on paper had no practical application and did little to solve the dual crisis of economic and social independence for former enslaved persons. The Reconstruction Amendments and other civil rights legislation were flawed because they lacked reform and only served to inspire violence which facilitated the nullification in practice of rights granted by the Constitution. White southern Democrats were able to accomplish a reversal of Reconstruction through terrorism and guerilla warfare. Reconstruction and the century following the Civil War were an expression of brutalized and racialized battles for white supremacy.5 According to historian John Daly, the Civil War did not end with “tidy outcomes” but with a new war that, “was fought for control of local and state governments,” and because of the continued war, “the Thirteenth, Fourteenth, and Fifteenth Amendments were overturned in practice by action on the

5 I would like to take the opportunity to thank Dr John P. Daly for allowing me to quote portions of his unpublished article for this project. John Daly, “The Southern Civil War: The New History of 1865-1877,” Private, 2010.
ground in the South.” Violence, Black Codes, and Sharecropping, as well as political oppression inflicted through literacy tests, voter intimidation, and poll taxes all helped to usher in a new virtual era of American slavery that lasted into the 1960’s.

Many historians have commented that Reconstruction was one of the most unstable and sordid times in the nation’s short history and they are correct. But how did “we” as a nation get to Reconstruction? How did a country founded on principles of freedom and equality end up in a bloody Civil War that lasted, in reality because of racial violence and prejudice, into the 1960’s? Some historians contend that the catalyst for the Civil War was southern honor, a concept made famous by historian Bertram Wyatt-Brown in his seminal work, Southern Honor: Ethics and Behavior in the Old South. Other historians, particularly those of the “Dunning School” of the early-20th century, prefaced the Civil War and radical Reconstruction as a tragedy discussed from the perspective not of those promoting equality and rights but through the eyes of the defeated South, and brought forth the notion of the “Lost Cause” and romantic reunion. William Dunning and other white historians “denigrated Reconstruction as a mistake because of black Americans brief political power in the regions of their former bondage” and wrote a “history of Reconstruction that became a principle means by which whites, in

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7 Historians of Reconstruction, for example, Eric Foner, Michael W. Fitzgerald, Leon F. Litwack, and Kenneth a Stampp have all discussed in the introductions of their works how critical and pivotal a time the years 1863-1877 were for the United States. Each historian has taken a different approach to how they reconstruct this period but all have given African Americans agency and refuted claims made by Progressive historians of the 1920’s and 1930’s that emancipation and enfranchisement were solely tools of a Capitalist North looking to impose their will upon a ruined South.
8 William Dunning was a professor and historian of Reconstruction at the Columbia were he and other colleagues, for example John W. Burgess and Walter Fleming, promoted the ideology of “negro incapacity and insisted the Blacks were unprepared for freedom and political rights.” Quoted from Eric Foner’s preface in Reconstruction: America’s Unfinished Revolution, (New York: Harper and Row, 1988), xviii.
both North and South, manipulated historical memory in order to reify a post-slavery racialism." It was these same historians, William Dunning, James Ford Rhodes, and John W. Burgess, who devoted their writing "to prove that the Negro is not capable of participation in government and to justify the methods of intimidation and fraud used to overthrow the Reconstruction governments of the Southern States." James Ford Rhodes was just as culpable as other members of the Dunning School for perpetuating the fallacy of African American inferiority in his historical writing. In volume seven of his massive work, *History of the United States from the Compromise of 1850 to the Roosevelt Administration*,(1906), Rhodes condemns African Americans to second-rate status because of “Negroes weak mentality” and justifies Black Codes as necessary to protect southerners and impede “Negro suffrage.” The analysis of historians and writers who sought to place African Americans in a continued status as second-rate citizen served as the basis of Reconstruction’s early history.

The Dunning School paved the way for racist attitudes in the historical profession that carried over into the Progressive School of the 1920’s and 1930’s. One of the prominent Progressive Era historians was Ulrich Bonnell Philips. His seminal work, *Life and Labor in the Old South*,(1929), portrayed the South as a land of plenty filled with

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10 A.A. Taylor, “Historians of Reconstruction,” *The Journal of Negro History*, vol. 23, no. 1 (January, 1938), 17. This article offers great insight into Dunning, Rhodes, and Burgess. The article discussed each historians background, training, methodology, and most importantly their view on race and African Americans which was critical since these three men were the some of the first historians to write monographs about Reconstruction. In the 1970’s and 1980’s the Revisionist school of Reconstruction was created as a counter to Dunning, Rhodes, and Burgess. Taylor and Dubois were two of the first historians to criticize the Dunning school for its overtly racist commentary on African Americans. Taylor’s article on “Historians of Reconstruction” concludes with an analysis of Dubois’ *Black Reconstruction* and praises him for his resolve to demonstrate that African Americans were just as capable as white Americans in pursuing politics, academics, and economic status.
economic and social order that was disrupted by Northern capitalism and greed. His work also centered on the benevolence of the “peculiar institution” and the white southern man’s right to property and liberty. Phillips stated that, “each plantation had a hierarchy,” it was in essence its own small country and southern slaveholding men found it reprehensible that their autonomy and governance would be interfered with by the Federal government.¹² Phillips, similar to those of the Dunning School, believed and propagated the fallacy that African Americans could not and would not survive without the assistance of former masters and the Federal government. It was those historians who created the historical memory of Reconstruction and re-union and falsely framed its rhetoric “in terms such as, military despotism, federal tyranny, Negro rule and Africanization.”¹³ Just as detrimental as these historians’ creation of historical memory was their contribution to legacy of the “Moon light and Magnolias” ideology of the South, which produced southern belles, happy slaves, and Northern radicalism, that became intertwined and reproduced in films like Gone with the Wind and Jezebel. The by-products of inaccurate historical representation produced not only continued racism but a false depiction of United States history that students still learn in schools across the country.

By the mid 1930’s through the 1960’s a new breed of historian emerged led by black activist W.E.B. DuBois; these historians focused on Reconstruction from the African American point of view. Though DuBois was critical of the Federal government, his groundbreaking revisionist work, Black Reconstruction in America, 1860-1880, took the attention away from those who, he believed, caused the Civil War, (white southerners

and slaveholders) and placed the agency on the principle agent of Reconstruction, “emancipated slaves.” Dubois condemned prior Reconstruction historians for their racist attitudes and their lack of critical and analytical investigation of Reconstruction. Dubois stated that, “one fact and one alone explains that attitudes of recent writers of Reconstruction; they cannot conceive of Negroes as men” and, according to the preeminent Reconstruction historian Eric Foner, Dubois was right about the attitudes and so Black Reconstruction was largely ignored until the 1970’s.14 For Dubois the battle with historical memory was rooted in the way, “white historians have ascribed the faults and failures of Reconstruction to Negro ignorance and corruption,” when in fact corruption was largely a failure of white men’s governments trying to reassert their racial hegemony over a newly free population.15 As the issue of racial hegemony was fought over throughout the South during Reconstruction, so were the issues of how much and how far the Federal government should go in securing rights for former enslaved persons. Dubois, and other later revisionist historians, correctly pointed out it was the direct failure of the Federal government after Presidential Reconstruction (1865-1867) to enforce the Reconstruction Amendments that caused African Americans unjust denial of their constitutional rights. It was also the failure of Presidents Johnson and Grant, respectively, each through their lack of desire or diplomatic resolve that allowed the Freedmen’s Bureau to be dissolved, “Redeemer” governments to regain control of the South, and wide spread violence and social unrest to permeate an already terrorized population.

The notions of a terrorized population along with the lack of Federal and Presidential support for Reconstruction gave birth to a long period of revisionist history that stemmed from, according to historian Eric Foner, "the modern civil rights movement of the 1960's." It is the historians of the revisionist camp, including Eric Foner, Michael W. Fitzgerald, Leon F. Litwack, and Kenneth Stampp, who have left an indelible footprint on how "we" view Reconstruction and it is also largely due to their works and the work of W.E.B. Dubois that African Americans became the key agents in their own story for equality. What was also important about the revisionist school of thought on Reconstruction is not only that it gave African Americans agency but these historians point to what was valuable about Reconstruction: the ratification of the Fourteenth and Fifteenth Amendments, and the ability of some members of Congress to promote African Americans as full citizens. According to historian Kenneth Stampp, "some of the radical Republicans refused to believe that the Negroes were innately inferior and hoped passionately that they would confound their critics." The promise of rights legislation was unique to Congressional Reconstruction and those constitutional rights according to Stampp would never have happened under different circumstances. Other historians like Lawrence Levine, Leon Litwack, and Herbert Gutman contributed to not only revisionist history but to social history as well incorporating the formation of the African American community and its participation in Reconstruction. All of these historians gave African Americans the long overdue credit for their monumental participation in the fight for civil rights and equality. These historians placed African Americans and their white Republicans allies at the front of the narrative and changed forever the discourse on

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Reconstruction. Agency, hope, frustration, determination, and fighting against violence were all critical components in assembling the narrative and historical memory of Reconstruction.

Coinciding with the revisionist camp are two other historians who placed violence and social unrest at the center of the Reconstruction discourse. Historian George C. Rable’s monograph, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction*, addressed one of the critical components to the failure of Reconstruction: the violence and terrorism utilized by the “losers in the conflict- white southerners” against “the winners- Union men, blacks, and Republicans of both races.” Rable’s argument hinges upon the fact that the Civil War ended, “with no formal peace settlement” and because of that white southern Democrats were out to “make their own mark” what the terms of peace and rearrangement of society would be.18 Another author, Stephen Budiansky also capitalized on the notion that Reconstruction was the continuation of the Civil War. In his view, the South technically lost the first go around but won the war after the Presidential election of 1876, when Rutherford B Hayes gained electoral votes in disputed Southern states by promising to pull federal troops out of the South and end Congressional Reconstruction. The premise of Budiansky work, *The Bloody Shirt: Terror After the Civil War*, was to demonstrate how violence, intimidation, and corruption affected the lives of five men embroiled in the fight for equality during Reconstruction.

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18 George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction*, (Athens: The University of Georgia Press, 1984), 1. Stephen Budiansky, *The Bloody Shirt: Terror After the Civil War*, (New York: Penguin Group, 2009). Both historians discuss in great length and detail about violence faced by African Americans and their white Republican allies during Reconstruction. Both men are also critical of the federal governments attitude in helping those running Reconstruction governments, especially Budiansky whose work focuses largely on first hand narratives and letters from five prominent figures, Prince Rivers (former slave), Aldelbert Ames (Union General and provisional governor), Albert Morgan (Union Officer), Lewis Merrill (Freedmen’s Bureau), and James Longstreet (former Confederate General). Each narrative is interwoven with stories of violence either against them personally or violence reported to them by Freedmen and white Republicans.
Reconstruction. *The Bloody Shirt* similar to *But There Was No Peace* are reminders of the consequences of racism and how terrorist groups like the Ku Klux Klan and the White League took root and sabotaged unstable and fragile state and local governments. The modus operandi of terrorist groups; was to terrorize African Americans into working on former plantations for unlivable wages that way white southerners could hinder African American potential to buy land, pay the poll taxes to vote, or gain any modicum of power that could challenge the racial hierarchy of white supremacy. While the Klan was unorganized and spread unevenly through the South, they achieved their goals of white supremacy and white man’s government, when eleven former Confederate states all elected “Redeemer” governments by 1877.\(^1\) Though Congressional Reconstruction was dead by 1877, the battle for white supremacy raged on in the form of organized lynching and Jim Crow laws both of which kept African Americans in a perpetual state of fear, hopelessness, and in a defensive mode.

Similar to the work of Reconstruction historians Eric Foner and George Rable, this work falls into the revisionist school. Foner and Rable created two lasting monographs that were essential to this work and I utilized both with great care and respect, because their works are crucial in the re-creation of the historical memory and discourse on Reconstruction. The revisionist history of Reconstruction began in the mid

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\(^1\) Redeemer governments were white only governments, which replaced biracial Republicans governments that had been set up during Congressional Reconstruction. These Redeemer governments got elected because of wide spread terrorism directed toward African Americans and white Republicans who were currently running the state and local governments. Though violence was rarely seen at the polling/voting places, African Americans were warned not to vote, run for office, or testify against whites. Fear of death or bodily harm kept many but not all African Americans from participating and securing their Constitutional rights. Redeemer governments opposed African American rights and equality and ushered in Black Codes, which became the foundation for Jim Crow. For more on Redeemer Governments look at Eric Foner’s *Reconstruction* or for a quick summary online at Harper’s Weekly Report on Black America, 1857-1874, [www.blackhistory.harpweek.com/Reconstruction Timeline](http://www.blackhistory.harpweek.com/Reconstruction Timeline).
1930's when historian and black activist W.E.B. Du Bois challenged white historians who portrayed African Americans as lower class and inferior human beings. Du Bois challenged the work of men like, E.H. Randle, who stated the Thirteenth, Fourteenth, and Fifteenth Amendments were unconstitutional because they were forced upon the South by a stronger Republican government during “the terrible days of reconstruction.”

From Du Bois’s seminal work other historians of the 1970’s and 1980’s emerged and began rewriting Reconstruction giving African Americans the long over due credit and agency they deserved in the telling of the fight for freedom and equality. This work, although it would fit into the revisionist category, will incorporate a narrative of African American agency established by Du Bois and Foner while expanding upon the violence and social unrest caused by white fear of the power the Reconstruction Amendments would afford African Americans. This work is an examination of the cultural, social and political elements of Reconstruction with an emphasis on racial violence and the far-reaching and negative consequences it had on the African American community. The time frame this work utilizes was established by historians of the revisionist school: starting with Emancipation in 1863, “which made widespread black military participation possible, through 1877, the year of the national agreement to remove federal troops from the South.”

These dates signify the start and the end of African American rights and freedoms guaranteed under the United States’ Constitution, and also these dates signify, what some historians have termed, the second Civil War due to the violence and social unrest that occurred across the South by terrorist groups and their white Democrat

What followed Reconstruction was the era of Jim Crow, which lasted into the 1960’s. It will be briefly included in this work because of the implications it had for African Americans in the post-Civil War South. The realities of violence and social unrest perpetuated by white fear over the Reconstruction Amendments should not be underestimated as a factor in the history of racial violence in this country. In essence, rights granted on paper, for example, the Thirteenth, Fourteenth, and Fifteenth Amendments did not in reality translate into immediate success nor did these rights meet with societal approval, and because of the lack of acceptance and approval violence became the measure of curtailing African American rights and the linchpin in re-establishing white supremacy and segregation.

Each chapter of this work is organized both thematically and chronologically. Chapter one addresses the Reconstruction Amendments, the role of the Freedmen’s Bureau, and the need for the Civil Rights Act of 1866. Chapter two explores the violence and social unrest caused by these Amendments and white southern attitudes; while the third chapter brings to fruition the failure of Reconstruction and the re-enslavement of African Americans in the form of sharecropping. Finally, chapter four discusses the lasting affects of violence and social unrest, and the implications it had on the Civil Rights Movement of the 1960’s. Chapter four also addresses Jim Crow laws and lynching which take center stage in the narrative of the post-Reconstruction South. This work also

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22 John P. Daly, “The Southern Civil War: The New History of 1865-1877,” Private, 2010. Other historians of Reconstruction have used this term as well. They include Eric Foner, George Rable, Michael Fitzpatrick, and Michael Perman. Each of these historians is promoting the idea that violence used during the war then carried over by guerrilla groups, such as the Ku Klux Klan, White League, and Red Shirts, was as if the Civil War never ended or as if a new racialized war had started with African Americans and their Unionist supporters as targets.
includes two appendixes. The first appendix contains six cartoons that were featured in *Harper's Weekly* during Reconstruction and drawn by the famous cartoonist Thomas Nast. Each cartoon represents an element of one of the Reconstruction Amendments, starting with the prohibition of slavery, then citizenship rights, followed by black manhood suffrage. The final cartoon is a foreshadowing of the century to come; when over three thousand African American men and women became victims of lynching. The significance of including these cartoons is to give the reader a glimpse into the political and social commentary that was taking place in the North at the time and directed toward the Reconstruction South. The second appendix contains the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution. It is important to read these Amendments, for these are some of the basic rights and freedoms “we” as a country take for granted everyday, and it is out of these Constitutional rights that white fears about black power spread and caused a race war that lasted almost a century after the American Civil War ended.

Reconstruction, 1863-1877, was a dark period in American history where the rights and freedoms of one group, African Americans, were sacrificed and stolen through violence and Black codes by another group, white southern Democrats. The catalyst for the racialized violence and social unrest that permeated the South following the Civil War was the Reconstruction Amendments. These Constitutional laws gave African Americans for the first time rights as human beings that were perceived to be equal to that of whites; prohibition of slavery, citizenship, and adult male suffrage, which became indelible points of pride for African Americans while simultaneously striking fear and
prejudice into the hearts and minds of white southerners. These white men and women
rallied around the cause of white supremacy and utilized violence as a mechanism of
social, political, and economic control over former enslaved people and their white
Republican allies. What was needed were concrete laws, not vague principles, and the
Federal government should have necessitated economic reforms instead of bowing to
white racist ideology of African American ignorance and inferiority.

Due to the Thirteenth, Fourteenth, and Fifteenth Amendments white southerners
claimed their leadership, authority, and autonomy over the “inferior race” was threatened.
Many former slaveholders lived under the fallacy that if African Americans organized or
socialized without white supervision riots and uprisings could and would occur. The
specter of the Stono Rebellion and the Haitian Revolution loomed ever present in the
mind of whites both North and South, but southerners feared because of the abolishment
of the “peculiar institution” after the Civil War that former slaves would enact revenge
for the two hundred and fifty years of bondage. The fallacy of the violent uprising where
African Americans armed themselves and exacted revenge never came to fruition; the
only time African Americans utilized violence was in self defense or defense of their
families. Some white southerners, on the other hand, utilized violence and intimidation
on a daily basis to control African Americans and manipulate their rights. Ex-
Confederates believed the Reconstruction Amendments, along with the Civil Rights Acts
of 1866 and 1875 challenged their honor and societal norms, which for many white
southerners was too much to handle after the defeat of the Civil War. Many of these
white men and women of the defeated South employed racialized violence that spread,
like a plague, across the South for the next century in order to bring to terms what they
perceived as justice for the “Lost Cause.” The color line between black and white, which African Americans and some white Republicans hoped would blur during Reconstruction, gained even more distinct and ridged boundaries as Reconstruction ended and Jim Crow began.
Chapter One
The Emergence of Reconstruction and the Reconstruction Amendments

After 1865, African American who had fought for freedom from bondage and their white Republican allies in Congress began pressing for rights that would for the first time secure African American citizenship and adult male suffrage. These two groups argued rights would establish African Americans as legitimate participants in not only the political sphere but the social and economic as well. The Reconstruction Amendments, which provided rights principles of freedom, citizenship, and suffrage lacked the concrete language, enforcement, and reforms needed to truly guarantee African American equality. As Reconstruction emerged and the Thirteenth, Fourteenth, and Fifteenth Amendments were ratified and it became apparent that vague language and principles written on paper would only propel racist white fears among ex-Confederates and other white southerners minds. Due to white southern fears and attitudes African Americans were worse off due to the nullification of rights, Black Codes, and more importantly, violence at the hands of those who opposed their equality. The Reconstruction Amendments, for all their promise and the hope they gave to African Americans, only served as a catalyst that inspired violence and facilitated the groundwork for future discriminatory laws.

Five years prior to the ratification of the Thirteenth Amendment, in 1860, United States Senator Charles Sumner wrote a speech on “the Barbarism of Slavery,” which he read aloud before the Senate was to consider Kansas’ admission for statehood. In his speech, Sumner declared slavery savage, inhumane, and more importantly for the South’s
economy a hindrance, "that made the South economically inferior to the North." Sumner’s words were later reprinted in newspapers across the North in 1863 after the Emancipation Proclamation along with former slave narratives that highlighted the cruelties of slavery and the realities of economic drain the “peculiar institution” caused. Like Sumner, many other abolitionists called for laws that would allow African Americans rights and participation in both state and federal governments. The priority of, “abolitionists was to develop a constitutional outlook that would flourish during and after the Civil War” and “they glimpsed the possibility that the national state might become the guarantor of freedom, rather than its enemy, another idea written into the Constitution during Reconstruction.” Their outcries against slavery led to the ratification of the Thirteenth Amendment, which prohibited slavery in the United States and gave the Federal government the power to enforce the law by any means necessary. Senator Charles Sumner, one of the leading advocates of African American rights, pushed at every turn for “Negro suffrage” and wholeheartedly believed it would provide them with part of the security they needed to gain access to full and equal citizenship.

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25 United States Constitution, Amendment, 13, Section 1 and 2, Ratified December 6, 1865. See Appendix Two for full account of the 13th Amendment.

Suffrage, Sumner believed was a means to killing slavery forever, and if African Americans had the Thirteenth Amendment and could vote, southern Democrats and former Confederates could not re-enslave them. Similarly to Sumner, Illinois Senator Lyman Trumbull echoed the sentiment of many in Congress with his speech on the Thirteenth Amendment. Trumbull stated, “the only effectual way of ridding the country of slavery, and so that it can not be resuscitated, is by an amendment of the Constitution forever prohibiting it within the jurisdiction of the United States.” For Trumbull the Emancipation Proclamation fell short of fully freeing African Americans and the need for a Constitutional guarantee was apparent from the attitudes demonstrated by southern Democrats and white southerners in general.

Southern Democrats and a small minority of Republicans who opposed the Thirteenth Amendment on the grounds it gave the federal government “undue extension of power,” as well as “an unjustifiable invasion of the rights of states.” Many opponents argued “the amendment was of sweeping nature, that went beyond the outlawry of personal bondage and guaranteed the emancipated Negro certain minimum rights, and that Congress would be enabled to safeguard and protect those rights by legislation.” Opponents were outraged that as part of Presidential Reconstruction, former rebellious states had to ratify the Thirteenth Amendment under their “provisional governments” in order to be re-admitted into the Union. Conditional re-admittance into Union left many white southerners with the notion that Reconstruction was going to be brutal and


Many southerners also worried about the mass of Freedmen living in the South and their ability to take care of themselves. One southerner John Baldwin of Virginia “told the Joint Committee on Reconstruction” that he believed “as a race, they will never have the persistence of purpose, or the energy, or the intellectual vigor to rise to anything like intellectual equality with the white race.” For John Baldwin and other southern patriarchs former, enslaved people, “will get along very well in ordinary domestic relations as servants and inferiors” since many white southerners believed African Americans were only capable of domestic service because of their inferior mental capacity. These men also condemned the North for interfering in the relationship between black and white since southerners lived under the fallacy that they knew African Americans best thereby inferring white southerners were the only ones equipped with the knowledge to measure whether or not African Americans could participate in free a society. Racist attitudes and actions demonstrated by men like Baldwin made the need “for legislative appendages to the Thirteenth Amendment immediately apparent.”

Congressional legislators realized, “something more than idealistic words of the amendment were essential” and once reports of “widespread atrocities against Negroes and their white friends” flooded representatives’ offices the pressure to enact protective legislation took on a new zeal for some in Congress.

Coinciding with the fear of African American freedom, the idea of Northern rule implemented across the South without southern consent became a rallying cry for many former Confederates. These fears became utilized as primary grievances when

Reconstruction ended and federal troops vacated the South after the election of Rutherford B. Hayes in 1876. Prior to the election of 1876, white southern grievances stemmed from the Reconstruction Amendments, the Civil Rights Acts of 1866 and 1875, as well as other measures taken by Congress to ensure African American rights. Historian Albert Bergesen noted that the issue with the Thirteenth, Fourteenth, and Fifteenth Amendments was they “acted to resolve two major problems of social integration following the Civil War” and resolving these issues caused white southerners panic on moral and political levels. The Fourteenth Amendment resolved the first problem “which transferred ultimate political sovereignty from local states to the national governments.” The second issue was, “slaves were redefined as national citizens and legally relocated from a position of property outside the moral universe to a position within civil society.” Trying to reconcile those issues only exacerbated the crisis former Confederates felt over the ratification of the Thirteenth, Fourteenth, and Fifteenth Amendment. The Fifteenth Amendment fulfilled the ultimate fear because it “provided the vote, not only as a means of political participation, but also served to establish membership in the national community.” Augmented by racial fears and a deeply-rooted color line, white southern Democrats resented being governed by Union soldiers and leaders they perceived as “Africanized” and the result was violence and social unrest.

During the first phase of Reconstruction white southern Democrats realized they had an ally in the White House, President Andrew Johnson. Under Presidential Reconstruction President Johnson allowed Confederate states to re-enter the Union on more favorable terms. Two presidential proclamations listed several points for southern

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re-admittance, but the most important, started with loyalty oaths pledged by former
Confederates. In pledging loyalty oaths, ex-Confederates’ voting privileges were restored
along with the restoration of property minus chattel. Finally the last condition of re-
admittance was for each former rebellious state to ratify the Thirteenth Amendment. Once state conventions had elected a government and ratified a new state constitution, the
state was once again part of the Union. The loophole of the loyalty oath allowed some
Confederates to participate in the first phase of Reconstruction; however, those of the
elite were largely left out of the government until the later half of Reconstruction when
voter intimidation and violence became utilized by the Ku Klux Klan in order to keep
African Americans and white Republicans from voting or holding office, thus allowing
“Redeemer” governments to restore white rule to the South.

Members of Congress battled with President Andrew Johnson over
Reconstruction policies but none more fiercely than leader of the Radical Republicans,
Thaddeus Stevens. Stevens gave a speech in the House of Representatives on December
18th, 1865 in which he stated former Confederate states were not apart of the Union, “but
only dead carcasses lying with the Union,” and therefore “it requires the action of
Congress to enable them to form State governments and send representatives to
Congress.” Stevens believed the South needed to fully understand and accept its
humiliation and more further abide by the rules set forth by Congress and follow them

35 Thaddeus Stevens, “Speech on Reconstruction,” December 18, 1865, United States House of
Representatives. Reprinted in *The Union in Crisis, 1850-1877*. Edited by Robert Johannsen and Wendy
without exception. To Stevens the South was conquered and full of treasonous men who earned a living "off the sweat of another man's brow" while advocating for the disillusionment of the United States.³⁶ Radical Republicans called for a harsher Reconstruction policy, which pushed for African American citizenship, voting rights, as well as educational opportunities. However, President Johnson implemented his own plan under Presidential Reconstruction, which allowed for limited African American rights, and (more importantly for the future failure of Reconstruction) a leniency toward former Confederates. President Johnson allowed former Confederates to old office, on state and local levels, which influenced how Reconstruction unfolded in the South. While President Johnson assumed ex-Confederates had earned a right to participate in Reconstruction governments, because they took loyalty oaths and paid fines, Radical Republicans like Thaddeus Stevens viewed them as a threat to democracy and the Freedmen.³⁷ Not only would Stevens and Sumner call for Constitutional laws, but throughout Reconstruction both championed civil rights acts and Reconstruction laws designed to promote racial equality, protect African American freedoms, and the dismantling of terrorist groups across the South. What truly propelled these two men, and others like them, into action on behalf of African Americans was the "resurgence of the Dred Scott philosophy, which declared that Negroes were not citizens and had no rights which the white man was bound to respect." In order to combat such mentality the 39th

Congress enacted laws which were designed to “strike down offensive Black codes” and other abusive anti-African American legislation.\textsuperscript{38}

Beyond outlawing slavery with the ratification of the Thirteenth Amendment, former slave and abolitionist Frederick Douglas, called for “elective franchise” which he believed, “the true way and the easiest way to make our government entirely consistent with itself, and give every loyal citizen a right and power which will be ever present, and will form a wall of fire for his protection.”\textsuperscript{39} Douglas was adamant African Americans could only secure their freedom if given the right to participate in the process that governed all citizens. According to Douglas’ article that appeared in \textit{The Atlantic Monthly} in 1866, “the arm of the federal government is long, but it is far too short to protect the rights of individuals in the interior of distant States. They must have the power to protect themselves, or they will go unprotected, in spite of all the laws the Federal government can put upon the national statute-book.”\textsuperscript{40} For Douglas, rights on paper were not the same as rights enforced on state and local levels where Freedmen were harassed, intimidated, and sometimes violently assaulted. In his opinion the Federal government had a responsibility to follow through with the protection of its newest citizens. Abolitionists were fearful that slavery had so perverted the hearts and minds of white southern men and women that they would never accept Freedmen as anything other than inferior. Frederick Douglas and other abolitionists called upon Congress to establish law and order that:

\begin{quote}
will protect loyal men, black and white, in their persons and property: such a one as will cause Northern Industry, Northern capital, and Northern
\end{quote}

\textsuperscript{39} Frederick Douglas, “Reconstruction,” \textit{The Atlantic Monthly}, December 1866.
\textsuperscript{40} Frederick Douglas, “Reconstruction,” \textit{The Atlantic Monthly}, December 1866.
civilization to flow into the South, and make a man from New England as much at home in Carolina as elsewhere in the Republic. No Chinese wall can be tolerated. The South must be opened to the light of law and liberty, and this session of Congress is relied upon to accomplish this important work. The plain, common sense way of doing this work is simply to establish in the South one law, one government, one administration of justice, one condition to the exercise of the elective franchise, for men of all races and colors alike.  

Many in Congress desired the South’s re-admittance into the Union but under terms that would provide for African American citizenship and rights. The goal was a cohesive country were a man traveling anywhere in the United States, regardless of color, would be treated fairly and seen as productive and legitimate member of society. In reality, the only way to guarantee the rights and freedoms for African Americans was through economic reforms, enforcement, and specific language that detailed these rights and promoted strong penalties for nullification.

Although Douglas, Stevens, and Sumner received support in the North for rights and freedoms they believed African Americans needed to be full citizens, others, like Senator John T. Milner of Alabama, opposed African American participation in government and business. Senator Milner argued in his book, *White Men of Alabama Stand Together*, that African Americans were “a kindly race” however, they were “unfitted for self government and incapable as a people to make any progress whatever.” Milner also remarked how “negroes were not capable of civilization” and therefore unqualified for anything beyond the field.  

words like Milner’s, to push their agenda of Civil Rights laws on the basis that if the Federal government did not give African Americans rights state and local governments, the South would re-enslave them. Milner’s thoughts and writing concur with Republicans’ agenda for pursuing rights laws but also served as further evidence as to why rights and federal enforcement were needed in the South. The Republican Congress’ goals in creating, the Civil Rights Act of 1866, The Thirteenth and Fourteenth Amendments, as well as The Freedmen’s Bureau, was to “establish a racially neutral standard of American citizenship,” and prevent ideology like Milner’s from destroying Reconstruction.⁴³

After the ratification of the Thirteenth Amendment, Republicans and activists alike began pushing for more concrete and enforceable laws to protect Freedmen in the South. In March of 1865 Congress created the Bureau of Refugees, Freedman, and Abandoned Lands, also known as the Freedmen’s Bureau, to provide those displaced by the ravages of war and those who were no longer enslaved with basic assistance. The Freedmen’s Bureau established schools, medical facilities, provided basic housing, and assisted, “in labor contract negotiations,” but “at its peak the bureau only had nine hundred agents inside the South,” which would explain the bureau’s overall ineffectiveness.⁴⁴ Republicans’ “practical effect was to assist the freedpeople, but the concern of Congress was to establish a color blind equality in fundamental rights.”⁴⁵ One of the major goals of the Freedmen’s Bureau was “the determination of the bureau to

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return freedpeople to the control of state governments under the protection of color blind state constitutions;” however, the reality was local officials and those who ran the state governments were racist and had an extreme hatred and disregard toward African Americans, thus making one of the major priorities of the Bureau flawed.46 Racism and hatred played a key role in why the Bureau’s policies were ineffective in bringing about lasting change. The overwhelming evidence before the Congressional Committee on Reconstruction demonstrated a wide variety of “instances of private individuals committing outrages and atrocities on freedmen and their white sympathizer” and the Bureau agents were powerless, for lack of funding and manpower, to stop the violence.47

The Bureau was inundated with African Americans who brought complaints against new employers, who were often times old slave masters, as well as protesting verbal, physical, and psychological traumas that occurred at the hands of white southerners who were trying to reestablish the tenants of the old plantation hierarchy. African Americans believed “Paul’s Time” was over and “Isaiah’s Time” was now. The religious references invoked by Freedmen discussed their disputes with former masters. According to African Americans, “Paul’s message of slavery, obedience and humility” was over and replaced with “Isaiah’s prophecy of cataclysmic change, a new heaven on earth.”48 This religious reference, like many others, was an idiom African Americans employed to express their past relationship with former masters and the new relationship former enslaved persons intended on having. However, some white southerners were

intent on resurrecting their old ideals wherein African Americans would continue to play subservient roles. Unfortunately for the proponents of white supremacy, African Americans rallied against the notion of inferiority. Freedmen believed Bureau agents were there to assist them and help them get justice. Subsequently, the Bureau quickly became overwhelmed by letters filed by African Americans whose rights were abridged by whites. For example, in Georgia, a group of Freedmen from Medway Church in Liberty County filed a grievance with the Bureau against their new employer, who coincidentally happened to be their former master, over working conditions and wages. According to these men, "we are working class of people and we are willing and desirous to work for a fair compensation; but to return to work upon the terms that are at present offered to us, would be like going back into the state of slavery that we just been delivered from." 49 Conditions African Americans found themselves working under during Reconstruction were eerily similar to slavery. Sharecropping replaced slavery, bosses replaced masters and overseers, and, more importantly, Black Codes replaced the former slave codes with new guidelines that restricted mobility, job choice, and property ownership. The violence, which was often times associated with slavery, became associated with Reconstruction and African American labor in the South because in many states, "bands of men, led by former Confederate officers, went about whipping or killing Negroes who dared to leave the employ of their former masters." 50

49 Georgia Freedmen to the Freedmen's Bureau Subassistant Commissioner at Savannah, Georgia, November 28th 1865, Freedmen and Southern Society Project, www.history.umd.edu. Freedmen and Southern Society Project was created in 1976 with the goal of "depicting the drama of emancipation in the words of the participants: liberated slaves, defeated slaveholders, soldiers, and civilians" of both the North and South. This organization uses the resources of the National Archives and is a rich source of primary documents. www.history.umd.edu/Freedmen. University of Maryland.
Another early task of Freedmen’s Bureau agents was the responsibility for the redistribution of southern land, especially in coastal areas such as South Carolina, Georgia and Virginia. For a brief period agents were charged with “confirming” and enforcing “former slaves’ claims to their Civil War inheritance” stipulated by General Sherman’s Special Field Order, No. 15. Many former enslaved persons believed they had a right to their former master’s land. From Sherman’s directive the phrase “forty acres and a mule” became embedded in the historical memory of Reconstruction and many former slaves believed they had earned what Sherman’s idea promised. As was the case of Virginia Freedmen Bayley Wyat, whose speech to army officials summed up the feelings of many African Americans at that time:

We has a right to the land where we are located. For Why? I tell you. Our wives, our children, our husbands, has been sold over and over again to purchase the lands we now located upon; for that reason we have a divine right to the land. And den didn’t we clear the land, and raise de crops ob corn, ob cotton, ob tobacco, ob rice, ob, sugar, ob everything? And den didn’t dem large cities in de North grow up on de cotton and de sugars and de rice dat we made? I say dey has grown rich, and my people is poor!51

In Georgia, for example, “the promise” of redistribution “appeared bright, but freedmen abruptly learned that neither a special field order nor bureau agents could provide anything but tenuous authority in the face of planter protest and capital politics.”52 If Sherman’s Field Order N.o.15 had been fully carried out by Congressional leaders and Freedmen’s Bureau agents, not only would African Americans have received land to

farm and an economic means to support themselves but poor white southerners would have as well. According to historian Garrett Epps, the idea behind forty acres for every southern family could have worked, “even if every eligible family received a forty-acre plot from confiscated plantations, the new allotments would have used only 10% of the eligible southern lands.” Also, “nearly a third of the South was still property of the Federal government.” Redistributing southern land was a radical idea, which Congress, “eventually pulled back from and land reform” like other Reconstruction polices was abandoned in the name of appeasement.53 Not only was land redistribution discarded, but the overall goals of the Freedmen’s Bureau became negated because of external factors, like discriminatory laws and violence.

Due in large part to a lack of cohesive federal backing, agents who were racist, and other agents who could only barely enforce rights because of outbreaks of racial violence, the Freedmen’s Bureau became largely ineffective and overwhelmed with its new responsibilities. The reality that Freedmen and Bureau agents faced left many disillusioned and “in the end, bureau implementation of government policy formulated within the limiting context of nineteenth century northern views and buffeted by southern recalcitrance failed to guarantee the steady economic advance of many African Americans who expected results from hard work, fair contracts, and just treatment.”54 It is critical to remember there were, however, some agents who sincerely cared about the well-being of poor whites and African Americans whom the Bureau was charged with assisting. It was because of those agents and their hard work that the Bureau can not be

denigrated to historical memory as a total failure. As early as 1868 Northern newspaper

*Harper's Weekly* discussed the need for and reaction to the aims of the Bureau:

The Freedmen's Bureau has always been an object of Democratic hatred; but no institution was ever more imperatively necessary, and none has been more useful. The war left the late slaves free among a population that had always despised them as the servile race, and that now hated them as men who had loved and trusted the Government. The Freedmen's Bureau was the conscience and common sense of the country and the only way to develop manhood is to treat men as men. It is General Howard, Chief of the Bureau and friend of the freedmen, who hopes more, will be fulfilled and the future is full of promise for the entire race redeemed from bondage and ignorance.  

A majority of Congressional Republicans believed the Freedmen's Bureau was vital in establishing economic and social uplift for African Americans and poor whites who had nothing after four years of a long and bloody Civil War. The economic and social uplift would come from programs designed to assimilate African Americans into the market economy while providing assistance in establishing citizenship and independence. For many African Americans living in the post Civil War South, there had never been a time were they did not know bondage and, therefore, the Bureau was designed to assist in incorporating former enslaved persons into citizens of the United States. Those persons who believed in the goals of the Bureau positively touted its successes, in voting registration, medical assistance, and job placement, and tried desperately to hide its failures, concerning enforcement, economic reform, and protection of African Americans.

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Men like General Howard, Freedmen’s Bureau Chief, advocated on behalf of the
Freedmen, however, growing prejudice and racism caused interactions between white and
black southerners to be tense and sometimes violent. The Freedmen’s Bureau was not a
total failure but the story of Reconstruction applies to the Bureau specifically because the
Republican Congress failed to give the Bureau enough power or adequate funds to
perform its duties. The Freedmen’s Bureau did accomplish some of its tasks before
President Johnson terminated it. First, according to historian Kenneth Stampp, the Bureau
“provided emergency relief for those in desperate need,” and second “spent more than
$5,000,000 for Negro schools.” Third, “the bureau tried to prevent landowners from
taking advantage of the Negroes and supervised the making and enforcement of labor
contracts.” Finally, “the bureau tried to protect Negro civil rights by establishing special
freedmen’s courts” because the Bureau knew local courts discriminated against African
Americans and the courts could escape punishment under the Johnson administration.
For all the goals the Bureau tried to reach, it was inadequate because, according to
historian John Daly, “the federal government’s failure to occupy the South threw the
burden of defense onto African Americans and their white unionist allies, who were
hopelessly outgunned” and “they faced an opponent with weapons, training, experience,
and organization.” Not only did ex-Confederates have those advantages but they also
had local governments on their side.

As Reconstruction progressed growing white southern paranoia over African
Americans gaining rights caused state and local governments to create laws that curtailed
economic and political participation. Under Presidential Reconstruction and as a reaction

to the creation of the Freedmen’s Bureau and the ratification of the Thirteenth Amendment, “Mississippi and South Carolina enacted the first and most severe Black Codes toward the end of 1865.”

For example in Mississippi, as well as in South Carolina, African Americans had till the first week of January of each year to gain employment and have it put into writing so if stopped by police or local officials African Americans could prove they were employed. Similarly both states’ Black Codes stated, “If Negroes quit the service of his employer before expiration of his term of service without good cause, an officer shall arrest and fine the sum of five dollars and ten cents per mile from the place of arrest to the place of said employer.” This section of the Code left a loophole for white employers to manipulate African Americans into working in degrading positions because African Americans knew if they quit before their labor contracts were up without good reason, (and according to white employers there was never good reasons to quit), they could be arrested and their labor contracts extended.

Almost immediately after Mississippi and South Carolina put Black Codes on the record so too did Louisiana and Georgia. For example, Georgia’s Black Codes made it a crime for African Americans to hunt, fish, or “free graze livestock,” on property they did not own, thereby limiting African American independence and economic resources. At this time African Americans could rent or lease land but could not own land therefore they could not hunt, fish, or graze animals without permission of white landlords thereby creating another loophole which white southern used to their advantage to limit African Americans.

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60 Mississippi Black Codes, November 25, 1865, section six. University of Houston digital archives.

61 Mississippi Black Codes, November 25, 1865, section seven. University of Houston digital archives.

American agency and economic status. Beyond limiting economic stability Black codes, "listed specific crimes" African Americans could be arrested for, such as, "mischief, insulting gestures, cruel treatment of animals," selling liquor, and owning guns. However, the worst crime of all which carried the gravest penalty, death or life imprisonment, was interracial marriage, which broke societal and racial norms. Historian Eric Foner points out that by 1866, "virtually all the former Confederate states enacted sweeping vagrancy and labor contract laws," which penalized "Blacks who broke labor contracts with the whip and prison" but "whites only faced threat of civil suits." Even poor whites, whom the former slaveholding elite looked down on, had the upper hand for one reason and one alone: they were not black.

Black Codes enabled white southerners to recreate the racial hierarchy that had predominated the South before the Civil War. Historian Kenneth Stampp accurately described the purpose of Black Codes, their design and goal was "to place the Negro in a kind of twilight zone between slavery and freedom" but always under the thumb of whites. When African American men exercised their autonomy, for example, keeping their wives and daughters at home and out of the field in order to create a Victorian family model where husbands worked and women took care of the home and domestic needs, white employers became angry because they lost a significant portion of their labor force and control over the black family. This choice in creating a cohesive family unit challenged racialized stereotypes of family, but also showed African American men

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exercising their right and place at the head of the family, which was previously reserved for white men. The challenge to societal norms of work, family, and autonomy caused white southerners to act increasingly hostile and resentful toward the African American family, thus Black Codes dominated the South as a means of social, economic, and political control that would curtail and dissolve rights and freedoms.

In the spring of 1866, Congress voted on the first of the Civil Rights Acts as a response to southern states enactment of Black Codes. The first civil rights act stated African Americans were citizens if they were born or naturalized in the United States; it also stated citizens had equal protection under the law and denying those rights was a “federal crime punishable by fine and imprisonment.” The Civil Rights Act of 1866 also made the Federal and local court, as well as state law enforcement responsible for adjudicating the laws and protecting the rights of all citizens. The Act stated citizens, “shall have the rights in every State and territory to make contracts, to sue, be parties, give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property.” For the first time basic rights of defending oneself in court and owning or selling property, which had been taken for granted by white men, was finally granted to African Americans. The first Civil Rights Act created in response to Black Codes helped to galvanize radical Republicans, “who were pushing for black suffrage as a condition of readmission of the former Confederate states to the Union.”

Illinois Senator Lyman Trumbull, one of the authors of the first Civil Rights Act, envisioned the legislation as

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way in which to under cut Black Codes, and be the forerunner and foundation of the Fourteenth Amendment, which he stated was “simple justice.” Former Confederate states had the opportunity to ratify the Fourteenth Amendment as part of their new state constitutions but those states which held out, Texas for example, would by 1868 have no choice but to accept the Fourteenth Amendment as it was passed by both houses of Congress and incorporated into the Constitution.

One of the many signs of trouble between President Johnson and the Republican Congress came when the President vetoed the Civil Rights Act of 1866. However, both houses of Congress overrode Johnson’s veto with a two-thirds majority vote and passed the Act into law. The tug of war over what Congress wanted and what President Johnson was willing to do became common place during Presidential Reconstruction, and the animosity and Johnson’s attitude, “contributed to the growth of Radical Republican intervention,” as well as to Johnson’s impeachment. According to an 1866 editorial on the Civil Rights Bill, Harper’s Weekly stated the Bill was necessary since President Johnson demonstrated only hostility toward the goals of Congress and the needs of Freedmen. The editorial went onto address how deeply slavery had permeated the ideals of the country and it was up to the supreme executive and the legislative body to undo the past by allowing freedom and liberty, which “means freedom to work and enjoy the products of your own labor.” Some Republicans stated the goal of the Bill, “was to

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merely secure that freedom; for no man enjoys the fruits of his labor if he can not own property, and sue and testify and convey."  

Between March of 1867 and October of 1871 Congress shaped Reconstruction policy and laws. This time period before “Redeemer” governments allowed white southern Democrats to regained control of both state and Federal governments is know as Congressional Reconstruction. Congressional Reconstruction was and is often referred to as Radical Reconstruction because of the nature of the legislation that was enacted. The term radical was applied because, “the stipulation that both races would vote for delegates to state conventions and no state constitution would be accepted unless it provided for black suffrage,” was in an of itself radical and groundbreaking.  

Many Republicans were also referred to as “radical Republicans” by a large majority of Democrats because of the overall plan Republicans envisioned for the South. According to letters, testimony, and legislation proposed by the 39th Congress, Reconstruction policies were to establish governments approved by Washington and until that point the South was to be under military rule for “some indefinite future” pending “social and political transformation.”  

This period was also one of significant turmoil between those who wanted to create laws that would establish Freedmen as equal and productive citizens and those who fought violently to re-establish the ways of the old slave aristocracy. Under Congressional Reconstruction, two Amendments, the Fourteenth and Fifteenth, were ratified. In addition, four different Reconstruction Acts, all of which

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promoted African American agency in the hopes of creating improved social and economic status, were created.

In March of 1867, the first of the Reconstruction Acts passed and became one of the most critical pieces of legislation because the Act “provided for potentially momentous changes in the lives of African Americans.”\(^{77}\) The Reconstruction Act “put southern states under military rule until they reorganized their civil governments on the basis of black suffrage.”\(^{78}\) Congress divided the South into five military districts and upon ratification and acceptance of the first two Reconstruction Amendments, (prohibition of slavery and citizenship rights), states could re-enter the Union, and send representatives to Congress. Only Tennessee was excluded from military occupation because the legislature had ratified the Fourteenth Amendment prior to 1867. The goal of the Reconstruction Acts was to “oversee” registration of voters, and “exclude” former Confederates from political participation as stipulated by the Fourteenth Amendment, which was waiting ratification. Once delegates were elected and Reconstruction policies “received a majority” approval then delegates could “draft a new constitution.”\(^{79}\) Finally former rebellious states under the Reconstruction Act could re-enter the Union if Congress approved their constitution and they ratified the Fourteenth Amendment. Once that occurred military occupation ended and state governments functioned without Congressional oversight. What is critical to understanding most legislation that occurred under Reconstruction was the original wording and language, as well as the content often

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changed in order to get southern support and moderate Republican approval. In the end the stipulation for male suffrage in its original form was removed from the first Reconstruction Act but the South was still placed under military rule pending creation and approval of new state constitutions. Reconstruction was not only a battle waged against African Americans by white southern racists but a war between the 39th Congress and President Johnson and those who supported his moderate regime.

Unfortunately, the Reconstruction Acts propelled white southerners into a state of paranoia over what they perceived as forced re-conciliation. There was also a deep divide in Congress over how former rebellious states were dealt with under the new Reconstruction policies. For example, Georgia under military governor General Alfred H Terry, “forcibly” allowed African American male suffrage and “blacks in the legislature, while banning an equal number of whites in an action known to aggravated Georgians as ‘Terry Purge.’” General Terry’s actions pushed the state legislature to ratify all the Reconstruction Amendments and Georgia was re-admitted into the Union in 1870. The dictums handed to Georgia, for example under military reconstruction, were just one way in which white southerners claimed they had been exploited and unjustly treated by Radical Republicans. Many white southerners “clung to the illusion that President Johnson and his conservative polices would prevail” and only after military rule was implemented in 1867 did many for the first time realize “the days of the white man’s government were numbered.” These racialized fears, which many projected from the days of slavery, pushed southern men toward a “rejection of black political participation” and a state of panic over the perceived and though exaggerated, issue of “racial

amalgamation.” Historians C. Vann Woodward and George Fredrickson both “constructed a theory that antebellum ideologues created the idea of a ‘herrenvolk democracy’ in which the equality of all white men depended on the subjugation of black men.” This theory of the need to subjugate black men became a catalyst for violence when African Americans did not follow the white southern agenda. Reconstruction, and the policies and legislation adopted by Congress, were dangerous in the minds of white southerners for it created for the first time a perceived equality between black and white. The Reconstruction Act of 1867 pushed the boundaries further by implementing military rule across the South. The reaction was violence directed at African Americans and their white allies, which ultimately set in motion Constitutional legislation that was designed to protect and enforce Reconstruction policies.

Growing tensions in the South fueled by prejudicial fears about African Americans and the ratification of the Fourteenth Amendment prompted southern state and local governments to respond with harsher restrictions upon Black communities. The Fourteenth Amendment placed suspicions in the minds of southerners who believed the “Africanizing” the United States government was happening because the Amendment allowed African Americans not only citizenship but equal rights and protection under the law. Ideally, the Fourteenth Amendment was designed to protect privileges prescribed under the Civil Rights Act of 1866 and to promote African American as citizens who were fully protected under the letter of the law. The Fourteenth Amendment also included “reduced representation of the South” in Federal government based on the number of

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registered voters.\textsuperscript{84} This section was just as radical as equal rights and suffrage for African Americans because it forced former Confederates states to recognize all citizens regardless of color and if states decided to ignore the Constitution, the state would be penalized with decreased federal representation. The problem confronting the South during the first part of Reconstruction was the former rebellious states could ratify the Fourteenth Amendment and give African Americans the ballot, “in which case the Slave power and one party system would come to an end,” or southern states could “cling to their old undemocratic political system” and wait for African American male suffrage to be forced upon them.\textsuperscript{85}

The original Fourteenth Amendment included black suffrage; however, some Republicans believed the measure was too radical and unattainable so it was removed. Republicans did not want to disrupt the balance of power they initially had over the South or President Johnson, and under the political climate gaining equality under the law seemed the first logical step. In the end the Fourteenth Amendment “basically declared blacks citizens but not voters.”\textsuperscript{86} Civil rights and protection was enacted under the legislation, as well as representation based upon all taxable persons in the state. The wording of the Amendment stipulated that if rights and privileges “shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.”\textsuperscript{87} The final language was strong, in that it challenged legal discrimination, but broad in the respect the Amendment was not as


specific as the first Civil Rights Act. The Fourteenth Amendment in theory made southern states fully aware that if they denied rights the state would be denied representation. Historian Eric Foner argues, "some Republicans believed the prospect of reduced representation would lead to the South’s embracing of black suffrage,” unfortunately, “in 1866, control of local affairs concerned southern leaders more than the size of their Congressional delegation.”

Language played a pivotal factor in southern states turning down the first draft of the Fourteenth Amendment. Subsequently, southerners and Republicans agreed to place African American enfranchisement on the back burner in order to get former rebellious states to ratify a compromised version of the Amendment. Southerners believed if they allowed some African American political participation and accepted the new language of the Fourteenth Amendment, that Republicans would be satisfied, their state would be re-admitted into the Union, and Reconstruction would dissolve sooner rather than later. The premise of a shorter Reconstruction ended because as white southerners denied African Americans’ rights under the Fourteenth Amendment, Congress became more emboldened and pushed further equal rights legislation. However strong the language or bold the legislation, the fact remained civil liberties and voting requirements were enforced by the state, and Presidents Johnson and Grant along with the Supreme Court refused to fully protect or establish in essence what the Fourteenth Amendment was designed to do.

In theory, African Americans were not to be denied rights and privileges extended to white Americans, but in practice southern states were finding increasingly creative ways to nullify protective legislation. African Americans, “before the passage of the Fourteenth Amendment were not persons who were entitled to all the civil rights and privileges of the states” therefore it was a necessity in order to guarantee full citizenship. Democrats contended that the Founding Fathers had never envisioned African Americans as citizens and another piece of their argument against African American equality hinged on the Supreme Court’s ruling in 1857, (Dred Scott), that African Americans were inferior therefore they could not be citizens of the United States. Republicans, like John Scott of Pennsylvania, quickly fired back at Democrats, stating “all black persons in the United States had instantly become citizens by the enactment of the Civil Rights Act of 1866 and the ratification of the Fourteenth Amendment” was a constitutional guarantee of rights as stated in the Declaration of Independence. Tensions and debates between Democrats and Republicans were continually present, as well as growing African American groups that served to organize and inform, “blacks of their rights” and “advised their people to cultivate good relations with the white population,” in the hopes of decreasing violence and social anxieties. African Americans not only looked inward for support from organizations, schools, and churches, but to Congress and President Johnson for legislation that would incorporate them as full and equal citizens.

The passage of the Fourteenth Amendment was a direct reaction to southern states implementing Black Codes and discriminatory restrictions that prevented African

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Americans from fully exercising rights granted under the Civil Rights Act of 1866 and the Reconstruction Act of 1867. What was significant about the Fourteenth Amendment was “it redefined notions of individual rights and the balance of states’ rights versus federal authority by making personal liberty and equality federal guarantees, while empowering the national government to curtail state actions that deprived citizens of those rights.”94 The Republican Congress believed, and rightly so, that a Constitutional guarantee would help to usher in radical change and possibly bridge the color line that permeated the South. White southerners, however, viewed the passage of the Fourteenth Amendment in different terms. They perceived the Amendment as a challenge to the white racial hierarchy and natural order which had existed since the American Revolution.

Before the ratification of the Fourteenth Amendment, the Congressional Joint Committee on Reconstruction held hearings to better understand the true needs of Freedmen in the South, and how far the amendment should extend certain rights and freedoms. After listening to testimony from over 125 individuals, “the hearings were significant because they revealed that most of the abuses suffered by the Negro were at the hands of individual white persons rather than state governments or those acting under color of state law.” The hearings also revealed that African Americans were not alone in “invasions of civil liberties” but white persons who were bold enough to support the federal government and “advocate civil rights for the Negro were also victims of terrorism in the South.”95 The hearings the committee held exposed the necessity of the

Fourteenth Amendment for not only the protection of African American liberties and safety but for white advocates as well. To a larger extent the amendment needed to cover not only state actions against civil liberties but individual actions that impeded or infringed on citizenship rights regardless of race or color.

In the end the Fourteenth Amendment's wording was a compromise to make its ratification and implementation more palatable. However, what is important was that in all drafts and the final one as well, "the basic idea of equal or full protection of the laws was present," and the final draft "contained both a constitutional prohibition and an allocation of power to Congress."\(^6\) Crucial to the implementation of the Fourteenth Amendment was section five, the enforcement clause, which stated, "The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."\(^7\) In granting Congress the authority to enforce all sections of the amendment with further legislation, the framers were hoping to guarantee not only the amendments' execution and success but the power of Congress to enact later statutes and laws to promote equality before the law. The Fourteenth Amendment can be viewed as an attempt by a Republican Congress to implement a color blind social and political justice. However, southern men and women, as well as other elected official decided enforcing African American rights was un-necessary and that re-establishing "white rule" through violence, intimidation, and economic regulations was more productive in securing their end goals of expelling African Americans from economic and political participation.

Due to lack of enforcement and the compromised wording of the Fourteenth Amendment African American male suffrage was in jeopardy so, Congress began work

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\(^7\) U.S. Constitution, Amendment, 14. Section 5. Ratified July 9, 1868.
on the Fifteenth Amendment, which guaranteed the right to vote for all males over twenty-one years of age. The interesting aspect about the Fifteenth Amendment was it “sanctioned black suffrage” which was crucial but, “said nothing about the right to hold office and failed to make uniform voting requirements throughout the land.”

Congressional committees in both the House and the Senate began working on versions of the wording in 1868. Unfortunately, President Johnson’s impeachment trial took away much of the time and energy which should have been devoted to enfranchisement legislation and civil rights enforcement. Johnson was acquitted by one vote in the Senate but impeached by the House of Representatives. Afterwards Congress refocused its energies and the Fifteenth Amendment was ratified in 1870. For the first time in American History there were two Constitutional Amendments that used either the word equality or implied clearly that African Americans had the right to the same privileges and immunities as white citizens. The jubilation over the ratification of the Fifteenth Amendment was short lived; white southern legislators and election officials soon devised ways to keep African American males from casting their ballots.

In order to disenfranchise African American men and nullify the Fifteenth Amendment, the majority of southern states enacted some form of voter requirements. Voter requirements consisted of literacy tests, poll taxes, and the grandfather clause, which allowed an individual to vote if their grandfather had; however, since most African Americans’ grandfathers were slaves they would have never voted so the vast majority of African Americans became disenfranchised through this and other methods. Southern states were able to enforce these requirements because, “they applied to all voters…

regardless of race, however, the provisions were only enforced on blacks, especially in areas dominated by lower-class whites.”¹⁰⁰ Constitutional scholar Alfred Avins noted “the Senate attempted to forbid literacy tests on the ground that they might be used to reduce Negro voting ultimately failed.” He contends the failure was significant because, “it meant states are constitutionally at liberty to impose literacy tests as they chose, in language that is desirable” because it “does not discriminate on the basis of race, color, or previous servitude.”¹⁰¹ In states that created and enforced such voting requirements, local election officials were able to disenfranchise African American males based on literacy tests that officials conducted at polling places. Poor whites who could not read needed only to simply memorize parts of their states’ constitution and repeat the passage to a white literacy official who would ultimately let them vote regardless of how they preformed. The reality was that the majority of southern states changed the literacy requirement from “reading or understanding” of the passage “to reading and understanding” as the requirement for voting.¹⁰² What became evident was as “Democrats regained control of power” in the South, “measures like poll taxes” and literacy texts could and did “deter voting without directly violating the Fifteenth Amendment.”¹⁰³ The voting restrictions directly impacted African Americans because once again white election and voting officials determined whether or not the individual trying to register was qualified based on two criteria, wherein the individual must pass both.

Another restrictive action white southern Democrats utilized to repress African American male suffrage was to employ public media, like newspapers, to intimidate through messages and columns veiled threats of violence designed to keep Blacks away from the polls. In areas with large African American voting populations southern, states enlisted the help of newspapers to spread racist rhetoric to discredit black and white republican politicians as well. The majority of those same newspapers also spread anti-voting propaganda falling just short of actual printed hate messages. The propaganda was a warning to African Americans not to vote. Newspapers like *The Edgefield Advertiser* in Edgefield, South Carolina stated, the South was being taken over and “Africanized” because of the large population of black males over twenty-one who could vote. *The Augusta Constitutionalist* stated, Prince Rivers an African American political candidate, was ticketing “poor whites and using his Brazilian ape power” to gain control of his local government and enforce “colored rule” on white people. 104 These papers also added to southern fears about violent African Americans and caused a backlash against black communities because the white press reported arrests and other criminal behaviors supposedly committed by freedpeople but repeatedly failed to denote “white violence against blacks.” 105 These two newspapers are excellent examples of the propaganda implemented by racists to condemn African Americans’ participation in government. Propaganda was just one small piece in the overall plan to disenfranchise African Americans and make the Fifteenth Amendment nullified in practice.

However, there was a counter to the racist rhetoric featured in newspapers, two of the best examples, that did have an impact on informing African Americans on voting and registration requirements were *The Colored American* and *The Loyal Georgian*. Both were financed by the Republican Party and both printed vital information about “local black meetings and other activities.” *The Loyal Georgian*, like other newspapers that promoted African American equality, “was read aloud in black churches” and “printed advertisements for black business” in order to increase businessmen’s economic status within the community. Though white racist and Democratic newspapers were the majority in the South, *The Loyal Georgian* and *the Colored American* served as examples of white Republican and African American determination to provide accurate and critical information to those who stood against violence, voter restrictions, and discrimination.

Those who traveled inside the South became exposed to the racist rhetoric, in newspapers for example, and formed opinions about how African Americans were treated and why. One northern journalist, John Richard Dennett, who spent eight months in the South, commented on how he viewed white southerners compared to African Americans. Dennett stated, “I’ve heard and seen more brag, lying, profanity, and cruelty down there” and “the only people a Northern man can make friends of are Negroes and I’m convinced they can vote just as intelligently as the poor whites.” Northerners like Dennett, Douglas, Sumner, and other radical Republicans considered African Americans as citizens and therefore just as entitled to vote as white southern males. The Fifteenth

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Amendment granted African American male suffrage to which the Federal government was to enforce by any means necessary; however, the loophole which allowed the majority of African Americans to be disenfranchised, was each state was responsible for creating its own regulations for voting. In creating requirements in order to vote, states regulated who could cast a ballot and who could not as long as it was stipulated in their states constitution. Southerners, according to author Stephen Budiansky cried, “tyranny under Reconstruction,” whenever they believed their rights were abridged by the interests of Congress promoting African American rights. What is problematic was “the way in which southerners defined tyranny at the time: as a synonym for letting black men vote at all.”

Disenfranchising African American males through laws rather than violence and fraud allowed southern states to work within the confines of the Federal Constitution without breaking it because everyone regardless of race was supposed to prove to white voting regulators at the polling place they met their states constitutional requirements to legally vote. Another method of voter regulation was the creation of a poll tax, which became popular in the late 1870’s early 1880’s and significantly reduced black male suffrage. In order to register to vote, all adult males had to pay “a $2.00 per year poll tax.” The poll tax did decrease poor white males participation in government (if they could not pay or could not find a white benefactor to pay the tax that year), but it decimated African American male voting. For example in Mississippi, “in 1880 110,113 whites and 130,607 blacks were registered to vote, by 1896, white registration dropped

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109 White southern governments created loopholes for poor whites that could not pay the poll tax by establishing the “understanding clause” which meant that poor white males had to be able to understand specific parts of their states constitution to the satisfaction of the white registers at the polling site, and if they passed, which the majority did they could cast their ballot.
slightly to 108,998, which black registration dropped to 16,234," and what is more staggering was, "the percentage of voting age blacks who were registered to vote declined to less than 9 percent." Along with literacy tests and poll taxes, southern Democrats found other mechanisms to curtail African American suffrage and nothing short of voter fraud was committed, especially after the late 1870's. In Mississippi, Judge J.J. Chrisman reported his concern to local convention officials stating, "it is no secret there has not been a full vote and fair count in Mississippi since 1875, we have been stuffing ballot boxes, committing perjury, and carrying the elections by fraud and violence" and "no man can be in favor of perpetuating these methods which have prevailed in Mississippi since 1875 who is not a moral idiot."

An even harsher and all too common example of the nullification of the Fifteenth Amendment, was the first and second Mississippi Plans, 1875 and 1890. White supremacists and southern Democrats designed these plans, as a "method of controlling black votes," through violence and voter fraud. Shooting African Americans as they tried to vote or intimidating them into casting their votes for racist white candidates, according to Ronald Davis, caused "a bloody revolution that devastated the black vote in Mississippi." For example, "66 percent of black registered to vote in the state failed to cast ballots in the presidential election of 1880, and those who did, almost 50 percent voted Democratic rather than face the wrath of whites in the state." The Mississippi Plans, like other discriminatory acts were designed to put African Americans in their

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place, thereby, restricting their political voice and limiting some measures of agency. Those who broke rank and acted outside the white racial standard were punished, “driven from their homes, beaten or killed.”

Disenfranchising African American males permitted white southern Democrats to regain political power and relegate all African Americans in the South back into a new form of slavery. Without being able to participate in the democratic process of voting or even the simple act of protecting one’s property and family, African Americans were forced to live in an environment which perpetuated the tenants of slavery. The battle over the Fifteenth Amendment to many southerners was vital to the re-creation of “a white man’s government.” Even more fundamentally important was to prove African American inferiority so disenfranchisement could be further rationalized and justified to Republican critics. Southern historian Dunbar Rowland perpetuated racial attitudes on voiding the Fifteenth Amendment during a speech in the late 1870’s when he stated, “what a bitter trial the South went through in those years but from her suffering we can at least learn for the future; “the enfranchisement of the Negro is a stupendous blunder and the greatest obstacle to the advancement of the negro is not the white people of the South but rather the black man’s own defective moral character.”

What was interesting about Presidential and Congressional Reconstruction was as one Amendment or Act became ratified the South retaliated with their own brand of social and moral justice in the form of Black Codes, voter requirements, and eventually violence. It was a back and forth reactionary response that as Congress passed, for

example, the Thirteenth Amendment, the South implemented Black Codes. In response to Black Codes Congress passed the Civil Rights Act of 1866 to which southerners retaliated with discriminatory laws that pushed Congress into ratifying the Fourteenth Amendment. Following the Fourteenth Amendment the South enacts stricter codes and begins utilizing violence so Congress once again responds in kind by passing the Reconstruction Acts and the Fifteenth Amendment. White Democrats were outraged by the passage of the Fifteenth Amendment, which allowed African American male suffrage, and as a mechanism of social and political control, as well as to disenfranchise African Americans the South established voting requirements, such as literacy tests and poll taxes. The tug of war between the South and the Republican Congress resulted in social unrest and a violent backlash directed at African Americans.

For African Americans and their Republican supporters, the Fourteenth and Fifteenth Amendments were crucial elements in creating a republic that practiced true Democracy. Invoking the principles of the American Revolution and the Declaration of Independence, African Americans and their supporters, rallied around the notion of justice and equality for all. To many legislatures, "the ballot is the freedman’s Moses," because it allowed for the first time African Americans the opportunity to participate in the political system that governed them. When a West Virginia man, Waitman T. Willey, was asked about Congressional legislation during Reconstruction his response was simple, "the legislation of the last two years will mark a great page of history for good or evil- I hope the former, the crisis, however, is not yet past."\textsuperscript{115} The crisis Willey referred

\textsuperscript{115} Waitman T Willey, "Diary of Waitman T Willey," March 5, 1867, Waitman T. Willey Papers, University of West Virginia.
was directly linked to the Federal government granting rights and privileges that were
previously closed to African Americans, like testifying in court, suing white men, and
receiving federal and state protection under the law. Rights and privileges granted by the
Civil Rights Act of 1866, the Fourteenth and Fifteenth Amendments allowed African
Americans to exercise legal recourse in the fight against abuse and corruption. However,
the designs behind Reconstruction legislation were ones of idealism and hope,
unfortunately the “lofty goals” were overshadowed and undercut by white men and
women who deemed African Americans as inferior. What compounded the racism was
the mechanism utilized by white southerners in the fight for the re-establishment of the
racial hierarchy. Voter restrictions, Black Codes, and ultimately violence disenfranchised
and abridged the basic human rights of African Americans for decades to come. The
legacy of Reconstruction, for all its well intentioned designs, was over shadowed by the
spilling of blood, greed, and corruption. No manipulation of historical memory can
change the fact that men and women were murdered and intimidated because they wanted
to exercise their basic rights to freedom and political participation. The Constitutional
guarantees ratified with the Thirteenth, Fourteenth, and Fifteenth Amendments, along
with the Civil Rights Act of 1866, provided only vague language about rights principles
with out economic reforms, initial groundwork, or legitimate enforcement, thereby
worsening the daily lives of African Americans in the post Civil War South. The rights
principles, which African Americans and their white Republican allies believed would
secure freedom, citizenship, protection, and suffrage had no practical application and
instead became weapons in the war against Reconstruction and African American
equality. The Reconstruction Amendments were filled with vague language that was open
ended and left to Federal and state interpretations. Another issue with these three Amendments was the lack of enforceable laws which unfortunately became catalysts for southern white violence, voter intimidation, and promotion of the former slave aristocracy. Nullification of rights for African Americans coupled with violence and lack of enforcement had far reaching and devastating consequences for the African American communities inside the South.
Chapter Two


With the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, white southerners and Democrats became hyper-sensitive and paranoid in their fears of African American political and social freedoms and became militantly aggressive in their resolve to re-enslave African Americans and dispel white Republicans from the South. Many who were ex-Confederates focused their attention on nullifying and repressing African American rights and freedoms. The nature with which these ex-Confederates decided to nullify Black rights took on a dangerous and deadly path that started with the creation of the Ku Klux Klan and continued with a massive wave of lynching decades later. The goal of ex-Confederates and their white allies was to invalidate the Reconstruction Amendments and make it so difficult for African Americans and white Republicans to live, work, and politically participate inside the South, that they would migrate North and leave the South in the capable hands of white men. Since the Reconstruction Amendments were literally only guarantees on paper, and since there was virtually no enforcement, no economic reforms, and southern courts and law enforcement stepped aside white terrorist groups, like the Ku Klux Klan, were able to intimidate, murder, and nullify in practice rights and freedoms granted to African Americans during Reconstruction.

The reversal of the Reconstruction Amendments in practice was accomplished in several ways. The first phase began with the implementation of Black Codes, literacy tests, and other legalized forms of discrimination. However, none of those restrictions
were as detrimental to the physical and psychological well-being of African Americans as the violence, intimidation, and murder utilized by white terrorist organizations. These white terrorist organizations coupled with the idea of vigilantly social justice stemmed from a “tradition of white men taking the law into their own hand;” whether through dueling or murder.\footnote{George Rable, \textit{But There Was No Peace}, (Athens: University of Georgia Press, 1984), 92.} The Ku Klux Klan, America’s largest 19th century terrorist organization, was founded as an anti-Catholic, anti-Semitic, anti-immigrant but, more importantly, anti-black organization. The Klan formed in 1866 in Pulaski, Tennessee under the leadership of former Confederate general Nathan Bedford Forrest. Forrest, the man “who proudly dyed the Mississippi with black blood at Fort Pillow,” was second choice for Grand Wizard; Robert E. Lee declined.\footnote{Garrett Epps, \textit{Democracy Reborn: The Fourteenth Amendment and the Fight for Equal Rights in Post-Civil War America}, (New York: Henry Holt and Company, 2006), 162.} As Grand Wizard Forrest appealed to white southern men who believed their rights and honor were hijacked by a radical Congress. In a newspaper interview Forrest stated, “there is not a radical leader in this town but is a marked man; and if a trouble should break out, not one of them would be left alive.”\footnote{Michael W. Fitzgerald, \textit{Splendid Failure: Postwar Reconstruction in the American South}, (Chicago: Ivan R. Dee Publishers, 2007), 93.} This typical white supremacist attitude allowed the Klan to recruit large numbers of men based on their “appeal to frustrated individuals who could transfer the blame for their own personal failings from themselves to” white Republicans and African Americans.\footnote{George Rable, \textit{But There Was No Peace}, (Athens: University of Georgia Press, 1984), 95.} Even though “the KKK was very loosely organized” there were specific goals: “the defeat of the Republican party, and maintenance of absolute white supremacy in response to newly gained civil and political rights by southern blacks.”\footnote{Jonathan M Bryant, “Ku Klux Klan in the Reconstruction Era,” Georgia Southern University, 2002. \textit{The New Georgia Encyclopedia}, (Athens: University of Georgia Press, 2004), online entry. www.georgiaencyclopedia.org.} White
southerners looked to the Klan as the militant arm of white supremacy and the Democratic Party that could do the dirty work to disenfranchise and silence southern blacks and white Republicans. Klan and White League rituals had members pledge allegiance to the underlying principles of these groups; “maintenance of white supremacy of the white race” and then asked members such question as, “Are you opposed to negro equality both social and political?”121 Terrorist organizations like the Klan became the “Invisible Empire of the South” and the enforcer of white power.

Tragically, white southern attitudes, hostility, and resentment boiled over into violence that pushed many African Americans away from positions in local, state, and federal governments out of fear for themselves and their families. One horrific example was the daylight assassination of South Carolina legislator Benjamin Randolph. Randolph was shot in the head in broad daylight by a group of white men while he was waiting for a train in Abbeville County, South Carolina.122 Not all African American political careers ended in such tragedy, though the vast majority faced some form of violence and intimidation. There was, however, a brief period of black political participation, 1868-1877, “all told, twenty-two African Americans served in Congress, and more than 600 served in state legislatures.” The first African American senator from the state of Mississippi, Hiram Revels, was featured in article published in the 1870 addition of the Philadelphia Inquirer, where the paper discussed the senator’s first day and the non-affect it had on the average life of white Americans, thus exposing racists fears as false. The Philadelphia Inquirer stated “the colored senator from Mississippi has

been awarded his seat, and we have not had an earthquake, our institutions have not been shaken to their foundations, nor have the streets been converted to blood.”

Hiram Revels, (Mississippi), Robert Brown Elliot, (South Carolina), and Joseph Rainey, (South Carolina), were just three examples of African American men who served with distinction in either the House of Representatives or Senate during Reconstruction. Each man brought with him scars of the violence faced by African Americans at the hands of white supremacists and each endured racial slurs printed in newspapers (“ape-like, ignorant, scheming, too dark, and big lipped”), but each man took those remarks and channeled them into motivation to succeed in politics even though it was short lived.

Acts of violence were politically motivated, as well as prompted by white southern fears about social degradation; particularly involving miscegenation. Mob and Klan violence focused on issues where white female honor, or more importantly, white southern male honor was challenged by racial mixing. South Carolina, Mississippi, Georgia, Florida, and Louisiana during Reconstruction and in the years afterwards saw large numbers of violent acts committed in the name of the Ku Klux Klan and the purity of the white race. Violence spread across the South and even in areas where there were large African American populations like, Georgia and Louisiana. Here the Klan and White League were able to gain a hold for brief but deadly periods of time. Many military governors warned African Americans to stay away from the polls “for self-protection” since they could not guarantee their safety. More commonly across the South

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“armed whites blocked blacks from going to vote or prevented the polls from opening on election day,” some white southerners went as far as breaking up political meetings held in churches, invading African American spaces and taking away the constitutional right to freedom of assembly. Violence was not limited to night only but occurred during the day as well, specifically when African Americans and white Republicans held political rallies. The Klan, White League, and Red Shirts, would attend in full force usually inciting some type of armed clash that boiled over into a bloody riot, as was the case in Camilla, Georgia on September 19, 1868. The *Albany Semi-Weekly News* reported just days after the Camilla massacre, white sheriff Mumford S. Poore’s version of the events. His version of events greatly differed from federal reports filed by General Oliver Otis Howard, head of the Freedmen’s Bureau, and other witnesses both black and white. Sheriff Poore stated that “the group of freedmen, mostly armed, and with violent intentions” marched into town after being warned they could not enter with rifles. Poore then recounted how the violence started stating that a white man accidentally discharged his rifle which caused “more than one hundred freedmen to fire a volley into the whites who were present, wounding three severely which caused the twenty whites to return fire, and then the freedmen fled.” Upon order of General O.O. Howard Freedmen’s Bureau agents collected affidavits which paint a more creditable version of events. According to Lochran Hunter, Freedman who was present, the Republicans and Freedmen, lead by John Murphy and William Pierce, both white Republicans, were holding a political rally outside of the Mitchell County Courthouse and instructed all present not to discharge their weapons under any circumstances. Others, including Hunter, testified the whites

fired first and the protesters fled. Hunter also stated James Johns, white commander of the town, warned them to stop playing music and leave after which “he fired at the music wagon and another white man about five yards in front of the wagon fired,” ultimately opening up steady gunfire from both sides. Some Freedmen, like Hunter, were able to escape into the woods while others, like Daniel Howard, were captured. Howard’s sworn affidavit recounted the killing of twelve freedmen who were wounded in the shooting but still alive. Afterwards the wounded were rounded up by the white townspeople and taken out to a pond at Dr Dasher’s house and shot. Howard testified the threat of violence was made against him if he did not help dispose of the wounded Freedmen. Howard testified he was also instructed to take the wagon of wounded out to Dasher’s property to dispose of the wounded and dead. While his white captors were busy killing the wounded Freedmen, Howard escaped into the woods. Later reports filed by Bureau agents on behalf of local Freedmen discussed the fall out from the Camilla massacre. Agent Caleb Chase Sibley informed General Howard “of the political climate” and the “obstacles whites, including legislative candidate W.A. Bird, presented to freedmen who came to vote; they used harassment, gunfire, and threats on the lives of the freedmen.”

According to Sibley, one Freedmen Buddell Neil was “sent home after the mob threatened his life and made him get on his knees and promise he would vote Democrat.” By the time General Howard received the affidavits and accessed the outcome of the Camilla massacre, “fifty freedmen were killed and wounded” but “of the

attacking party only two are reported wounded, James Johns, the ringleader, and Collins, slight wound.\textsuperscript{131}

In November 1868, just two months after the Camilla Massacre, former Union General Ulysses S Grant was elected president, and with his election many African Americans and their white republican allies hoped for increased civil rights and protection. However, under President Grant's tenure, African Americans faced increased violence due to the ratification of the Fifteenth Amendment and the backlash created by white southern men who perceived a challenge to their autonomy and racial superiority. For example in Georgia and Louisiana, African American male suffrage dropped dramatically, during the Grant Administration, due to violence and voter intimidation. In Georgia, “Grant received no votes in three black majority counties and in one county the Republican count fell from 1,222 to a single vote.” Louisiana was eerily similar to Georgia in that Republican votes dropped from “69,000 to 33,000 by the November” 1872 election.\textsuperscript{132} There were men, however, like General William T. Sherman who wanted to stop the spread of Klan violence and protect African American rights. Before the Ku Klux Klan Act was passed Sherman stated, “if the only alternative,” to fighting the Klan is with violence then, “I am willing to again appeal to the power of the nation to crush, as we have done before, this organized civil war.”\textsuperscript{133}

Beyond decreased voter turnout, statistics demonstrated growing violence toward African Americans, which was directly linked to their decreased political participation in


local and state governments. Records and testimony compiled from York County, South Carolina, from 1868 to 1871 revealed “more than a dozen murders, six hundred incidents of whipping or beating, and the burning of several churches and homes.” One of the worst cases was the villainous attack on Elias Hill, a fifty year old African American preacher who was a dwarf. Members of the Klan, “accused Hill of agitating the local blacks to demand equal rights” so the Klan attacked him after midnight and whipped him for over an hour until he agreed “to quit the Republican party.”134 Another example of Klan violence occurred in 1875, in Hale County, Alabama. A group of both black and white Republicans were holding a political meeting to discuss voting and registration when Klan members “confronted” the group and “shots were fired in the dark, killing two men, one white and one black.” The only charges filed were against two “leading black Republicans, R.H. Skinner and Woodville Harvey, to which they were both promptly convicted of murder and “sent to the Eureka mines in south Birmingham” for an undisclosed amount of time.135

However, in a testament to the human spirit was, “when not deterred by violence, blacks eagerly attended political gatherings and voted in extraordinary numbers; their turnout in many elections exceeded 90 percent.”136 That large percentage demonstrated African American men took their right to elective franchise extremely seriously and valued voting as a tenant of American citizenship- one they were willing to die for. Though African Americans for a brief period exercised suffrage, among other rights,

violence was a catalyst for decreased participation in all mainstream political activity toward the end of Reconstruction. The method for controlling and undercutting the African American community was not necessarily based on economic constraints alone but also political as well.\textsuperscript{137}

Due to the violence and intimidation practiced by the Klan to keep African Americans from exercising their Fourteenth and Fifteenth Amendment rights, to equal protection and suffrage, the Grant Administration and the Republican Congress passed the first of the Enforcement Acts in 1871 and the second in 1872. The design of the Enforcement Acts was to create "both criminal and civil penalties for the deprivation of rights under the color of law."\textsuperscript{138} In response to extensive violence and intimidation tactics utilized by white supremacist organizations toward African Americans and their white Republican allies, the Enforcement Act or the Ku Klux Klan Act of 1871 became law. The Ku Klux Klan Act gave not only the president but the military the authority to enforce the Fourteenth and Fifteenth Amendments in states where voter rights and civil liberties were being affected. The Act also spoke to the issue of the Klan challenging sections five and six of the Civil Rights Act of 1866, when Klan members intimidated officials and prohibited them from handing out arrest warrants on charges of voter intimidation and citizenship rights violations.\textsuperscript{139} What was interesting about the wording and design of the first Enforcement Act was, "the person whose civil rights were injured was given a civil cause of action against the officer who should have but did not protect

\textsuperscript{137} Eric Foner, "Rights and the Constitution in Black Life during the Civil War and Reconstruction," \textit{The Journal of American History}, vol. 74, no. 3 (December, 1987),878-880.
him, a provision which was specifically directed against lynching and other forms of mob violence.”

However, as was seen throughout Reconstruction, the wording was clear but the enforcement and implementation of penalties was non-existent. Southern courts, lawyers, and law enforcement were either Klan members or had relatives who were, therefore, the judicial system was corrupt and inept from the beginning leaving African Americans with almost virtually no recourse.

In challenging African American rights granted under two Constitutional Amendments as well as the Civil Rights Act of 1866, the Klan utilized violence as a tool to restrict political and social participation. Testimony from African Americans and southern Republicans gathered by joint Congressional committees for the purpose of confirming reports on violence and the widespread terrorist group activities was utilized in the creation of The Enforcement Acts. The Congressional committees were inundated with first-hand accounts of Klan violence and murder. For example, “Jack Dupree, a black leader in Monroe County, Mississippi, known as a man who would speak his mind, was disemboweled in front of his wife.” Another narrative of violence came from Greene County, Alabama, were in “October of 1870, armed whites attacked a Republican rally, killing four blacks and wounding fifty-four” also in the same month “after a Republican election victory in Laurens County, South Carolina, Klansmen held a “Negro chase” that ended with thirteen murders.”

South Carolina congressional representative Joseph Rainey reported to the committee, “that the Klan situation back home had become so severe not even state authorities were safe and that he himself had been threatened.”

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Rainey passed around the message he received from the Klan (written with red ink) to his white congressional colleagues, the message stated, “Beware! Beware! Beware! Your doom is sealed in blood” and it had been decided at “a regular meeting J.H Rainey and H.F. Heriot be prepared to meet their God, take heed, stay not, the climate is too hot for you, we warn you to flee, and you are watched each hour.” These examples demonstrated a need for not only the Ku Klux Klan Act but concrete legislation coupled with fines, jail sentences, and government enforcement to protect African Americans and white Republicans inside the South.

The first Enforcement Act passed in 1871 and the first section of the Act stated, “that any person or persons found guilty of conspiring to deprive a citizen of the United States of his or her rights as a citizen, maybe sued, fined or imprisoned.” The second section was comprised of eight different clauses that specified rights that could not be abridged by others, for example, voting, holding political office, testifying, serving as a juror, and or “depriving any citizen or group of people of the equal protection of the laws.” What was most important about the Enforcement Act was it allowed African Americans grounds on which to file formal complaints against Ku Klux Klan members, and specifically stated that the intimidation of United States citizens would not be tolerated. While Radical Republicans and black politicians worked to South end racialized violence, white southern Democrats and members of terrorist groups, like the Klan and White League had other intentions. For example, the Klan terrorized or

142 Philip Dray, Capital Men: The Epic Story of Reconstruction Through the Lives of the First Black Congressmen, (Mariner Books, 2010), 90. Copy of letter received by J. Rainey and H Heriot, warning them to vacate their political positions or they will be forcibly removed by the Klan.

143 Enforcement Act of 1871, also known as the Civil Rights Act of 1871 or more commonly known as The Ku Klux Klan Act. According to Congress the Enforcement Act was in reaction to the curtailing of African Americans citizenship rights granted by the Civil Rights Act of 1866 and the 14th Amendment. Widespread violence at the hands of white terrorist groups like the Ku Klux Klan, Red Shirts, Rifles Club, and White League prompted Congressional laws to help stabilize the South and end racial violence.
murdered, “one-tenth of the black members of the 1867-68 constitutional conventions.” The Klan was also responsible for the murders of James Hind of Arkansas, (Congressman), and legislator Richard Burke of Alabama. Although these murders were horrific, the Klan also focused its attention on groups of African Americans who were vulnerable due to incarceration because of vagrancy laws. In January of 1871, “500 masked men” attacked Union County jailhouse and “lynched eight black prisoners.”

The murder victims were under arrest for the pettiest of crimes: vagrancy. Vagrancy laws were utilized in order to keep African Americans in the exploitive bonds of sharecropping and to a large extent prevent them from exercising their rights to social and economic freedom, (which will be discussed in chapter three). The Klan not only used violence as a political deterrent but focused on African Americans who had achieved a modicum of economic success.

In order to curb the violence, Congress took measures to create preventative legislation. The Enforcement Act or the Ku Klux Klan Act, “were desperately needed however, implementation was difficult” for a number of reasons. First, “the Grant administration, whose radicalism has perhaps been overemphasized, used federal power only on a few well known occasions” and second, money as well as limited troops coupled with growing Northern apathy for the white southern man helped to stifle the Acts’ intended goals. Historian Everette Swinney also contended that enforcement was unsuccessful because of the Grant Administrations’ corruption and misconduct, which extended from presidential advisors, cabinet members, down to minor officials at the state and local levels. According to reports filed by African Americans and Republican

officials, “misconduct was found among commissioners, supervisors of elections, and
deputy marshals,” and the abuses included, “drunkenness, arbitrary use of power, and
blackmail” all of which contributed to the continuation of African Americans’ rights
being violated under the Fourteenth and Fifteenth Amendments. 146 Another critical factor
as to why violations happened and why the Klan was able to get away with murder,
beyond people protecting them by lying for them in court if and when charges were ever
filed, was “many officers in the army detested service below the Mason-Dixon line and
often did not interfere with civil governments” which officers feared could lead to
“entanglement in southern politics.” 147

Lack of enforcement caused Congress to call upon African Americans and others
who had encounters with white supremacist groups to testify in order to compile
documents needed for the Ku Klux Klan Act and other protective legislation. More
importantly, Congress was “confronted with wholesale slaughter across the South,” and
since a majority of officials in the region were doing “virtually nothing” or had little
governmental assistance some form of legislation was desperately needed. 148 One
testimony came from Abram Colby, “a former slave and member of the Georgia
legislature” about the events of October 29, 1869. Colby recounted how the Klan broke
into his home and, “whipped him for three hours” because he voted on the radical
Republican ticket and admitted he would continue to do so. Colby stated, “the worst thing
was my mother, wife, and daughter were threatened with a gun” and this caused such a
freight his daughter later died. Colby concluded his testimony by stating the Klan

threatened to kill him if he voted or participated in politics again.\textsuperscript{149} The Klan gave Mr. Colby what they deemed fair warning. This was one of countless examples which illustrate the power of the Klan's presence and the violence they utilized to silence and intimidate African Americans into not exercising their Constitutional rights of citizenship and suffrage.

There were however instances when African Americans organized and fought back against the Klan, and those brave individuals, "occupy a place of honor in black folklore." For example, African American men in several North Carolina counties organized patrols, and despite the retribution they could face these men kept the Klan from their homes, businesses, and families. Both African American men and women fought back in order to protect their right to life. In Graham, North Carolina, an African American woman witnessed the Klan attacking her husband so to stop the assault against him she hit the closest white man with an ax causing the others to run away. In Danville, Kentucky, the Klan pulled the wife of a local black politician out of their house and "hacked her to death" then brought the husband outside to see, the man then "asked to go back inside for something to wrap his wife's body in and instead grabbed his Winchester rifle and opened fire, killing several of the Klansmen."\textsuperscript{150}

Local officials became overwhelmed by Klan violence and wrote to state and federal governments seeking support. In an April 1870 in a letter to Alabama governor William Hugh Smith, local sheriff W.L. Guin of Sanford County, writes of the six murders that took place and "the guilty parties have not been punished, even though some

\textsuperscript{149} Testimony taken by the Joint Selection Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States, (Washington D.C., 1872). Abraham Colby's testimony about the events of October 29, 1868. Located in "White Men Unite: Primary Sources."

\textsuperscript{150} George Rable, \textit{But There Was No Peace}, (Athens: University of Georgia Press, 1984), 100-102.
victims were carried away in open daylight.” Sheriff Guin recounts the murder of two “colored persons, man and wife, they carried them in open daylight down within a few miles of the court house, then awaited until night fall, and murdered them; the man by shooting and cutting his throat, and the woman by hanging her with a chain.” Also according to Guin “the parties who did this horrible deed” were the honorable men of the County.151 Similar stories of violence and killing occurred throughout the South and many officials and provisional governors left powerless to stop it. For example Major Lewis Merrill who was sent to Louisiana to report on the violence of the Klan found that, “most of the colored men of the county were lying out in the woods and swamps every night in fear of a visit from the Ku Klux.” Also according to Merrill in an 1871 telegram to Washington, “this organization is spread over so very large an extent of country that it is manifestly impossible to deal with it efficiently.”152 Merrill’s pleas for federal assistance with the “Klan problem” would fall on deaf ears as President Grant, who under the Fourteenth Amendment could deploy military troops to crush the Klan because the terrorist group was abridging the rights of U.S. citizens, chose not too, due in large part, to fear of southern political reprisal; the election of 1872 was just round the corner. Another factor that compounded the issue fighting the Klan was that white southerners reported to federal commissions and to the Grant Administration there was no violence and no one’s rights were violated. White compliancy in Klan violence can not be underscored because often times family members and friends would protect Klan members with alibis, false testimony at Klan hearings, and blatantly accusing Freedmen.

of committing crimes without evidence. African American violence was justified by white society because of not only racism but the false construction of testimony and accusations. The Klan was able to get away with violence and killing because according to the Federal government and lawyers arguing on behalf of Klan members on trial, “the Fourteenth and Fifteenth Amendments extend to the acts of individual citizens; assaults and murders were state crimes, not the business of the federal government.”¹⁵³ State and local governments concurred that assaults and murders were issues similar to rape that are handled by the statutes of the individual states not nationally. This pronouncement placed African Americans in a precarious position because they knew as well as anyone that southern juries were never going to convict Klansmen, and they were right.¹⁵⁴ The reality was “even if Klansmen were apprehended, they would be tried in local courts where sympathizers could prevent conviction.” What was even worse according to historian Michael Fitzgerald was, “almost no one of the Klan was ever punished by southern courts” and the only recourse for African Americans, “was to sleep out in the woods, or abandon their crops and flee.”¹⁵⁵ The fate of African Americans in the South during Reconstruction was placed in the hands of local racist or inept law enforcement that was incapable, either by choice or out of fear, of protecting African Americans. Acts of violence and voter intimidation occurred because rights granted on paper were not concrete, they were un-enforceable due to lack of initial groundwork, and more importantly, African Americans were placed in the unfortunate position of needing

employment and could only turn to whites to hire them. The downfall of Reconstruction and the legislation ratified by a predominantly Republican Congress was there was no economic reform, change, or stability that truly promoted equality; therefore African Americans became targets of white supremacist violence and the repression of rights worsened.

One of the deadliest acts of violence committed against African Americans and white Republicans during Reconstruction occurred in Grant Parish, Louisiana on Easter Sunday, 1873. The Colfax Massacre began similarly to other race riots that happened both during Reconstruction and afterwards. The events leading up to the massacre centered on political elections where Republicans, either black or white, were elected which greatly upset white southern Democrats. The dispute began after a local election in which R.C. Register and Daniel Shaw (both Republicans) were elected and “supposedly promised Negroes they would receive land from their former master William Calhoun.” The other factor in the dispute was that election yielded two sets of elected officials and both sets at first were certified as winners by Governor William Pitt Kellogg, who later decided the Republican candidates had won. Kellogg’s decision prompted an out cry from the white Democrats who believed their candidates won fairly. Register and Shaw reported to Colfax courthouse where they claimed their offices and local African Americans rallied around the building to make sure they were protected; unfortunately, that act only infuriated the white population and eventually violence ensued. Christopher Columbus Nash, local sheriff and one of the losers of the election, led a band of white men toward Colfax, but was driven away by African American men defending the road into town, however on Nash’s way out of town a group of fifteen men “shot black farmer
Jesse McKinney as he was mending a fence, and the murder further” escalated tensions. Nash and a group of over hundred white men marched toward Colfax on Easter Sunday seeking to avenge the election.

What ensued was a battle out of a modern day action movie but with cannon and “sporadic gun fire.” According to Louisiana black legislator John Lewis, “the incident stood as a reminder that blacks were at a fatal disadvantage” and “the organization against them is too strong.” Eventually by three in the afternoon the white men had over powered the African Americans defending Colfax courthouse. A band of armed white men set the courthouse ablaze as “unarmed black men tried to escape waving a white flag and were murdered.” The outcome was as African Americans tried to escape the burning courthouse they were slaughtered and the mob of white southerners chased those who managed to escape into the woods, “and killed an unknown number.” There can be no accurate count of the dead but estimates state that more than “one hundred blacks lay dead around the courthouse and in the woods.” Historian Eric Foner argues the number was over double the original estimate and more likely somewhere near two hundred and eighty. After the bloodshed federal troops arrived to arrest those responsible for the riot but only a few white suspects were found, one of them, William Cruikshank.

Eventually nine men faced trial based upon the brave testimony of African American men who barely escaped the massacre, which put not only their lives at risk but

158 Eric Foner, Reconstruction, 437-438.
the lives of all African Americans of Colfax in jeopardy. Out of the nine men, three were found guilty of minor violations including Cruikshank. In 1876, Cruikshank’s appeal of the guilty verdict made it to the Supreme Court were Justice Joseph Bradley handed down his famous ruling, which nullified the Enforcement Acts of 1871 and reiterated the decision from the *Slaughterhouse (1873)* case. Under the Fourteenth and Fifteenth Amendments individual rights were protected from state infringement not personal conflict between citizens but more importantly the Court ruled that crimes like “murder, robbery, and assault fell under state jurisdiction.”

Cruikshank and the other two defendants were free of all charges. The consequence of such a ruling had far reaching implications on the lives of African Americans. First, the decision voided significant parts of the Enforcement Act which protected citizens from acts of violence by the Klan and other vigilantly groups. Second, the Court’s decision but the authority for trying individual crimes against citizens in the hands of the state, which left African Americans extremely vulnerable to discrimination and racism. Lastly, the ruling set a dangerous precedent that worked to the advantage of not only Klan members but the judiciary in former rebellious states, which endorsed the racist rhetoric of white over black.

The Ku Klux Klan played a pivotal role in striking terror across the South both during and after Reconstruction. The Klan kept African Americans from exercising their Constitutional rights of citizenship, equal protection under the law, and suffrage. In essence, the Klan and other organizations like them, argues Foner, “served as a military force for the interests of the Democratic party, the planter class, and all those who desired

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the restoration of white supremacy.” What was even more troubling was the Klan and other white supremacist groups ushered in a century where democracy, a tenant of American citizenship and political participation, was wiped clean and abandoned by state and Federal government. The Klan pioneered the violent upheaval that spread a shadow across the South and forced African Americans into a new form of slavery. It is critical to remember the Klan “sprang up” in response to “the formation of Republican governments” in the early part of Reconstruction and “as a response to the supposed evils of radical and black domination.” The Klan was strongest in specific areas and different measures of violence became utilized as a mechanism of social and political control as necessary. Assassination of political leaders happened in Georgia, but in other states like Mississippi and Alabama violence consisted of whipping and bodily mutilation, whereas in South Carolina murder and lynchings were all too common. One aspect of white supremacist dominance that was consistent in every southern state was voter intimidation. Klan violence, “in addition to its disruptive effects” on the judicial and legislative enforcement of rights and freedoms, “created new tensions in southern society that led naturally to bloodshed, and it was politics and war carried on by other means.”

Although the Klan played a significant role in abridging the rights and liberties of African Americans there are others who were culpable; including President Grant and the United States Supreme Court. First Grant “pardoned large numbers of Klansmen during” his tenure as President, thus signifying to white supremacist groups like the Klan and White League their actions were unstoppable. Second, Grant’s choice in placing certain justices on the bench contributed to rulings that nullified not only the Ku Klux Klan Act

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of 1871 and 1872 but infringed upon basic rights of freedom as in the ruling of *Cruikshank v. The United States, (1876).* The high court ruled that the Fourteenth Amendment did not apply to individuals that infringed on the rights of others but only applied to state and federal misconduct. Justices Bradley and Waite, both appointed during Grant’s second term, nullified the Fourteenth Amendment and made known that if states “failed to act against individual violators, no earthly redress existed.” These men through their rulings in the *Slaughterhouse and Cruikshank cases* condoned white violence and abridgement of citizenship rights. A larger and more detrimental affect of the Supreme Courts’ rulings during Reconstruction, and just afterward, was how they set dangerous precedents about what rights are granted by the Constitution and whether or not the state or Federal government is responsible for enforcing those rights and privileges.

The unfortunate reality of the violence, murder, and voter intimidation that permeated the South both during and after Reconstruction was “on paper the new governments did take decisive steps, outlawing going about in disguise, raising penalties for assault, murder, and conspiracy yet when it came down to enforcing the laws” Republicans, state governments, and the Supreme Court abandoned not only the legislation but more importantly African Americans. White supremacist violence during this period and beyond illustrated that claims to rights without the power to enforce them not only did not help African Americans, but degraded their status. African Americans were equal citizens under the law and had rights to due process and suffrage, however, violence became a mechanism of social, political, and economic control that

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white terrorist groups utilized to abolish those rights granted by the Constitution, and forced African Americans into a new form of American slavery, sharecropping. The nullification of the Reconstruction Amendments placed African Americans back into a system of oppression and economic bondage, which helped to facilitate white southern racist ideology. This ideology centered around the goal of re-constructing southern governments, religion, and politics so that they became controlled by white men only.
Chapter Three
The Death of Reconstruction and Slavery Once Again.

The Thirteenth, Fourteenth, and Fifteenth Amendments provided potential for African American freedom, citizenship, and political participation. Nevertheless, the rights principles granted were flawed, and it was those flaws—lack of enforcement, minimal economic reform, and no practical application—that left those who the rights were trying to help vulnerable to white racist fears and prejudices. These Amendments only served as catalysts for racial and political violence, and unfortunately these rights made some white southerners infuriated, thereby, they felt justified in their use of violence to quell their fears and reinforce the color line. The Supreme Court and the Grant administration through their inaction allowed violence, intimidation, voter fraud, and economic repression of African Americans to permeate the South. In repressing African Americans’ citizenship and suffrage rights, southern governments excused Klan violence, reinforced the racial hierarchy, and inserted into the economic and social sphere the fallacy of African American inferiority. The lives of African Americans only became worse as Reconstruction progressed because the more rights the Federal government granted, the more white racial fears resurfaced. The mechanisms used served only to repression and re-enslave African Americans. In limiting African American political and economic participation with violence and intimidation white southern Democrats were able gain power and ultimately control over the South.

The beginning of the end of Reconstruction began with the election of the first “Redeemer” government in Tennessee in 1870 and culminated with the election of
Rutherford B. Hayes in 1876. From that point on Congressional Reconstruction faded and ushered in the era of Jim Crow. The corruption of President Grant’s administration helped pave the way for former Confederate officials and southern Democrats to win both houses of Congress by 1874. The last act of the outgoing Republican Congress was the second Civil Rights Act, passed in 1875. Eight years later the Act was declared unconstitutional by the United States Supreme Court and the full weight of Jim Crow emerged and lasted until the 1960’s. There would not be another Civil Rights Act for almost eighty years, during which time the Ku Klux Klan re-emerged and white control dominated the South, both politically and economically. African Americans faced many of the realities of slavery once again in the form of sharecropping and segregated housing, schools, and other public facilities. The death of Reconstruction and the re-enslavement of African Americans were intertwined with far reaching social, political, and economic consequences. Separate but equal became standard, African Americans were disenfranchised, and once again relegated to second class citizens, if they were even considered citizens at all.

In a final effort to secure African American’s Constitutional rights before “Redeemer” governments took control of local, state, and more importantly Federal governments, “the last biracial Congress of the 19th Century” passed the Civil Rights Act of 1875. The Act came out of reaction to increased racial discrimination and violence toward African Americans, when they as citizens, tried to exercise their rights to equality under the Fourteenth and Fifteenth Amendments. Once again the crusade for legislation

that would protect African American rights was lead by Senator Charles Sumner (R-Ma.). Sumner would not live to see the Act passed; however, he was not only its author but the acts biggest supporter. His vision for equality unfortunately would not be realized until Brown v. Board of Education (1954). It was then Sumner’s dream of educational equality was attempted.\footnote{Roger Jager, “Charles Sumner, the Constitution, and the Civil Rights Act of 1875,” The New England Quarterly, vol. 42, no. 3 (September 1969), 372.} The wording of the Act re-enforced the premise of racial equality before the law stating, “protection of all citizens in their civil and legal rights is the duty of the government in all its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political.”\footnote{Preamble to the Civil Rights Act of 1875. The Civil Rights Act of 1875. Washington D.C, March 1, 1875. www.pbs.org.} The Civil Rights Act of 1875 culminated a “decade of efforts by radical Republicans, particularly Charles Sumner, to incorporate the Negroes freedom and equal rights,” which was previously granted under the Civil Rights Act of 1866, as well as the Fourteenth and Fifteenth Amendments, but in practice was never fully implemented.\footnote{James M McPherson, “Abolitionists and the Civil Rights Act of 1875,” The Journal of American History, vol. 52, no. 3 (December, 1965), 493-495.}

African Americans only experienced a brief period of economic and political participation which demonstrates the determination of white southerners and Democrats to obstruct and void the Reconstruction Amendments, as well as other civil rights legislation. Violence, intimidation, and mechanisms of economic oppression highlighted the conditions under which African Americans in the South lived.

Radical Republicans, similar to abolitionists, expressed the need for the Act to further guarantee African Americans’ rights as citizens. Those in Congress were, “convinced that the bill’s effectiveness could safely rest on Negro initiative and meager
federal support.” The grim reality however proved the overall “misunderstanding” those outside of the South had in what was actually occurring; i.e., violence, disenfranchisement, and legalized discrimination toward African Americans. The enforcement “of such a broad bill would require” stringent penalties and cooperation by state and local officials, as well as federal courts but “in the face of southern hostility” and racist officials the Civil Rights Act of 1875 became null and void similarly to the Reconstruction Amendments.\textsuperscript{170} Sumner, like many in Congress and Republican politicians in the South had the best of intentions in creating civil rights legislation and believed it was a critical component in the fight for racial equality. The bill had “revolutionary potential” especially when it came to education but enforcement did not have the same “radical implementation.”\textsuperscript{171} The danger to many African Americans inside the South was if they reported violence they placed their lives in jeopardy and faced retaliation from angry whites. In actuality because of lack of enforcement, African Americans really had little meaningful claims to rights and their status was degraded back to enslaved because they were at the mercy of white men. Enforcement was still left in the hands of state and local officials, many of which had grown tried of protecting African American rights, and more crucial was the fact that penalties were not stringent and largely ineffective as a deterrent toward violence, murder, and discrimination.\textsuperscript{172}

\textsuperscript{171} Bertram Wyatt-Brown, “The Civil Rights Act of 1875,” \textit{The Western Political Quarterly}, vol. 18, no. 4 (December, 1965), 764.
\textsuperscript{172} Bertram Wyatt-Brown, “The Civil Rights Act of 1875,” \textit{The Western Political Quarterly}, vol. 18, no. 4 (December, 1965), 764-766. The concept of lack of enforcement is discussed in several works including Foner’s \textit{Reconstruction}, Rable’s \textit{But There Was No Peace}, and Dray’s \textit{Capital Men}. 
Theodore Tilden, abolitionist and editor of the Northern newspaper *Independent* wrote “our war is war for social equality, for rights, for justice, for freedom.”173 The Act, “protected all Americans, regardless of race, in their access to public accommodations, such as restaurants, theaters, trains, and also protected the right to serve on juries.”174 Section one stated all facilities to be “applicable alike to citizens of every race and color, regardless of any previous condition of servitude.” Section two stipulated fines and possible imprisonment for any citizen who abridged the rights of any other citizen of the United States, and made the federal courts responsible for jurisdiction, and if necessary the Supreme Court could settle legal issues. The final two sections were crucial to African American participation in the American judicial system. Section three secures the right of all citizens to sue others or the state, and that courts must uphold the law with a jury of one’s peers. Section four goes a step further stating, “no citizen can be disqualified from jury service because of race” and “those who select juries must include all eligible citizens in said process.”175 However, the loophole which white southerners utilized to secure the judicial system was pack juries with white majorities, bribe judges, lawyers, and witnesses.

Due in large part to “the conservative reaction against radical Reconstruction by the time the bill passed, coupled with widespread doubts about constitutionality of the act, rendered it unenforceable.”176 Those who were supposed to enforce such legislation, the Federal government and the Supreme Court had by the late 1870’s, all but abandoned

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174 The 1875 Civil Rights Act, Section 1. March 1875, Washington D.C. Black Legislators
175 The 1875 Civil Rights Act, Section, 1, 2, 3, and 4. March 1875, Washington D.C. Black Legislators
African Americans. For example, Supreme Court Justice Joseph Bradley stated in 1875 that the legislation favored African Americans and "deprived white people of the right of choosing their own company" and "would put white people into another kind of slavery." Apparently Justice Bradley was "unable to distinguish between human bondage" and the need for protective and inclusive legislation. Discrimination in restaurants, which he believed white people would face because of civil rights legislation, was very different than the prejudice faced by African Americans across the South. 177 Similarly to Justice Bradley's sentiments many Republicans, "forgot their broad commitment under the Fourteenth Amendment" and to the detriment of African Americans showed "little enthusiasm" and turned their focus to the presidential election of 1876. 178 What was also truly sad about Republicans lack of enthusiasm for the legislation was their abandonment of African Americans. The Act should have been a positive legacy for Reconstruction but instead of "being a testament to Charles Sumner and his cause, it was a travesty of racial justice, because neither the white public nor its representatives expected or wanted the Act's enforcement." 179 Neither enforcement nor public opinion would be an issue because less than ten years later the Act was declared unconstitutional by the Untied States Supreme Court, (1883). The only dissent came from Justice John Marshall Harlan who eloquently wrote in 1883; "the United States entered on an era of constitutional law when the rights of freedom and American citizenship cannot receive from the nation that efficient protection which heretofore was unhesitatingly accorded to slavery and the

rights of master." The Court's decision privileged white southerners and "encouraged" not only "widespread violence against blacks who dared to seek the ballot or challenge the established usages, customs and traditions." One of the consequences of the Supreme Courts' ruling on the unconstitutionality of the Act was the Case, *Plessey v. Ferguson* (1896) and the premise of separate but equal which lasted into the 1950's. Supreme Court Justices Bradley and Brown reiterated the ruling in the *Civil Rights Cases* (1883), that "blacks were no longer the special favorites of the laws" and "the separation of the two races stamps the colored race with a badge of inferiority let it be so, it is not anything found in act, but solely because the colored race chooses to put that construction upon it." The Supreme Court's decision in *Plessey v. Ferguson* continued racial discrimination and upheld the laws and practices that further expanded Jim Crow which ultimately placed African Americans in inferior social and economic positions.

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181 *Plessey v. Ferguson* (1896), Homer Plessy, an African American who looked light enough to "pass as white" living in New Orleans, Louisiana was recruited by Louis Martinet to test the validity of the Supreme Court's ruling in the *Civil Rights Cases* (1883). What these men wanted to prove that Jim Crow Laws and segregation went against citizen's rights and prohibited citizens from equal facilities. Plessy boarded a white only train car and was later arrested. Plessy and his legal team filed charges that Jim Crow Laws violated his 13th and 14th Amendment rights stating "black" facilities (railcars) were not equal to white facilities. Louisiana Judge Ferguson denied the charges and refused to let Plessy and his legal team appeal on the ground no crime had been committed and no real evidence presented. (1892). Three years later the appeal was sent to the Supreme Court and arguments began in 1896. Seven justices voted to uphold Jim Crow laws, stating as long as the facilities were equal the facilities were separate. The seven also added the opinion that white and black should have a choice whether they wanted to be seated next to one another, it was not the Court's duty to make races exist side by side. Justice John Marshall Harlan was the only dissenting vote and Justice David Brewer abstained from voting. Peter Irons, *A People's History of the Supreme Court: the Men and Women Whose Cases and Decisions Have Shaped Our Constitution*, (New York: Penguin Books, 1999), 221-228.


Two other Supreme Court cases toward the end of Reconstruction were crucial and set the precedent for *Plessy v. Ferguson (1896)*. These two cases are often referred to as the *Civil Rights Cases* but both are distinct and critical to the understanding of how and why the Supreme Court responded so harshly to African American rights after Reconstruction. *The Slaughterhouse Case (1873)* and *United States v. Cruikshank (1876)* demonstrated the growing divide between the Court upholding African American rights and privileges granted by the Constitution and the overall break with promoting legislation that protected rights, which lasted into the 1950's. The Supreme Court moved from a judicial body that protected and supported legislation designed to integrate African Americans into America's political and economic fabric to a group of white men who promoted the white racial hierarchy and the re-establishment of slavery. Their actions and rulings after 1870 demonstrated the courts unwillingness to include African Americans as equal citizens protected under the same laws as white Americans. The Supreme Courts' interpretation of the Fourteenth Amendment was the beginning of dangerous and detrimental rulings that helped to facilitate the end of African Americans rights.

*The Slaughterhouse Case* involved the enforcement of the Fourteenth Amendment and what the Federal government could and could not protect. In 1869 the state of Louisiana, for regulating purposes and sanitary reasons, wanted to have one central butchering facility; however, butchers believed the monopoly on butchering was abridging their Fourteenth Amendment rights and immunities. The lawyer for the butchers (Joseph Campbell a former Supreme Court Justice who sided with the Confederacy and had to give up his position in the Court), argued that the state was
interfering in trade, as well as taking away private businesses rights to due process. Campbell also argued the meaning of the Fourteenth Amendment as went beyond “just protecting the right of freedmen.” The Court ruled against the butchers stating “the privileges in the Amendment a very limited number of rights associated with citizenship and voting” more importantly the Court “acknowledged the state’s authority to regulate private business,” but that the federal government was limited in its ability to intervene between interactions of private citizens and private business.\(^{184}\) According to the Supreme Court, “the federal government could only punish state actions that deprived citizens of certain rights,” but the Federal government had no authority over “the actions of an individual or business.”\(^{185}\) What the ruling meant was discrimination and abridgement of rights between private citizens and business was not the prerogative of the Federal government but under the jurisdiction of the state. This ruling opened the door for white supremacists to abridge and deny African Americans and white Republicans not only goods, services, and facilities but stop these two groups from exercising their rights to vote and hold office. The Court applied this same ruling and premise three years later in the case of \textit{United States v. Cruikshank}. The \textit{Cruikshank} case was a direct result of the Colfax Massacre (March 1873). The case centered on brutal assault of black and white Republicans by a group of heavily armed white men. The Supreme Courts’ ruling nullified the Enforcement Acts of 1871 and 1872 by stating the actions of individuals or groups were the priority of the state not the Federal government, once again reiterating the \textit{Slaughterhouse} ruling. The Court, “placed private actions

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beyond the reach” and scope of the “federal judiciary,” which “left Southern blacks in a position of greatly increased vulnerability.” The other far-reaching implication was the Supreme Court set a precedent which future justices followed until 1954.

Beyond the actions and rulings of the Supreme Court, Redeemer governments won elections across the South starting in 1870 and culminating in 1877 when both Florida and South Carolina expelled the last African Americans from their state governments. In just over a decade the promise of Reconstruction had vanished and was replaced with racial apartheid in the form of Jim Crow laws. One example of “white rule” by white-only governments came when white Democrats won both the House and the Senate in 1874 and ushered in their own brand of law. South Carolina governor Benjamin Tillman stated, “The triumph of Democracy and white supremacy over mongrelism and anarchy is most complete.” The vast majority of white southerners shared his sentiments and believed they had finally broken the yoke of Reconstruction and, in doing so, had exorcised African Americans from political participation, thus proving in white southerners’ minds the strength and legitimacy of white supremacy. In utilizing violence, voter intimidation, fraud, and with the legal backing of the Supreme Court, African Americans’ rights were voided. More critically, African Americans found they had zero recourse because, not only had the Federal government abandoned them but the Supreme Court had as well. The lives of African Americans during Reconstruction were worse because the vague rights principles granted had no enforcement mechanisms and no

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economic reforms making African Americans virtually helpless against violence and unable to gain monetary means to propel themselves out of deadly situations.

The election of 1876 marked the end of Reconstruction and return to white rule or what has been termed "home rule." Rutherford B. Hayes the Republican candidate faced off against Samuel J. Tilden the Democratic candidate, and though Tilden "won the popular vote with 4,284,020 votes to Hayes' 4,036,572, Tilden was one short of the majority vote in the electoral votes." Tilden had 184 electoral votes and Hayes received 165, which left him twenty votes short. Those electoral votes in Oregon (1), Florida (4), Louisiana (8), and South Carolina (7) were still undecided and if given to Hayes he would have a one vote lead and win the Presidency. What complicates the election of 1876 was that in those undecided states, "Democrats had won state victories, mostly through violence and fraud," with the exception of Oregon, so Republicans declared Hayes should be the winner. After months of debate a Congressional committee was created to break the dead lock, "the electoral committee was made up of five members of the House, five from the Senate, and five Supreme Court Justices." These men voted strictly based on their respective party lines, eight Republicans and seven Democrats, and "the night before Grant's term expired the Senate announced Hayes had been elected President." There was a deadlock for several days, how was it broken, and why was Hayes awarded the remaining electoral votes that made him President? Southern Democrats agreed to award Hayes the electoral votes based on concessions which would end Reconstruction. The new President agreed to, "increase funding for Southern internal

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improvements,” and remove Federal troops from the South, “thus ending Reconstruction and guaranteeing home rule—meaning white control.”

The election of Rutherford Hayes sealed the fate of African Americans for the next three quarters of a century, and what came to fruition was the re-enslavement of African Americans with the rise of sharecropping and Jim Crow laws. According to Ronald Davis, “the term Jim Crow originated in the 1830’s when a white minstrel show performer, Thomas “Daddy” Rice, blackened his face with charcoal and sung the song “Jump Jim Crow.” Because of this black faced character, believed to be inspired by an old slave, the “Jim Crow” act became by the 1850’s a standard for minstrel shows. Also, by the start of the Civil War, “the Jim Crow idea was one of many stereotypical images of black inferiority in popular culture along with Sambo, Coons, and Zip Dandies.” In post Civil War America, “the word Jim Crow became a racial slur and by the end of the century acts of racial discrimination toward blacks were referred to as Jim Crow laws.”

The implication of Jim Crow was the systematized and legalized separation of the black and white races. For example, African American had to ride in separate rail cars, referred to as Jim Crow cars, and from the 1890’s till the Supreme Court ruling of Brown v. the Board of Education (1954), African Americans were legally segregated into separate and underfunded schools, as well as other public facilities. Jim Crow laws went one step

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191 Brown v. Board of Education (1954), asked the big question: did framers of the 14th Amendment intend to outlaw school segregation? Chief Justice Earl Warren presided over one of the most fundamental and monumental Supreme Court Cases of all time in that the case was a step in ending barriers of segregation and racial apartheid in the United States. Oliver Brown filed a suite on behalf of his eight year old daughter Linda, contending that she could not get the best education in her current school and therefore should be allowed to attend a white only school because the conditions of separate but equal handed down in Plessy v. Ferguson were not being fulfilled and were invalid. According to the Warren court, separate but equal had no place in public schools and the educational facilities were inherently unequal. The Warren court was determined to assert its authority over southern states who he felt were breaking the Constitution. The
beyond segregating black and white with the disenfranchisement of black male voters. African American men in the South were prevented from exercising the Fifteenth Amendment; the right to vote. According to Davis, “in every former Confederate state, the system of legalized segregation and disenfranchisement was fully in place by 1910.”

More importantly, “this system of white supremacy cut across class boundaries and re-enforced a cult of “whiteness” that predated the Civil War,” and hardened the racialized color line. With the rise of Jim Crow laws and the disenfranchisement of African Americans, the “federal government essentially abandoned the attempt to enforce the Fourteenth and Fifteenth Amendments in the South,” and left African Americans and white Republicans to the mercy of white supremacists. As a result of Jim Crow laws, African Americans were forced in the South to take whatever jobs available to them, most often field labor or domestic labor. Redeemer governments across the South helped to marshal in the restrictive and oppressive conditions that made sharecropping volatile to the African American community. Some examples included, “Democrats who employed power with merchants to cut off credit to blacks who attended Republican rallies,” exercised liberties that were considered for white men only, or African Americans who tried to break sharecropping contracts that were unfair and discriminatory. According the white landlords they had, “the capital and give employment.” These men also “owned the decision by the Supreme Court over turned seventy-five plus years of racial segregation in education and also helped to usher in changes in other public facilities like, hospitals, restaurants, and transportation. Their decision was just the beginning of the Civil Rights revolution that the United States desperately needed. Peter Irons, A People’s History of the Supreme Court: the Men and Women Whose Cases and Decisions Have Shaped Our Constitution, (New York: Penguin Books, 1999), 395-408. The first case to implement the Brown decision was Cooper v. Aaron (1957) when the Little Rock Nine tried to integrate an all white high school in Arkansas and state officials refused to admit them. Eventually the students entered the building after almost being lynched by a mob and to no credit of President Eisenhower who played golf while the nation watched nine African American teens get harassed and assaulted television. The Supreme Court asserted their power over states in order to protect the rights of American citizens. Irons 404-408.

192 Ronald L.F. Davis, “Creating Jim Crow: In-Depth Essay,”
land and require productive labor,” and white southerners believed they could live without African American labor but many assumed African Americans, “will find it very difficult to do without the white man, for we have the wealth,” the power, and the government. African Americans during Reconstruction became re-enslaved because, after the ratification of the Thirteenth Amendment many were forced to leave the plantations they had worked on in search of other employment or forced to work on the land they had as slaves. Former enslaved persons became trapped in the cycle white hostility because of Black Codes and other discriminatory laws that required African Americans to have work permits or else face jail. Unfortunately, a majority of African Americans were forced to depend on employment by white southerners.

Sharecropping emerged after the Civil War as a new form of slavery. Economists calculated that because of “blacks inability to gain ownership of farms” under the repressive system of sharecropping not only was African Americans’ economic status hindered but, “a new form of landlord-labor relationship had to be negotiated.” This “new” relationship denied African Americans a truly secure freedom, which was guaranteed with the passage of the Thirteenth and Fourteenth Amendments. Sharecropping hindered African Americans from fully participating in the market system wherein “paternalistic attitudes” kept them from owning land and highlighted the inequalities of wage labor that placed white employers in an overstated position of power.

over their employees. Owning land was just one piece in the puzzle to integrate African Americans into the economy. Beyond owning land as a tool to integration, becoming part of the political as well would have allowed African Americans, “a measure of choice about their labor” and about the forces creating laws that governed them. Many formerly enslaved persons were ready to work their own land, create a stable family life, and provide structure of daily routine by their own standards and accordance with their needs, but, sharecropping limited many of those aims. The new form of autonomy and agency outside of slavery was a first for many but as a majority of African Americans living in the South found in the post Civil War era, former masters tried relentlessly through sharecropping to exercise social, as well as economic control over former slaves. One Republican described a conversation with legislative colleagues the double burden of the economic and ultimately social restrictions sharecropping placed on African Americans. The man stated:

After fifty men have gone on a plantation, worked the whole year at raising 20,000 bushels of rice, and then go to get their one-third, by the time they get through the division, after being charged by the landlord 25 cents a pound for bacon, three dollars for the pair of brogans, two dollars a bushel of corn, that can be bought for a dollar, these people have worked the whole season they find themselves in debt.

After all was said and done sharecroppers were barely able to make money let alone be able to save money to buy land, rent from a different landlord, or possibly migrate North. The system was oppressive and cared with it the burden of freedom without really being free, which was why many African Americans equated sharecropping with the specter of

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slavery. Many African Americans became trapped in sharecropping because there were no mechanisms, reforms, or practical applications to the rights they were granted by the Constitution. These Amendments were loosely interpreted and nullified in practice by white supremacist groups and the Supreme Court. Economic reforms, redistribution of land, and enforcement of laws would have assisted in the growth and strength of the African American community in the South, however, that kind of radical change would never be accepted by a majority of white southerners.

Former slave Henry Adams testified before Congress in the late 1870’s, “about the early days of his freedom, describing white planters’ unfair labor practices and the violent, intimidating atmosphere in which ex-slaves felt compelled to work for their former masters.”198 In his testimony, Adams recounts telling his former master that he did not want to work for him and he was not going to sign a labor contract like the rest of the former slaves to which the man said, “the colored people could never protect themselves among white people” and “so you had better stay with the white people who raised you and make contracts with them to work by the year for one-fifth of all you make, and maybe next year you will get one-third.” Adams also discussed how unfair labor contracts were stating, “we made five bales of cotton but we did not get a pound of that, we made two or three hundred gallons of molasses and only got what we could eat, and we split rails for four weeks and got not a cent for that.”199 Sharecropping and low wages were mechanisms of social and economic control white southerners used to prevent African Americans from truly escaping bondage. The social and economic mechanisms

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employed by former slave-owners propelled a significant number of African Americans to move from the South to find salvation in the North. By the 1880's, “reports came from the Carolinas, Louisiana, and Texas” that large numbers of African American families “were hoarding pennies, even canceling plans to purchase small plots of land, in order to move” out of the South. Unfortunately, the salvation African Americans sought in the North and West did not truly come to fruition; racism existed everywhere and in different forms.

Sharecropping resembled slavery, as it hinged on power and control over one group, African Americans, by another group, white southern farmers and businessmen. The system of sharecropping, “attempted to preserve the plantation system by offering to hire the newly freed ex-slaves on an annual contract for wages.” Sharecropping also promoted and perpetuated racist beliefs inherent in the “old system.” Contracts, wages, and attitudes all contributed to the decline in economic status that African Americans experienced during this period. More importantly attitudes on selling land to African Americans as a means to curtail their economic, as well as social status were prevalent. One journalist visiting the South noted “the feeling against ownership of the soil by Negroes is so strong that the man who should sell to them would be in actual danger,” and it was best to make labor contracts with “Negroes” instead, that way “landowners would not be held as “unpatriotic.” Sharecropping, “in almost every respect- the acquisition of workers, the lease arrangements, the responsibilities of the lease holder to

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detain and care for them” was almost “identical to those emerging from slavery in the 1850’s”

The failures of sharecropping were similar to the flaws of the Reconstruction Amendments. Sharecropping did not allow for African American economic freedom, nor did it allow for levels of ownership and autonomy, thereby, placing those within the oppressive system into a new form of slavery. The Reconstruction Amendments consequently made the lives of African Americans in the South worse because the access to rights and privileges propelled white southern fears and punished many to utilize violence as well as sharecropping as mechanisms for social and economic control.

Although there were labor contracts and most stipulated “no whipping,” and allowed freedom of movement former masters refused to uphold those rights as a way to not only curtail laws but to re-invent plantation life. Contracts may have stipulated one thing but white lease holders believed they were not obligated to uphold them. For lease holders, sharecroppers were different from former slaves; slaves had finical value (assets to borrow and trade against debts) so one was careful not harm their investment too much, however, sharecroppers on the other hand were only needed as long as their contract lasted, and if they were hurt or unable to work it was not the responsibility of the lease holder to take care of or make up for the loss of income and product. Sharecropper and ex-slave Henry Adams discussed in detail the day his sister was beat by the “madame” with a stick until her back split open, which was a breech of contract. Later that day the “mister” came home and whipped her nearly to death. By the same token Adams recounts how he and his brother decided to leave and head to Shreveport.

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but were stopped by forty friends of the “misters” who came out and took their horse and their property saying, “they were going to kill every nigger they found leaving their masters.” When asked who Adams belonged too he stated, “no one, I am free.” Unfortunately, Adams and his brother, “was made to go back and live as slaves” even though they were Freedmen, citizens, and laborers. The realities of sharecropping inherently made African Americans unequal to white lease holders and always placed them in positions where their autonomy and economic status were in question. Sharecropping was designed as a new form of slavery and there was no mistaking the systems racial and economic intent.

When Reconstruction ended in 1877 and Redeemer governments took hold the African American community lost not only civil liberties and rights granted by Congressional legislation, but many components of the autonomy they experienced; for example, “economic self help, family, and institution building,” all of which contributed to a “coherent ideology of black community advancement.” The overall consequences of Reconstruction beyond, loss of rights, economic slavery, and legalized discrimination, put the African American community, specifically in the South, into continual “defensive posture” and the community had to “face unjust political and social order rather than being able to directly challenge the new status quo.” The reinstatement of the “Old South” allowed Redeemer governments to implement not only their own distorted and racist brand of justice but in doing so made acceptable the lawlessness and social unrest promoted by white supremacists for decades to come. Not only were white supremacist

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205 Excerpt from Senate Report 693, 46th Congress, 2nd Session, 1880.
groups and Redeemer governments responsible for the nullification in practice of the Reconstruction Amendments and other civil rights legislation but the Supreme Court played an integral role in cutting down African American rights and re-establishing the racial hierarchy and color line. The later half of Reconstruction resembled regression toward a new system of the re-enslavement of African Americans. The era of Reconstruction was perceived as a failure because the rights and privileges granted by the Thirteenth, Fourteenth, and Fifteenth Amendments, though they had potential to enrich the lives of African Americans, were largely ineffective, due to the destructive and repressive power of violence and sharecropping. The historical discourse of Reconstruction demonstrated that claims to rights without the power to enforce them or to provide concrete economic, as well as political reforms was not only detrimental to the African American community living inside the South but painted unfavorable re-creation of historical memory that lasted into the 1960’s.
Chapter Four
Lasting Affects of Violence and Social Unrest: Civil War Continued, the Fight for Civil Rights, and the Supreme Court.

The destructive and violent nature of Reconstruction has left many historians to wonder if enforcement and harsher restrictions on ex-Confederates had been implemented would the outcome have been different? The revisionist history of Reconstruction argues that the Thirteenth, Fourteenth and, Fifteenth Amendments helped facilitate violence against African Americans. The rights granted by the Constitution propelled white southerners and Democrats into a state of paranoid fear over African Americans and Republicans power in the South. Prejudice, racism, and fear were catalysts for the violence and social unrest that permeated the South well beyond Reconstruction. The potential for monumental change died not only because the civil rights legislation and Constitutional Amendments lacked enforcement, concrete economic reforms, and practical application but because white southerners were able to use violence, fraud, and segregation as mechanisms of social, political, and economic control. The overwhelming majority of African Americans and their white Republican allies were expelled from southern state and local governments by the end of 1877, and white rule re-established itself as the basis of southern social, political, and economic superiority. White rule dominated the South for the next three quarters of a century until the Supreme Court finally reversed many of the discriminatory rulings that occurred after 1872. The years following Reconstruction in the South were violent and plagued by segregation and because, of racial issues social unrest carried with it the specter of death
whenever white racists and African Americans clashed over issues pertaining to Constitutional rights.

The years between 1865 and 1965 brought with them change in the lives of African Americans, as well as increased violence and social unrest. African Americans and their white allies experienced prejudice and discrimination almost beyond comprehension. The majority of white southerners believed that, “when push came to shove, violence to uphold the racial order was morally justifiable and effective.” The Supreme Court by way of Civil Rights Cases endorsed the prejudice, segregation and violence, which permeated the South. First with the declaration that the Civil Rights Act of 1875 as unconstitutional, to Plessey v. Ferguson (1896), and Cumming v. Richmond Board of Education (1899), the Supreme Court directly contributed to racial apartheid in the United States. Racism and racialized violence in the form of Jim Crow laws and lynching carried over from the Civil War and lasted into the 1960’s. The Red Summer of 1919, when blood was spilled in race riots across the country, and the re-emergence of the Klan because of the 1915 film Birth of a Nation are examples of the violence, racism and the rhetoric that became engrained into American historical memory. As a reaction to the violence and discrimination, both legal and illegal, the 1960’s Civil Rights Movement prompted the African American community and their white allies to fight the prejudice and violence which stemmed from two-hundred and fifty years of African American slavery. 

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The Supreme Court played an integral role in nullification of African American rights during the post Reconstruction period until the mid 1950’s. The Civil Rights Act of 1875 was declared unconstitutional in 1883 by the Court because, acts of discrimination could only be enforced if the state committed the violation not if an individual or business infringed on the rights of private citizens. Another significant ruling that contributed to the nullification of African American rights was the 1896 ruling in *Plessey v. Ferguson*; the ruling stated that separate public accommodations were not discriminatory if they were equal. The *Plessey case* impacted future rulings, for example, *Cumming v. Richmond*, which for the first time implemented the separate but equal ruling and applied it to schools thus creating educational inequity that can still be seen today. These cases ushered in legalized discrimination and promoted the doctrine of separating races based on the predominated racial hierarchy.

In essence, the Supreme Court implied the rights of white citizens outweighed the rights of African American citizens. The Court under Chief Justice Joseph Bradley, with the only dissention coming from Justice John Marshall Harlan, “held that the Fourteenth Amendment did not protect black people from discrimination by private people only from abuses by the state” and Bradley ended the 1883 ruling by stating, “it was time for blacks

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209 *Cumming v. Richmond Board of Education (1899)* was the first implementation of *Plessy v. Ferguson*. The Supreme Court ruled that since schools were funded by states, states were entitled to provide separate but equal facilities for students and that the federal government could not interfere in the states ability to do so. The ruling stated that Richmond County, Georgia school district only had money for one school, a white school and therefore it was unable to force the Board of Education to come up with the money to build a school for blacks; the Court was upholding pervious rulings and believed they did not have the jurisdiction to interfere in state maters on education. Peter Irons, *A People’s History of the Supreme Court: the Men and Women Whose Cases and Decisions Have Shaped Our Constitution*, (New York: Penguin Books, 1999), 230-232.


Chief Justice Bradley’s opinion that African Americans were protected under the same statues as white Americans was a fallacy which helped to contribute to the era of Jim Crow and also served as a catalyst for Civil Rights leaders in the 1960’s. The Supreme Courts endorsement of segregation and legalized discrimination allowed “southern states to quickly pass laws that restricted equal access of blacks to public areas, accommodations, and conveyances.” It was during the 1890’s that, “local officials began posting White Only and Colored signs at water fountains, restrooms, entrances and exits to all public buildings,” as well as “establishing curfews for blacks, and some state laws even restricted blacks from working in the same rooms as whites.”\footnote{Ronald L.F. Davis, “Creating Jim Crow: In Depth Essay,” www.jimcrowhistory.org.} Across the South African Americans were forced to make use of separate and run down facilities because, white southerners did not want to share space with people they considered inferior. The southern African American community faced not only prejudice and discrimination because, of the second rate public facilities they were forced to use, but were restricted in their freedom of movement because of curfews and Jim Crow laws on railway cars. The restriction on movement impeded employment opportunities and economic advancement.
causing African Americans decreased social and economic progress, which further pushed them toward re-enslavement. If African Americans had curfews and could not travel then they could not find gainful employment, which in turn left them at the mercy of white southerners for jobs, which centered African American economic and social progress on the shoulders of men and women who were racist, thereby, expansion into white society was nearly unattainable in the post Reconstruction South for a majority of African Americans. Officials were able to discriminate and legally segregate African Americans based upon Supreme Court decisions like *Plessey v. Ferguson* and *Cumming v. Richmond*; the high court gave their mark of approval.

Although the Supreme Court greatly contributed to the segregation and discrimination, African Americans lived under in the post- Reconstruction South; lynching also played a pivotal role in the social and political subjugation of African Americans. When African Americans pushed for the rights and principles granted by the Fourteenth and Fifteenth Amendments, ex-Confederate and white southern racists employed violence and murder in order to force African Americans into submission. Lynching became the ultimate manifestation of white supremacist control and spread fear across an already terrorized African American population. The more African Americans, and some white Republicans, voiced their concern over segregation and tried to take back political rights and power once held during Congressional Reconstruction, the more lynching increased. The practice of mob violence struck fear into the African American community and many curtailed their activities in order to escape the rope and the bullet. According to historian Robert L. Zangrando, “lynching is the practice of whereby a mob takes the law into its own hands in order to injure and kill a person accused of some
wrongdoing." During the post-Reconstruction period through the Jim Crow era, the majority of the accused were African American and, "offenses range from serious crimes like theft or murder to mere violation of local customs and sensibilities." The cause of what southerners distinguished as a "violation of customs and sensibilities" was the sexual relationships between Black men and white women. Many African American men were lynched because of the supposed rape of white women. It was the fear and the myth of the Black rapist whereby white men and women accused and then killed African American men in order to preserve white tenants of social and sexual control, as well as preventing miscegenation. Every former Confederate state passed miscegenation laws along with lynching laws. The last miscegenation law was nullified in Alabama in 2000.

The unfortunate reality of violence and lynching in the post-Reconstruction South was, "the issue of the lynching victim’s guilt as secondary, since the mob serves as judge, jury, and executioner." The majority of victims lynched were innocent and none ever received a trial. For example, a white woman or a member of her family would accuse an African American man of raping her, and then without a trial or any evidence a

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215 Loving v. Virginia (1967) Richard Loving and Meredith Jeter married in Washington D.C. where there were no miscegenation laws and went back to Virginia were it was illegal for African Americans and whites to marry. A neighbor turned them in and they were arrested. A trial began and the Judge gave them an ultimatum, leave Virginia for 25 yrs or go to jail. The Lovings chose to appeal the decision and it went to the Supreme Court. The high court ruled that Virginia had violated their Constitutional rights to freedom and that miscegenation laws were unconstitutional.
group of white men would then find the so-called rapist and hang him from the nearest tree. Sometimes the body would be left there for other African Americans to see as a warning; other times the body was mutilated or set on fire. The truth about lynching, however, was that African Americans were killed and mutilated because of the color of their skin or their association with what some white southerners perceived as the wrong people, Republicans or carpetbaggers. White allies who spoke out against racism and segregation were not spared the rope either, however, the vast majority of lynching victims were Black. Zangrando stated what is key is that, “historically, social control has been an essential aspect of mob rule,” and lynching was an act by which societal norms and political coercion could extend beyond the person that was lynched and their family but the entire community heard or witnessed the act thereby spreading the overt message; stay in line or else. Lastly, the compliancy of white America’s guilt in the brutal lynching of African Americans during post-Reconstruction came when the Supreme Court ruled in United States v. Harris (1882.) The Court declared “void the important criminal conspiracy section of the Ku Klux Klan Act of 1871, which made it an offense to conspire to deprive any person of equal protection of the laws.” What is critical was this “provision was aimed at lynchings and other mob actions of an individual or private nature.” Thus Klan members and other white supremacist groups were able to commit violent acts and murders without fear of legal retribution because, the Supreme Court not only abandoned African Americans at that time but over turned the Enforcement Act of

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1871, which was the primary means by which African Americans and white Republicans sued for protection.

With the end of Reconstruction in 1877, many white southerners sought to end the control of northern and black politicians and were able to do so with the increased threat of violence. In exercising lynching as a mechanism of control, and because of the Federal government’s lack of enforcement, as well as the decreased northern public concern for African Americans in the South, white southerners and Democrats were able to extend a reign of terror which killed 4,734 people. Accounts of lynching from the Jim Crow era paint a grim picture of what African Americans and a small minority of white allies faced. It was African Americans who were predominantly burned, tortured, and mutilated through ritualized violence. From 1890 to 1965 lynching and discriminatory laws not only disenfranchised African Americans but voided the Reconstruction Amendments in practice. The extreme loss of rights coupled with state and Federal acquiescence to lynching allowed white citizens to further extend their own form of racial justice and re-establish of a new form of bondage and terror that many African Americans associated with pre Civil War slavery.

African American communities responded to lynching with anti-lynching campaigns headed by African American women, like Ida Well-Barrett, and women’s organizations such as; the National Association of Colored Women, the NAACP, and the

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219 Robert L. Zangrando, “About Lynching,” excerpted from The Reader’s Companion to American History. ed. Eric Foner and John Garraty, (New York: Houghton Mifflin Co., 1991). This number includes white victims as well. A breakdown of states includes, Mississippi (539 black victims, 42 white), Georgia (492, 39), Texas (352, 141), Louisiana (335, 56), and Alabama (299, 48). These are just some of the statistics reported and it is important to keep in mind that not every lynching or act of mob violence was reported. Also during race riots African Americans were targeted and lynched demonstrates peaks in the statistics in 1919 and 1921. Robert Zangrando, The NAACP Crusade Against Lynching, 1909-1950 (1980).
Association of Southern Women for the Prevention of Lynching.\textsuperscript{220} These groups protested lynching, wrote to Congress and the President, as well as publishing literature on the inhumanity of lynching, and included white women in their campaign to end lynching, which was critical since many African American men were falsely accused of rape based upon white women’s complacency and accusations. After the 1940’s these women’s groups and the NAACP turned their attention from lynching, because of its overall decline, to African American Civil Rights. However one would be remiss to believe that violence toward African Americans completely disappeared. For example in the summer of 1919, or what historians have termed the “Red Summer”, large scale mob violence and race riots engulfed several urban cities, and there were at least “25 recorded lynchings and hundreds of people injured; it was one of the bloodiest summers on record.” Some of the most violent race acts of the “Red Summer” were committed in Chicago and Elaine, Arkansas. In July of 1919 at 29\textsuperscript{th} Street Beach, a black youth accidentally swam into an area claimed by whites and was stoned. A fight occurred between whites and blacks in which “Eugene Williams, a black youth, drowned” and to make matters worse “the police refused to arrest the white men who started the fight but a black man instead, causing an outbreak of mob violence by both races that lasted thirteen days.” After thirteen days of violence, “23 blacks and 15 whites were dead, 537 people injured, and 1,000 black families were left homeless.”\textsuperscript{221} In late September of the same year as the Chicago race riots tensions boiled over into Elaine, Arkansas producing one of the deadliest and bloodiest racial riots. A group of one hundred African American


sharecroppers were meeting in their church to discuss the organization of their group into a union when, "two white officers arrived, and believing the blacks were bootleggers, opened fire." One of the officers was killed and the other wounded leading to mass hysteria among whites across Arkansas that African Americans were organizing to kill them. This hysteria lead to hundreds of armed white men converging on Elaine to seek revenge for the killing of a white officer, but more importantly, to hand down their brand of racial justice because, "the white establishment charged the blacks had formed a secret conspiracy to rise up and overthrow the white planters, take their land and rape their women; no evidence was ever produced to substantiate those charges." By the time the United States Army stopped the shooting, "which some believed they participated in the actual killing, twenty five blacks and five whites were listed as officially dead but many blacks believed that as many as 200 were killed and their bodies were dumped into the Mississippi River or left to rot in the woods."222 During the "Red Summer" there were race riots in Wilmington, South Carolina, Houston, Texas, St. Louis, Chicago, and Tulsa Oklahoma.223

Just a few years before the "Red Summer" occurred The Ku Klux Klan re-emerged from a brief slumber. During the 1890's the Ku Klux Klan had simmered only to be resurrected because Thomas Dixon Jr.'s novel the *Clansman, 1905*, which glorified the Klan as the last salvation of white purity and the protector of the white racial hierarchy. Not only did the novel become an instant bestseller across the country it was

endorsed by Abraham Lincoln’s son Robert and made into a play. The play featured actors in black face who chased white women around the stage to the delight of both Northern and Southern audiences. On opening night in Atlanta, Georgia, Dixon revealed, “his father had been a Klan member and waged a campaign of violence against black political leaders,” and so the novel was a testament to white southern men like him. 224 A decade later filmmaker W.D. Griffith capitalized off the success of Dixon’s novel and the notion of the “Lost Cause” to create the film Birth of a Nation which appeared in 1915, and brought to fruition the second coming of the Klan in Atlanta, Georgia. The introduction to Dixon’s novel stated the Reconstruction regime “produced a “revolution in our government, and the bold attempt by Thaddeus Stevens to Africanize ten great states of the American Union, read now like tales from Arabian Nights,” and is appalling. 225 According to Dixon, “in the darkest hour of the life of the South, when her wounded people lay helpless amid rags and ashes under the talon of the Vulture, there appeared a white cloud risen from the filed of Death and challenged the Visible to mortal combat.” 226 For Dixon, like many other southerners, the Klan was viewed as the savoir of white men and virgin white women. Dixon’s novel, as well as the film Birth of a Nation portrayed white southerners as victims who over came “overwhelming odds” with the help of “the reincarnated souls of the Clansmen of Old Scotland,” who “saved the life of the people” and added a “dramatic chapter in the history of the Aryan race.” 227 Southern men stated their fondness for Klan members after viewing as well as “proudly admitting they had ridden with the Klan” and “thereby saving the South from

Negro domination.”228 Not only did Dixon’s novel contribute to the resurgence of the Klan but it directly contributed to the rise in violence against African American men during this period. The fear of miscegenation, the myth of the Black rapist, and the challenge to white female purity revived the Klan and all of these issues were addressed in both *The Clansman* and *Birth of a Nation*. Hypersensitive fears coupled with false allegations propelled Klan resurgence and, for example in Atlanta, newspapers printed false rape claims leading to five days of bloody violence. White men and police attacked black businesses, homes, and neighborhoods, however, some African Americans did fight back which ultimately caused more violence, and all told white rioters “killed at least two dozen African Americans,” mostly men.229 This irrational violence was a hallmark of not only the Klan but white rioters in the South, which unfortunately directly contributed to growing racial fears and segregation. Segregation permeated the South and forced African Americans and their allies into perpetual state of readiness for the fight to gain equality and more importantly the fight to end violence and lynching. African Americans and their supporters were forced to defend rights and principles granted by the Constitution because, white southerners and Democrats falsely believed African Americans were racially and mentally inferior and therefore, incapable of freedom, citizenship, and adult male suffrage. The Reconstruction Amendments were designed to better the lives of African Americans and assimilate the once enslaved population into the American economic and political system; conversely, those three Amendments only exacerbated racist fears and caused a backlash of violence that lasted for almost a century.

Civil Rights Movement of the 1960’s was a reaction to the systematized violence and the legalized discrimination that African Americans experienced from the beginning of Reconstruction onward. What was crucial to remember about this one hundred year span from 1865 to 1965 was that African Americans held fast to their agency, which white southern racists and some Democrats tried to take from them through Black Codes, Jim Crow Laws, and lynching. African Americans created for their communities places of support that helped them push through Jim Crow and emerge into the Civil Rights Era of the 1960’s. Two critical pieces of legislations helped to kill Jim Crow and racial apartheid in the American South; the Civil Rights Act of 1964 and the Voting Rights Act of 1965. These two Acts were the first step in not only fighting racial discrimination but the first Civil Rights legislation since Congressional Reconstruction ended in 1875. It took almost one hundred years for Congress to readdress the issues that men like Stevens, Sumner, and Douglas pushed for during Reconstruction. Finally with the passage of the Civil Rights Act of 1964, full citizenship rights and protection under the law and in essence the reiteration of the Fourteenth Amendment was finally acknowledged by the Federal government as well as enforced.

President Lyndon B. Johnson was committed and pushed for legislation that encompassed the rights guaranteed all citizens, and specifically African Americans, under the United States Constitution. The Civil Rights Act of 1964 “barred discrimination on the basis of race in areas of public accommodation, schools, libraries, and hospitals.” The Act also “prohibited businesses and unions from discriminatory actions, but did not
protect the right to vote.” Protection and enforcement of voting rights came one year later with the passage of the Voting Rights Act of 1965, which re-enforced the Fifteenth Amendment that was ratified 95 years beforehand. The Voting Act took requirements out of the hands of the state governments and made the Federal government responsible for mandating voting laws, thus ending the discriminatory practices used against African Americans, such as poll taxes and literacy tests. According to the Federal government and court records the Act was challenged almost immediately by southern states. The Supreme Court in several cases, Harper v. Virginia State Board of Elections (1966), Allen v. State Board of Elections (1969) and also South Carolina v. Katzenback (1966), upheld Congress and the Johnson administration’s civil rights agenda. Federal statistics reveal that “by the end of 1965, a quarter of a million new black voters had been registered, one third by Federal examiners” and “by the end of 1966, only 4 out of 13 southern states had fewer than fifty percent of African Americans registered to vote.” These statistics demonstrated African Americans’ desire to reclaim the Fifteenth Amendment and the Voting Rights Act of 1965 was “the final and decisive law that effectively ended the legal practice of Jim Crow,” As a direct result of the Voting Rights Act of 1965 the Supreme Court hoped, “millions of non-white Americans would now be able to participate for the first time on an equal basis in the government under which they live” and we may finally look forward to the day when the right of citizens to

233 “The Rise and Fall of Jim Crow: A National Struggle”
vote shall not be denied by any state on account of race, color, or previous conditions.”

These two Acts, though long over due, were a dramatic triumph for African Americans and their white allies but more importantly signified the end of racial slavery in the United States. Men like Bull Connor and George Wallace were defeated by anti-racists and multiracial coalitions led by Dr Martin Luther King Jr., Angela Davis, and Students for a Democratic Society. No longer could the nation stand idly by and watch on national television as black and white students, adults, and children were attacked by dogs, police, and men dressed in riot gear. Birmingham, Selma, and other protests helped to open the nations’ eyes as to what racism and white supremacy was capable of. The hypocrisy of America was staring it right back in its face; the United States could no longer claim to be the bastion of freedom and democracy if it was denying its own citizens equal rights and equal protection under the law. The 1960’s ushered in an era of radical change, long over due but just as important as the initial promises made under legislation lost long ago when Reconstruction came to a dramatic end. Finally the hope that burned out after Redeemer governments gained political and economic power in the South was rekindled by the aspirations of many, and intertwined with concrete legislation coupled with enforcement by not only the Federal government but the Supreme Court as well. If anything the Civil Rights era of the 1960’s demonstrated the perseverance of both black and white in the principles set forth by radical Republicans during Congressional Reconstruction. Although those men, (Radical Republicans), were not prefect the


ideology and legislation they brought forth helped to establish a path which future
generations followed, analyzed and built upon.

Reconstruction was not a total failure, there was potential in the civil rights
 legislation and Reconstruction Amendments ratified, but those principles and rights were
not enough. In order for Reconstruction to have grown to fruition practical application of
rights, economic reforms, and strict enforcement were desperately needed. Both President
Grant and Radical Republicans underestimated the resolve by which ex-Confederate
racists and other white southerners would fight to uphold the color line and the tenants of
slavery. Freedom, citizenship, and adult male suffrage were wonderful and radical ideas
designed to promote specific levels of political and economic equality for African
Americans, but instead these rights on paper only served as catalysts for the justification
of malicious and violent actions by white racist southerners. Violence, intimidation, voter
fraud, and murder became the mechanisms of social, political, and economic control
white southern Democrats employed to curtail African Americans and white Republicans
from exercising their Constitutional rights and privileges. A race war ensued inside the
South were thousands of African Americans were brutally killed or maimed because,
they believed the Reconstruction Amendments allowed them full political and social
participation, unfortunately backlash against African Americans occurred and ultimately
destroyed the potential of Reconstruction. Reconstruction also illustrated what was
legally inadequate and un-justice about racism and white supremacy in the United States.
In the end Reconstruction highlighted that rights on paper without enforcement and
practical application only made the lives of African Americans fighting for inclusion into
white society worse.
Conclusion
The Repression of the Reconstruction Amendments

The Civil War did not end neatly as many would have hoped. Instead, violence and a bloody battle raged on for almost a century dividing those who believed in civil rights and freedoms for all citizens and those who wanted to re-create the old slave aristocracy. Both sides fought in the battle for national control: Republicans and African Americans with legislation and determination, and white southern racists and Democrats with violence, murder, and intimidation. There was no clear-cut winner. Nonetheless, there was a glimmer of hope for the future in the legislation ratified during Reconstruction. The Thirteenth, Fourteenth, and Fifteenth Amendments established constitutional guarantees that African Americans would rally around and cling to during turbulent and violent times. African Americans across the South believed the rights principles stated in the Constitution allowed them participation in American’s social, political and economic spheres. This newly liberated and enfranchised group of citizens trusted the Federal government and their congressional representatives to serve not only their best interests but to help in the fight to enforce their civil liberties. The unfortunate outcome proved contrary to what African Americans and some of their white Republican allies hoped for. Inclusion and equality for African Americans were unattainable goals after the Civil War because of racism and lack of Federal and state enforcement of civil liberties, coupled with little practical application and minimal economic reforms, all of which contributed to what made Reconstruction unsuccessful.
The failures of Reconstruction highlight how difficult it was for African Americans to enter the political, social, and economic spheres of American society. Their acceptance as citizens would not come easily or without violence. Contributing to the violence and social unrest of Reconstruction was one of American's most militant terrorist groups, the Ku Klux Klan. The goal of the Klan was to silence African American political and economic participation as well as expel Republicans from southern white governments. Ultimately, the KKK wanted to promote and protect the purity of the white race. The Klan, and other white terrorist groups, claimed they succeeded in their goals of disenfranchisement and curtailing of the civil rights of African Americans. These groups were successful in spreading violence, racism, and fear, which did push a majority of African Americans and white Republicans in the South away from public service in Federal, state, and local governments until the late 1950's. During Reconstruction the Klan helped to usher in decades of segregation and racial violence, which only propelled the fallacy of white superiority.

Those fighting against the Klan, African Americans and Radical Republicans, worked tirelessly in order to stop the spread of racialized violence. However, legislation alone was not enough to prevent the violence, intimidation, and voter fraud which allowed Redeemer governments to regain control of southern state and local governments. The South needed serious enforcement, economic reforms, and practical application of legislation that would prevent fraud and violence. Radical Republicans and African Americans may not have achieved their goals, of freedom, citizenship, and Black male suffrage directly at that time, but a century later African Americans and their multiracial coalitions during the Civil Rights Movement worked to reclaim the legislation
of Reconstruction. Prohibition of slavery, citizenship with equal protection under the law, and manhood suffrage were rights that African Americans deserved as much as any other U.S. citizen, and regardless of their race or color their Constitutional rights warranted safeguards by local, state and Federal governments. Reconstruction highlighted how Democrats and Republicans dramatically differed on their principles of equality for African Americans and also a lack of support from the Supreme Court. The ratification of the Reconstruction Amendments and the Civil Rights Act of 1866 and 1875 propelled a nation and its citizens into a protracted and racialized civil war that lasted into the 1960’s. The Reconstruction Amendments caused an extreme backlash toward African Americans because the Amendments granted former enslaved persons rights and privileges that had been previously reserved for whites only. The rights and privileges promised in the Constitution ultimately dispelled in theory the racial hierarchy that prevailed since before the American Revolution. However, rights on paper were far different from the realities faced by many African Americans and their white Republican allies. Vague principles without concrete groundwork, enforcement, and economic reforms only lead to repression and violence that re-enslaved African Americans. The Reconstruction Amendments had potential to change and enrich the lives of African Americans but since there was no practical application the Amendments instead facilitated white southern anger and inspired violence which did nothing but enflame the racial and economic crisis inside the post Civil War South.

Eventually Presidential Reconstruction would give way to a harsher Congressional Reconstruction where Congress, mostly made up of Republicans, passed laws that protected and advanced the rights of African Americans while trying to keep
white southern Democrats from co-opting and corrupting Reconstruction. Unfortunately, Congressional Reconstruction pushed white southern Democrats and their sympathizers into a position where they believed their state, local, and even Federal governments were being “Africanized” so they fought back with guerilla warfare and terrorist groups like the Ku Klux Klan and the White League. These terrorist organizations utilized violence, fraud, intimidation, vandalism, and manipulated the laws in order to bring white supremacy and the white racial hierarchy back into the South. The South according to North Carolina Judge Albion Tourgeé won the Civil War not on the battlefield but in “the way in which they have neutralized the results of the war and reversed the verdict of Appomattox.” Southern Democrats were able to regain control of state and local governments, and by the Presidential election of 1876 these same men who helped to usher in the Civil War were, with the help of newly elected president Rutherford B. Hayes, turning over all the potential of Reconstruction. Though the Thirteenth, Fourteenth, and Fifteenth Amendments were still law, they became null and void through Black Codes, voter restrictions in the form of literacy tests and poll taxes, as well as Jim Crow laws adopted by all former Confederate states. In addition to the nullification in practice of the Reconstruction Amendments, the Supreme Court declared unconstitutional the Civil Rights Act of 1875, thereby voiding African Americans’ access to equal facilities and judicial rights. By 1877, according to historian John Daly, “the ex-Confederate goal of eliminating black political activity and military presence in the South,” was achieved. The Reconstruction Amendments became lost in the struggle for white hegemony. That loss was one of the great failures of Reconstruction, and

because of the Federal government’s lack of desire or will to enforce those laws granted under the United States Constitution there were dire consequences for the African American community that stretched into the 20th century. Violence and sharecropping were immediate consequences of the lack of enforcement and minimal economic reforms provided during Reconstruction. These consequences of racial violence and sharecropping served as painful reminders of the failures of Federal and state governments to protect and enforce citizenship rights. African Americans across the South because of violence and sharecropping were re-enslaved and white supremacist groups implemented mechanisms by which a whole population was dehumanized and degraded to second class citizen.

White southern Democrats challenged the Thirteenth, Fourteenth, and Fifteenth Amendments with the objective of repressing and re-enslaving African Americans in the post Civil War South. Ex-Confederates and other white southerners were unwilling to concede the fact that the fallacy which the Confederacy and white superiority was built upon was overturned and nullified by Radical Republicans and African Americans. White southern racists became enraged when former enslaved persons received rights and privileges that granted them freedom, citizenship, and adult manhood suffrage. The majority of white southerners living in the South could not comprehend the inclusion of African Americans into U.S society, nor could they allow equal participation and the disillusion of the color line. The granting of rights and privileges only facilitated and inspired violence which white terrorist groups utilized as mechanisms of social, political, and economic control over African Americans for decades to come. Lynching, segregation, racial discrimination, as well as Jim Crow laws became tools in the re-
enslavement of African Americans, and the Federal government along with the Supreme Court was complicate if not responsible for the oppression and subjugation of United States citizens.

Reconstruction illustrates how rights principles granted by the Constitution propelled white supremacists into violent and malicious actions that had far reaching and devastating consequences for not only African Americans but the country as a whole. The Reconstruction Amendments were designed to give African Americans freedom, citizenship, and male suffrage; however, these rights only facilitated southern hatred and inspired violence. The Federal government, Republicans, and the Supreme Court abandoned African Americans by the end of Reconstruction in 1877. More importantly the legislation designed to secure their rights and freedoms was nullified by violence and discriminatory laws. The Reconstruction Amendments, and to a larger extent Reconstruction itself, was a failure because there was no enforcement of laws and rights, there was minimal provisional groundwork to establish African Americans as equal citizens, and there were no economic reforms which would have greatly increased African American independence on not only the Federal government but white southerners as well. Instead there was violence, Black Codes, and economic, as well as political oppression inflicted through literacy tests and poll taxes all of which helped to usher in a new era of American slavery that did not end until after the Civil Rights Movement of the 1960’s, and with the reversal of Supreme Court’s rulings. It would take almost three quarters of a century for the promise and potential of the Reconstruction, and the reinstatement in practice of the Thirteenth, Fourteenth, and Fifteenth Amendments to finally come to fruition. The retrograde of status and security African
Americans faced during Reconstruction only ended once legalized segregation and discrimination was overturned by laws and concrete enforcement, which did not happen until the Civil Rights Movement of the 1960's. The legacy of Reconstruction was marred by violence and repression. The Reconstruction Amendments and other civil rights legislation made the lives of African Americans worse because, there was no enforcement, no protection, lack of practical application of rights, and zero mechanisms by which Federal, state, and local governments could handle the violence and backlash facilitated by these rights and freedoms. Ex-Confederate racists along with white southern Democrats took it upon themselves to abridge the rights of U.S. citizens because, they wanted to re-enslave African Americans and force upon the South the racial hierarchy that supported and perpetuated the tenants of the slave autocracy.
Appendix I

Illustrations from *Harper's Weekly*

As shown in this Thomas Nast cartoon, Worse than Slavery, white groups such as the Ku Klux Klan and the White League used every form of terror, violence, and intimidation to restore a “white man’s government” and redeem the noble “lost cause.” (*Harper’s Weekly, October 24, 1874*)
Caption:
"Shoo, Fly, don't Bodder me!"

Complete Harper's Weekly Explanation:
This unsigned Harper's Weekly cartoon shows an elated black man casting his vote under the authority of the Fifteenth Amendment, as he shooes away the irritating "flies" of states which voted against its ratification.
“During Reconstruction, basic civil rights for black Americans were enacted into the U.S. Constitution via the 13th, 14th, and 15th Amendments, into federal law through the Civil Rights Acts, and into the constitutions and laws of the former Confederate states and a few Northern ones. Given the prevalent racism in the country, and the resentment of many Southern whites to Reconstruction policies, a political reaction developed across the South. It resulted in the replacement of Republican Reconstruction governments with Democratic "Redeemer" governments. That change was accomplished and sustained in part by intimidation and violence against blacks and their white allies. The vehicle for those strong-arm tactics were paramilitary groups like the Ku Klux Klan, the White League, and the Red Shirts.”

Harper’s Weekly would use this cartoon again in 1872, another presidential election year.
"We regard the Reconstruction Acts (so called) of Congress as usurpations, and unconstitutional, revolutionary, and void." - Democratic Platform
(The members call each other thieves, liars, rascals, and cowards.)

Columbia. "You are Aping the lowest Whites. If you disgrace your Race in this way you had better take Back Seats."
March 23, 1867
In this view of Southern justice, a Northerner and a black man are accused of murder and then lynched, while in another panel a Southern gentleman accused of murder is humorously chided by the court.
Appendix II

The Thirteenth, Fourteenth, and Fifteenth Amendments

Amendment XIII

Section I. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have the power to enforce this article by appropriate legislation. [December 18, 1865]

Amendment XIV

Section I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of
such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. [July 28, 1866].
Amendment XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude-

Section 2. The Congress shall have power to enforce this article by appropriate legislation. [March 30, 1870].

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