

FORUM: MODERN AMERICAN HISTORY

The End of the Second Reconstruction

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In the 1990s, the legal scholar and civil rights attorney Derrick Bell penned several books in response to the racial and conservative backlash of that decade. Bell sought to explain the erosion of civil rights gains, and the fact that anti-discrimination reforms of the 1950s and 1960s had not achieved substantive racial justice. His argument for the persistence of racism in American life provided little comfort to supporters of civil rights. Bell's pessimism was rooted in a deeply historical account of the relationship between anti-black racism and economic crisis. Powerful whites, he argued, employed racial scapegoating of black people by portraying them as a threat to whites, thereby displacing the anger of poor, working-class whites and their grievances against corporate power and wealthy whites onto black people and other people of color. Throughout modern American history, white mobs had terrorized African Americans with lynching and other attacks. So-called race riots, sparked by white rage, had plagued the nation's cities: New York City in 1900; Atlanta in 1906; East St. Louis in 1917; Chicago, Washington, DC, and over twenty additional cities during the Red Summer of 1919; Tulsa in 1921; and Detroit in 1943. Under conditions of a major economic crisis, Bell warned that such violence could happen again.

Bell's writings were central to an emergent legal studies field called critical race theory. Critical race theory is often distinguished by unconventional, experimental, imaginative writings, offering a bracing departure from conventional, arcane legal scholarship drowning in footnotes. In *Faces at the Bottom of the Well* (1992), Bell argued that white racism was a permanent feature of American society—a claim then regarded by some as too close to bilious black nationalism for comfort. Bell included in that volume a science fiction story, “The Space Traders,” which was a thought experiment that challenged readers to consider what might become of an American society without black people, and presumably, without the deeply entrenched disease of anti-black racism.¹

The Space Traders come from a civilization of technologically advanced extraterrestrials—far superior to the capacity of humans on earth—who suddenly visit the United States and propose a deal with the government. It is an offer that officials find difficult to refuse. These space aliens will solve all of the economic and environmental problems facing the United States if the government will round up all people of African descent, herd them *en masse* onto spaceships, and remove them from the earth. The government holds a national referendum on whether to send all black people into interplanetary exile. An overwhelming majority of Americans supports the proposal to rid the nation of black people. This turn of events puts the conservative administration's leading African American cabinet official, also a conservative, in a difficult position. He mounts a campaign to convince the nation's ruling class that without African Americans, they will be forced to address the nation's economic inequalities and class conflicts, because black people will no longer be present to serve as distracting scapegoats for poor and economically marginal whites. His campaign fails, and the story concludes as the black conservative and his family are herded onto the spaceships by U.S. troops with the rest of the African American population.

¹Derrick Bell, *Faces at the Bottom of the Well: The Permanence of Racism* (New York, 1992).

Leaving aside the question of the motives of the Space Traders, the exile of all people of African descent residing in the United States in Bell's story evokes prior human rights violations by the U.S. state, including the forced removal of Indians from the Southeast, the colonization movement (in which powerful whites sought the mass removal of black Americans, believing such a policy would ease racial tensions resulting from slavery and segregation), and the mass internment of Japanese Americans, the majority of them U.S. citizens, during World War II. There is more than a hint of these past abuses of power in the current administration's deportations of undocumented immigrants, its attempted travel ban on Muslims, and the virulent racial scapegoating of immigrants as criminals and terrorists, creating an indiscriminate climate of hostility against lawful nonwhite immigrants and citizens. Such recent events underscore that in *Faces at the Bottom of the Well*, Bell understood that the white supremacist ideology that made slavery and other such past atrocities justifiable is far from dead. Bell's argument still holds true that few African Americans, despite their achievements and material success, are insulated from incidents of racial discrimination. While the absence of visible signs of discrimination encourages many whites to believe that racism is a thing of the past, the semblance of racial neutrality perpetuates discrimination. Bell saw white Americans as the largely unconscious beneficiaries of generational advantages and preferences, a form of "racial nepotism" that becomes more overt in difficult economic times. Writing at a moment in which former Klansman and neo-Nazi David Duke contended for statewide office in Louisiana, Bell foresaw Trump and his white nationalist minions fanning the embers of racism, Islamophobia, and anti-Semitism ablaze. In a prophetic passage, he wrote, "Everpresent ... is the real possibility that an unexpected coincidence of events at some point in the future—like those that occurred in the past—will persuade whites to reach a consensus that a major benefit to the nation justifies a sacrifice of black rights—or lives."²

At this moment of right-wing populism and white racism animating the rise of Donald Trump, the Reconstruction Era remains a crucial starting point for understanding continuing struggles for citizenship, civil and political rights, and racial and economic justice. Reconstruction was a revolutionary shift from an American political order founded on white dominance. Following the demise of chattel slavery, and over the fierce opposition of the planter class and white southern Democrats, radical Republicans in Congress and bi-racial Reconstruction state governments established universal male suffrage without regard to race. Even after the violent overthrow of Reconstruction governments, the exploitation of black and white sharecroppers and tenant farmers by planters and merchant bankers gave rise to the interracial populist movement's political challenge to concentrated wealth and corporate power.

But the expansion of constitutional freedom and the threat posed by populism's working-class insurgency elicited a violent counter-revolution. The disfranchisement movement provided the solution for the South's oligarchs and politicians. Drawing on deep-seated, anti-black fears and resentments, white Democratic politicians and the press portrayed African American voting and office-holding as a threat to the safety and rights of whites. Between 1890 and 1908, southern state legislatures amended their constitutions to institute poll taxes, literacy tests, and other means to systematically deprive African Americans of the vote. Disfranchisement ended the provisions of universal male suffrage enshrined by Reconstruction state governments. Though enacted under the pretext of white supremacy, disfranchisement also, sometimes quite purposefully, stripped many poor whites of the right to vote.

The modern African American freedom struggle led to a brief interlude of multiracial democracy and socio-economic mobility for many African Americans in the decades after World War II (Figure 1). C. Vann Woodward memorably referred to the moment as the Second Reconstruction, casting the struggle as an effort to regain the civil and political rights

²Bell, *Faces at the Bottom of the Well*, 13.



Figure 1. Voting rights protesters confront the police in front of the White House in 1965. Photographed by Warren K. Leffler, Library of Congress Prints and Photographs Division.

conferred by the Civil War amendments, but then rescinded by Jim Crow segregation and disfranchisement.³ Not unlike the First Reconstruction's commitment to universal freedom, that short-lived era of integration saw a democratic expansion of educational opportunity and cultural openness, not only for African Americans, but also for women and working-class people of all backgrounds. Of course, many African Americans, among the legions of the poor and working-class men who disproportionately served in the U.S. war in Vietnam, could not take advantage of the democratization of American life and institutions. But thousands of African American men and women did benefit from the struggles that desegregated elite higher education after the late 1960s.

At the heart of the Second Reconstruction moment lay the Voting Rights Act of 1965, a dramatic break from the race- and class-based tradition of suffrage restriction in the Jim Crow South that immediately transformed southern politics. Within four years, over 60 percent of African Americans in the South were registered voters. These new voters helped elect over 265 black public officials—a significant gain over the previous years. Moving beyond assumptions of formal equality, the Johnson administration's Justice Department understood that practices of racial oppression were firmly embedded in southern institutions and history. The Voting Rights Act sought to remedy biases against groups, instead of simply seeking redress for discrimination directed at individuals.⁴ After 1965, the statute expanded its purview from dismantling barriers to voter registration to challenging the dilution of black ballots. Justice Department officials charged with enforcement responded to such tried and true tactics as racial gerrymandering, annexations of white residential areas adjacent to majority black sections, and other electoral changes that had been used during the First Reconstruction to circumvent the Fifteenth Amendment.

These hard-won rights, however, were met by a blossoming array of far-right organizations and publications that mobilized white supremacist ideologies in opposition to civil rights. Close attention to the local and national circulation of white supremacist ideology provides an

³C. Van Woodward, *The Strange Career of Jim Crow* (1955; New York, 2002).

⁴Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944–1969* (New York, 1976), 147.

important counterpart to analyses of the structural processes of racial discrimination and residential segregation against which generations of African American movement activists have struggled. The long-standing problem of police violence against black people does not come out of nowhere. The intimate, secluded spaces of white families, churches, neighborhoods, and civic organizations have provided fertile soil for nurturing white supremacist identities, hate groups, and domestic racial terrorism.

During the 1950s, the high tide of massive resistance to desegregation, many groups espoused the Christian fundamentalist arguments of segregationist politicians and conservative intellectuals that the United States and the so-called white race were besieged by a monstrous conspiracy of Jews, Communists, and their African American pawns in the civil rights movement. For example, take the National Citizens Protective Association (NCPA), founded in St. Louis in 1951 by the former Gerald L. K. Smith confidant John W. Hamilton. Hamilton's organization was committed to a single issue: the defense of white America from the supposed threat of school integration and African American demands for equality. As editor of *The White Sentinel*, the official organ of the NCPA, Hamilton voiced the worst fears of hardline segregationists, and drew on a longer history of white racism and nativism, with the front-page headline of the April 1956 issue: "School Integration Is Racial Suicide."

As its title suggests, *The White Sentinel* pulled no punches, drawing on a national network of contributors and unabashed in its role as a hate publication, pure and simple. Its outrage was not limited to school desegregation. Urban lower middle-class whites, fearful of losing their status as African Americans expanded into previously all-white neighborhoods, could denounce what the editors termed "Negro blockbusters" seeking to integrate housing in Chicago's all-white Trumbull Park. In the pages of *The White Sentinel*, any challenge to white dominance was symptomatic of the larger crisis, from the announcement by the Red Cross that it would cease the practice of segregating contributions to its blood bank by race, to the impending statehood of Hawaii, which was likely to elect at least one man of Asian descent to the U.S. Senate. *The White Sentinel* lambasted the Supreme Court as "autocratic," labeling a group portrait of the Justices who had handed down the *Brown* decision as "Nine Race Mixers."⁵ It bemoaned the increasing visibility of African American entertainers on television and in mass media, accusing them of dragging down the quality and morals of the American entertainment industry. The newspaper printed the segregationist tirades of Robert Patterson of the Mississippi White Citizens Councils, alongside reports by aggrieved whites residing in St. Louis.

The White Sentinel gave its readers permission to be furious at all African Americans. It imagined whites as likely victims of crime at the hands of African Americans and generally persecuted by the group's illegitimate demands for equality. Its articles demonized civil rights issues, activists, and organizations. Indeed, African Americans demanding equality were routinely equated with criminals. Though careful not to openly advocate violence, the newspaper implied that violence was necessary to subdue disorderly, criminal blacks. Urban blacks were depicted as a dire threat to public safety, white racial purity, and the American nation. In a tried and true strategy, *The White Sentinel* incessantly portrayed white women as actual or potential victims of "negro crime." The only solutions were stiffer punishments for "negro criminals" and "strict segregation." It denied the existence of "discrimination" and "bias," signaling its skepticism with scare quotes.⁶ In the classic, Jim Crow, white, southern mentality dating from Reconstruction, civil rights were a zero-sum game in which African American civil and political freedoms were believed to cause the oppression of whites.

⁵"Nine Old Race Mixers," *The White Sentinel* IV, no. 6 (June 1954): 2; "Costly Patrol Continues at Trumbull," *The White Sentinel* IV, no. 5 (May 1954): 1.

⁶"Truth About Supreme Court's Segregation Ruling," *The White Sentinel* IV, no. 6 (June 1954): 7.

So it is perhaps no surprise that the ink of President Johnson's signature was barely dry on the Voting Rights Act when opponents of the statute began challenging the constitutionality of Section 5, which required jurisdictions with a history of racial voter suppression to obtain federal approval, or preclearance, for any new voting law. At first, however, they were unsuccessful. In *South Carolina v. Katzenbach* (1966), the Supreme Court upheld Section 5, the majority basing its reasoning on historical discrimination: "Congress had found that case-by-case litigation was inadequate to combat wide-spread and persistent discrimination in voting." In *Allen v. State Board of Elections* (1969), the court similarly declared that the Voting Rights Act "was aimed at the subtle as well as the obvious" and interpreted the right to vote to include "all action necessary to make a vote effective." Unlike the U.S. Supreme Court of the late nineteenth century, during the Second Reconstruction the Warren Court was willing to protect the rights of minority citizens.

Critics in the judiciary and in President Nixon's administration asked Congress to strike down Section 5 and extend the statute's jurisdiction nationwide. This was intended to spare the southern states the stigma of racial injustice and to undermine the law's impact where it was most needed. Ignoring claims by opponents that the Voting Rights Act enshrined African Americans as a group and thus violated ideals of individual rights and an ideal vision of a color-blind society, Congress extended Section 5 for five years in 1970 and for seven years in 1975, validating the Supreme Court's broad interpretation of the statute's scope. In those reauthorizations, Congress heard extensive testimony on the ways in which voting electorates were manipulated through gerrymandering, annexations, adoption of at-large elections (outlawed by the Supreme Court in 1973), and other structural changes to prevent newly registered black voters from effectively using the ballot, and electing candidates of their choice. In 1975, Congress also heard testimony about voting discrimination against Hispanic, Asian, and Native American citizens.

When the Voting Rights Act was reauthorized in 1982, the process again contended with President Reagan's civil rights division, which objected to the expansive remedial scope of the statute. Setting the tone for the use of color-blind ideals by conservative justices on the Roberts Court to reject remedies for past and continuing discrimination, Reagan's civil rights division abstracted racial justice into a question of formal neutrality, detached from any historical or social context. Reagan's civil rights policy throughout the 1980s was to undermine group redress in favor of providing the appearance of individual opportunity. As the civil rights activist and legal scholar Lani Guinier put it, the Reagan civil rights division redefined formal equality as a principle of inaction. If we simply declared everyone equal, there was no need for remedies against discrimination. Fortunately for Guinier and other civil rights groups who worked on the 1982 reauthorization of the Voting Rights Act, the Reagan administration was unprepared to mount a legal challenge to the statute.⁷

Even so, the era of integration, or the long 1960s if you will, ended decisively in the 1980s with the Reagan administration's use of racist and sexist scapegoating of "young bucks" and "welfare queens" to mobilize white support for drastic cutbacks to social programs. The seeds of the destruction of integration were already apparent, with neoliberal economic policies, de-industrialization, and capital flight bringing decline to once stable black working- and middle-class neighborhoods and the U.S. economy more broadly. The rise of the New Right and its growing control over the Republican Party advanced on the twin pillars of an organized and well-funded promotion of free market and anti-welfare state ideology on the one hand, and a "southern strategy" first pioneered by Nixon and right-wing southern populists such as Governor George Wallace on the other, seeking to exploit disaffection at continuing civil rights activism. Playing to white resentments over civil rights reforms, and fomenting culture wars

⁷Lani Guinier, *Lift Every Voice: Turning a Civil Rights Setback into a New Vision of Social Justice* (New York, 1998).

over the legacy of Vietnam and continuing feminist and LGBTQ struggles for equality, the GOP has managed to snare voters, North and South, who had once supported the Democratic Party.

The struggle between those seeking to preserve civil rights gains and those who would reverse them is fundamentally a dispute over the broader society's unresolved history of racial oppression. The election of Barack Obama as the first African American president promulgated the grand illusion that the United States had become a "post-racial" society. But Obama's victory turned out to be a political windfall for the New Right. The Republican Party and its plutocratic backers did not discourage white racial resentment and obstructionism against the first black president by the Tea Party, Fox News, and other right-wing media and organizations. Right-wing accusations of Obama's abuses of executive power, his administration's appointment of "czars," hostile scrutiny of expenditures for his travels, and attacks on his citizenship recalled racially motivated attacks on African American politicians during and after Reconstruction. Heavy voter turnout for Obama among African Americans and Latinos, and the demographic changes wrought by immigration, presaged dire electoral prospects for the GOP and its pro-business agenda of tax cuts, deregulation, and the elimination of social programs. Behind the smoke screen of white racial paranoia and depictions of Obama's otherness, conservative legislators grasped the importance of embracing the ignominious history of voter suppression and gerrymandering.

Beginning with a spate of voter ID laws enacted across the country in 2011, GOP-controlled state legislatures mounted a partisan attack on the citizenship and voting rights of African Americans and others likely to vote for the Democratic Party. This was a stark reversal of the Republican Party's expansion of democracy and voting rights during the First Reconstruction. In addition, conservative groups targeted minority communities in voter intimidation efforts, claiming that challenging voter eligibility was necessary to prevent impersonation fraud. Never mind that most experts have concluded that the problem does not exist. These arguments and actions, in full force during the 2012 election cycle, recall the anti-democratic rationales dating from the collapse of the First Reconstruction, which also alleged corruption and fraud to justify disfranchisement.

Section 5 of the Voting Rights Act of 1965 was finally struck down by a narrow Supreme Court conservative majority in *Shelby County v. Holder* (2013). The outcome rested on the majority's ahistorical assumption of the end of racism and, simultaneously, a willed ignorance of the history of decades of anti-civil rights campaigning against Section 5. Dismissing oral arguments citing past and continuing attempts to suppress the vote of African Americans in the South, Chief Justice John Roberts asserted that the enforcement mechanism of Section 5 of the Voting Rights Act was no longer needed. Anti-black voter discrimination was a bygone relic of the past. Showing a tacit deference to traditions of voter restriction, Roberts's Panglossian vision of a post-racial society ignored the "new Jim Crow" realities of felon disfranchisement and ongoing voter suppression efforts. Predictably, *Shelby County* fired the starter's pistol for the enactment of a renewed wave of state voter suppression laws nationwide.

The sustained right-wing attack on voting rights since 2010 suggests that we may well be living in the post-democracy era of American oligarchy. Today, as in the past, attempts to remove African Americans and others from the voter rolls rely on a plausible deniability of racial intent, though even some recent laws do not even rise to that standard.⁸ Like the poll taxes and other electoral changes that ended the First Reconstruction, today's Voter ID laws employ a race-neutral mechanism designed to prevent many eligible voters from voting. Requiring birth certificates as proof of citizenship, they target not only racial minorities, but also affect students, the elderly (many of whom have voted all their lives without incident),

⁸The 2017 Supreme Court decision, with no dissenters, refused to review a lower court decision that struck down North Carolina's voter suppression law as unconstitutional. The Fourth Circuit's opinion noted that the law "target [ed] African Americans with almost surgical precision."

and the poor. Many of those affected are, in fact, racial minorities, but many others who would be so penalized are not.

There are other interesting parallels between the demise of the First Reconstruction and the current attack on voting rights. According to J. Morgan Kousser, the First Reconstruction failed in large part because the political system nationally was too unstable to ensure the protection of minority voting rights. Kousser cites a high degree of congressional turnover, which made party majorities extremely vulnerable. The intensely competitive and volatile nature of party politics, with heightened, if not rigid, partisan loyalty, made black votes, and control over them, all important. Kousser contrasts this earlier period of instability with the relative stability of the post-World War II era. That political stability contributed to a more favorable climate for the protection of minority voting rights. The effect of presidential landslides, the seniority accumulated by congressional incumbents, and the decline of partisan loyalty among voters, to Kousser, all help explain why a consensus emerged in support of voting rights for minorities.⁹

If Kousser's argument is correct, then it is tempting to look no further than the several closely contested national election cycles since 2000, a volatile period over which control of the House of Representatives changed twice. At the very least, such closely contested races offer at least a partial explanation for the erosion of political support for minority voting rights. Indeed, recent years have witnessed a troubling recurrence of partisan state electoral changes and irregularities. The incremental nature and persistence of these challenges, combined with the current recrudescence of white racial nationalism, invite comparison with the attacks on African American political power that led to the demise of the First Reconstruction. While latter-day restrictions on voting fall well short of the scope and magnitude of disfranchisement after the First Reconstruction, the fact that, until recently, they aroused little public outcry beyond the warnings of civil rights and advocacy groups, suggested either inattention, or worse, public indifference to voting rights.

For a good part of the twentieth century, state-sanctioned racial apartheid in the South received the imprimatur of American historians, and so did white Southern retellings of Reconstruction and African American suffrage as rife with corruption, incompetence, and abuses of power. Though first challenged by W. E. B. Du Bois in his classic study, *Black Reconstruction* (1935), this anti-black propaganda taught by U.S. historians at top universities, North and South, remained deeply entrenched until the 1950s. History mattered deeply to contemporary and future prospects for civil rights. Since the late 1970s, too, the coordinated legal and political assault on voting rights has benefited from historical amnesia, a whitewashing of history, for example, as conservative political operatives usurped the words of Martin Luther King, Jr., for their anti-civil rights ideology of color-blindness. Against such manipulation of the past, historians must keep front and center the long civil rights movement, highlighting King's and the movement's conveniently forgotten radical democratic appeals for economic, as well as racial, justice. If that history tells us anything, it is that voting itself is more than ever a crucial act of resistance to increasingly aggressive efforts to restrict voting rights and roll back the second Reconstruction. Tragically, some fifty years after the Voting Rights Act, we must vote simply to defend the right to vote, and to preserve democracy.

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⁹J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill, NC, 1999).