

To Inquire into the Condition of Affairs in the Late Insurrectionary States:
An Institutional History of Congress's 1871 Investigation of Post-Civil War Violence

Isabelle Harris
Undergraduate Senior Thesis
Department of History
Columbia University
17 April 2020

Seminar Leader: Natasha Lightfoot
Second Reader: Stephanie McCurry

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Acknowledgements

I owe so much to so many. First and foremost, I must acknowledge Professor McCurry, without whom I would not have majored in History, let alone finished a thesis. From the first day of her Civil War lecture class to her final edits on this thesis, Professor McCurry has been a better mentor than I ever could have imagined. For the world of opportunity she has opened to me, I am forever in her debt. I also want to thank Professor Lightfoot for her incisive edits and endless encouragement. I cannot begin to comprehend the stamina required to advise nine undergraduate theses for a whole year, but I am glad Professor Lightfoot has it because I could not have done this without her. Lastly, although Brooks Swett is not yet a professor, she has already proven herself to be a generous scholar and mentor. For all her advice, thesis-related or otherwise, I am immensely grateful. These women—among so many others—have fueled my passion for history, and I am blessed to be the beneficiary of the work they have done to create space for women within the academy. Columbia is a better place not only for their scholarship but also for the examples they have set.

I would also like to thank the following friends for the following things: to Sam and Amy, for a group chat that kept me going and for feedback that made my thesis better; to Emily, for a life-long friendship forged on the day we failed seventh-grade chemistry; to Eden, for allowing me to monopolize our kitchen table with books and for the 2 A.M. pep-talks when I thought my thesis unsalvageable; to Stacey, for being my socialist soul-sister; to Tara, for making my life fun; to Emilia, for being an unflappable friend since day one of Lit Hum; and to Sophi, Philip, and Emma, for keeping me alive for the first three years of college and supporting me from afar during the fourth. No one accomplishes anything alone, and I certainly could not have done this without any of them.

I also want to thank my family for their unconditional love and support: to Grand-père, for indulging my interest in history from an early age; to Ashley, for leading by example; to my mom, for getting me absolutely everywhere I wanted to go; and to Sophie and Claire, for being with me through it all. With love, this thesis is for you.

Introduction

In 1871, when Congress set out to assess violence in the post-Civil War South, it gave a bureaucratic name to a grim investigation: the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States. Many who went before the committee exercised less restraint; the twelve volumes worth of testimony given to the committee chronicle the horrors of white supremacist violence and how that violence succeeded in dismantling the gains black people made following emancipation. At the same time, however, the Joint Select Committee's findings also contain testimonies from prominent Democrats denying the existence of organized violence. Within the single investigatory body, warring factions entered their interpretations of the postwar moment into the historical record. Owing in part to the vast scope of the source, and in part to the sheer scale of the violence, historians have thus far relegated the particulars of the inquiry itself to the historiographic background.

The oversight ignores warnings from those present at the committee's inception. On the day the resolution to establish the committee passed, former Union general and radical Republican Congressman Benjamin Butler took to the House floor in a last-ditch effort to halt the investigation. He argued that every Klan victim or sympathetic Republican would be intimidated into silence or discredited while "the Democratic party could bring every Democrat in the South before this committee, and they can testify to their variation of the story, which the committee, a Republican committee with a Republican majority, will be bound to report as the state of things in the South."¹ If nothing else, Butler believed the widespread support for the resolution among Democrats ought to give his fellow radicals pause. Despite his protestations,

¹ "A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875." *Congressional Globe, House of Representatives, 42nd Congress, 1st Session.*, 181.

the resolution passed; Congress would investigate the Klan. Their findings, however flawed, would become both a matter of public record and fount of endless historical scrutiny.

Much like Butler's colleagues, modern scholars of Reconstruction continue to disregard his fear of testimonial distortion. In fact, so little is known about the investigation that historians often integrate its testimonies into their histories without acknowledging their origin. The broad surveys of the postwar period prove the least critical of the hearings on which they so heavily rely. Eric Foner's *Reconstruction: America's Unfinished Revolution, 1863-1877* contains only two passing mentions of the hearings themselves. In one instance, he argues that we know most black people lived in two-family households by 1870, a fact that can "be gleaned from the manuscript census returns but also 'quite incidentally' from the Congressional Ku Klux Klan hearings, which recorded countless instances of victims assaulted in their homes."² The other mention comes in the introduction to the updated version, in which he parenthetically refers to "the indispensable Ku Klux Klan hearings."³ Indeed they were indispensable to *Reconstruction*; Foner quotes the testimonies seventy-three times throughout his over 600-page tome.

Steven Hahn's *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* follows much the same pattern. Despite the constant appearance of the volumes in the footnotes, Hahn never introduces the source to his readers except as an entry-point into the rationale of Klansmen. In one such instance, he says that "when the U.S. Congress conducted an investigation of the Ku Klux Klan in the 1870s, more than a few of the reputed leaders testified that the organization was a necessary response to the alarming

² Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877*. (New York: Harper Perennial, 1989, updated 2014) Apple iBooks, 246.

³ Foner, *Reconstruction*, 48.

activities and tactics of the Union League.”⁴ Hahn then persuasively concludes that such arguments forged a discourse that justified racist ideology long after the first Klan was disbanded.

Hahn’s argument proved more prescient than he perhaps realized. The Joint Select Committee’s findings not only allowed the arguments of Klan leaders and sympathetic Democratic lawmakers into the historical record in ways that benefited racist historians of the early twentieth century, it also provided white northern Republicans with the opportunity to craft their own version of events that—while certainly more receptive to the pain of freedmen and women—was no less influenced by the partisan exigencies of the moment.

The longstanding authority of the Ku Klux Klan, Allen Trelease, admits at the end of his book *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction*, that the committee and “the twelve volumes of testimony it compels constitute [...] the main source of information for the present study.”⁵ Trelease’s close adherence to the source fosters a narrow reading of both of how white supremacist violence was perpetrated and who perpetrated it. The main actors of *White Terror* are also those witnesses who gave the most extensive testimonies to the Joint Select Committee—often Klan leaders or white judges, sheriffs, lawyers, and politicians from both parties. In many ways, then, it reads as a history of the multifaceted ways white people narrated terror, and not necessarily as a history of the terror itself. Furthermore, in failing to adequately contextualize the investigation, Trelease also finds himself unwittingly beholden to

⁴ Steven Hahn. *A Nation Under Our Feet: Black Political Struggles In the Rural South From Slavery to the Great Migration*. (Cambridge, Mass.: Belknap Press of Harvard University Press, 2005), 265.

⁵ Trelease, Allen W. *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction*. (Baton Rouge: Louisiana State University Press. 1995), 392.

the Republican narrative of events, which presented the violence as a “wide-spread and dangerous conspiracy.”⁶ Indeed, the idea of “conspiracy” was so central to his argument it appeared in the book’s title. Of course, since “conspiracy” connotes an attempt to undermine an organization or government, the term in this context reaffirms what becomes quite clear reading the committee’s majority report (the one written by Republicans): Republican lawmakers’ primary focus was on the curtailment of Republican voting rights and the vast movement to undermine the justice system.

Southern Democrats’ attempts to dismantle these political rights are, of course, significant and worthy of historians’ attention, but the civic sphere also only represents one of the manifold theaters in which white terrorism unfolded during the postbellum period. Terror was both physical and psychological; it followed black families to their homes at night and determined their labor conditions during the day. In short, it was one of the many elements of black life that was preserved, if not compounded, across the enormous social break of emancipation. In her book *They Left Great Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I*, Kidada Williams does an excellent job describing what black testifiers sought to convey to the committee about their experiences of that terror.⁷ Less is known, however, about the consequences of these testimonies, both in political and personal terms.

⁶ U.S. Congress, Senate, Select Committee to Investigate the Alleged Outrages in the Southern States, *Report on the Alleged Outrages in the Southern States by the Select Committee of the Senate, March 10, 1871*. 42nd Cong., 1st sess., 1871-2. (Government Printing Office, Washington, D.C., 1871). <https://archive.org/details/reportonallegedo00unit/page/n7>, 99.

⁷ Kidada E. Williams, *They Left Great Marks on Me : African American Testimonies of Racial Violence from Emancipation to World War I* (New York: New York University Press, 2012).

This thesis will provide an institutional history of the Joint Select Committee to better understand how, if at all, the investigation contributed to the pursuit of justice for Klan victims. In seeking to write the story of the Joint Select Committee, I had to contend with the fact that no committee papers remain; the National Archives have only a dozen documents related to the committee, all of which are from the committee's journal, which was published with the rest of the investigation. The rest of the papers—subpoenas, correspondence between committee-members and other members of the federal government, lists of potential testifiers, expense reports, and stories from concerned Southerners—have all been lost with time. Instead, what remains is evidence from newspaper reports, floor debates recorded in the *Congressional Globe*, other published government documents, and archived correspondence to and from federal officials. Perhaps my most important resource, however, were the volumes themselves; latent in patterns of questioning, referenced documentation, and rhetorical strategies employed by the testifiers lie clues about how the Committee operated and what it hoped to achieve.

The first chapter of my thesis tells the story behind the establishment of the Joint Select Committee. In it, I examine the political circumstances that allowed for the nearly simultaneous passage of the *Ku Klux Klan Act* and the resolution to establish the Joint Select Committee. I argue that, although the Klan Act and the investigation appear to have complimentary aims, they were framed as legislative competitors wherein the investigation constituted the far more conservative approach to handling postwar violence. Perhaps most important to the eventual shape of the investigation, however, is legislators' framing of the committee not as a way to inform future policy, but as a public forum through which both sides could advance their political agendas. While a narrow Republican majority passed the Klan Act with the aim of defeating the

physical forces of white supremacy in the South, the Joint Select Committee's role in shaping the course of Reconstruction was defined as much by the Democratic presence on the committee as by the Republican leadership. While Republicans might have had a monopoly on the levers of federal power, Democrats used every opportunity to convince the public that the facts on the ground mandated a swift end to Republican rule in the South.

The second chapter examines how the committee's partisan origins influenced what eventually appeared in the volumes. Here, I provide demographic data about the testifiers, and contextualize that information in terms of which party requested which witnesses. Furthermore, I demonstrate the ways in which the federal officials worked with local party leaders to secure specific witnesses and, thus, specific kinds of stories. Of particular interest to the question of partisan influence is the case of South Carolina, where federal trials began shortly after a traveling sub-committee came to the state. While historians have tended to see a direct link between the committee and the trials, I argue that the connection is much more nebulous. When read closely, both the framing of the committee's goals by its own members and the contemporary press coverage suggest the investigation existed to shape public opinion, rather than to inform the work of the Justice Department.

In my third and final chapter, I scrutinize the relationship of the Republican party's leadership to the black witnesses whose presence they requested, seeking to understand what results the committee yielded for these survivors of Klan violence. In so doing, I argue for a more expansive understanding of white terrorism, one defined by greater continuity between slavery and freedom than is typically found in histories of emancipation. By demonstrating both the majority's narrow focus on electoral and judicial violence—what one might call civic

violence—and the way in which the Republican party subsequently leveraged its findings to benefit the party itself but not necessarily its most loyal supporters, I conclude that the investigation is best understood as a process that re-inscribed racial inequality both in its own time and in the histories it produced.

A word should be said on my decision to focus so much on the shortcomings of the Republican party given the literal terrorism committed by the Democratic party at this same moment. I did not embark on this research expecting to arrive at these criticisms, and, even now, I do not claim to provide a full accounting for the virtues and vices of the Republican party. For one thing, that would be an absurd task; the Republican party was a vast and unwieldy coalition—one that evolved over the course of Reconstruction. The radical leaders who controlled the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments were not the same leaders who had to contented with their aftermath, to say nothing of the newly-enfranchised black men in the South.⁸ There was a difference, however, between those local supporters of the Republican party and their largely-white representatives.⁹ Because this thesis focuses on the decisions legislators made in establishing and running the investigation, I will often refer to these institutional leaders collectively as “the Republican party”—meaning, in the most literal sense, the white men who controlled the levers of federal power. I do this recognizing that the Republican party owed its

⁸ The Thirteenth Amendment provided for the permanent abolition of slavery. The Fourteenth Amendment established universal citizenship rights for anyone born or naturalized in the United States, including equal protection under the law. The Fifteenth Amendment extended the franchise to black men. All three of these were ratified by February of 1870. Collectively, they are referred to as the “Reconstruction Amendments.”

⁹ Black men served as public officials throughout all levels of government during Reconstruction, but only a few rose to the federal level. The first to do so were as follows: Representatives Jefferson Franklin Long (Georgia), Joesph Hayne Rainey (South Carolina), Robert Carlos De Large (South Carolina), Robert Brown Elliott (South Carolina), Benjamin Sterling Turner (Alabama), Josiah Thomas Walls (Florida), and Senator Hiram Rhodes Revels (Mississippi). That these men could reach such heights so soon after emancipation remains one of the single most astonishing facts of the era.

power as much to freedmen and women as to white northerners and carpetbaggers, while remaining sensitive to the vested interest most of its national leaders had in maintaining white control over the organization.

The problem of Republican party politics reflects a wider debate about how to balance the continuity of white supremacy with the velocity of racial change in histories of Reconstruction. Because this thesis emphasizes the inexorability of racism to the American political system, some historians might well argue I have discounted the significance of black people as political actors. Black men voted, sat on juries, and served in the United States Congress. These things mattered; and to deny their immense importance can verge dangerously close to reinforcing the white supremacist ideologies I seek to criticize.

In emphasizing the continuity of American racism, however, I do so not with the aim of discounting those achievements but of challenging historians to reconsider the sources through which we are meant to understand them. As Michel-Rolph Trouillot explains, the production of history is a protracted process during which silences can enter at “the moment of fact creation (the making of *sources*); the moment of fact assembly (the making of *archives*); the moment of fact retrieval (the making of *narratives*); and the moment of retrospective significance (the making of *history* in the final instance).”¹⁰ In contrast to earlier interpretations of Reconstruction—most notably, scholars of the Dunning School during the early twentieth century—current scholars largely understand and value the presence of black perspectives at both the moment of

¹⁰ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995), 26.

fact retrieval and of retrospective significance.¹¹ At the same time, however, some of the most renowned historians in the field—like the aforementioned Foner, Hahn, and Trelease—have not yet accounted for the silences around the making of sources and archives.

In studying the Joint Select Committee, I pieced together the process by which Republican and Democratic leaders alike built an investigation defined as much by the absence as by the presence of black voices. White men controlled the actual production of these hearings, the making of the source, and thus codified their interpretations of the southern outrages with the imprimatur of an official government report. These men also helped create the archive, when, at the very last Committee meeting, they authorized the Government Printing Office to make “forty thousand extra copies” of its report.¹² To recognize the control these white men wielded over the production of sources and archives is to call into question our ability to comprehend the past that these documents were meant to chronicle. In short, scholars have not yet adequately interrogated the windows through which we are to understand the past, and thus have not produced histories that account for the sheer expanse of this moment—the best and worst of American life—unfolding all at once.

¹¹ The Dunning School refers to a historiographic school of thought pioneered by Columbia University professor William Archibald Dunning, in vogue around the turn of the twentieth century. The historiographies generated by Dunning and his PhD students paint a picture of Reconstruction as a disaster, a time when the South was mismanaged because state governments were run by greedy freedmen and northern carpetbaggers. W.E.B. Du Bois confronted this school of thought in the concluding chapter to his famous history *Black Reconstruction: An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880* (New York: Russell and Russell, 1963 (1935)) titled “The Propaganda of History.” In it, Du Bois claims that “one fact and one alone explains the attitude of most recent writers toward Reconstruction; they cannot conceive of Negroes as men” (726).

¹² U.S. Congress. Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States. *Testimony Taken by the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States*, vols. 1– 13. Washington, D.C.: Government Printing Office, 1872., 626. (Hereafter referred to as *Klan Report* when referring to volume 1, and *Klan Testimony* when referring to the other twelve volumes)

Chapter 1

“A Crime Against Humanity of the Darkest Character:” The Joint Select Committee, the Ku Klux Klan Act, and the Fight for Federal Action

When Robert E. Lee surrendered the Army of Northern Virginia to Ulysses S. Grant in April of 1865, the long battle for the Union finally ended. While the Confederacy had been defeated, the ideals for which it stood remained intact. Battered and bruised, perhaps, but no less powerful an ideological force. In fact, in seeking to reconstruct the Confederacy’s white supremacist order, many white southerners again turned to violence. The story of how open rebellion evolved into domestic terrorism has been told many times before; the mystery and horror of the organization at the center of that story, the Ku Klux Klan, invites countless retellings.¹³ The sources that inform these retellings—including, though not exclusively, the twelve volumes of testimony gathered by the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States—are themselves the products of battles fought in the halls of the Capitol and in counties throughout the South. Less is known, however, about how the Joint Select Committee contributed to these events as they transpired. The fight to establish the Joint Select Committee revealed the partisan motivations that would come to shape the investigation’s final product.

The story of government investigations into the racial violence, however, begins long before the Joint Select Committee. As early as 1865, Congress established the Joint Committee on Reconstruction to “inquire into the condition of the states which formed the so-called

¹³ The longstanding authority on the first Klan remains Allen Trelease. His book, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction*. (Baton Rouge: Louisiana State University Press, 1971), has endured for its thorough account of how the Klan started and spread. More recently, Elaine Frantz Parsons’ book *Ku-Klux: The Birth of the Klan during Reconstruction* (Chapel Hill: The University of North Carolina Press, 2016), made crucial additions to Trelease’s work. Particularly, Parsons incorporates more cultural history into her account, and centers the role of discourse as the organizing principle. Both of these books will feature prominently in my examination of the Committee.

Confederate States of America, and report whether they or any of them are entitled to be represented in either house of Congress.”¹⁴ Of all the information streaming into Congress during the early years of Reconstruction, Eric Foner notes that the testimonies given to the Joint Committee were “particularly alarming,” as “army officers, Bureau agents, and Southern Unionists repeated tales of injustice against blacks, loyal whites, and Northerners.”¹⁵ As a result of those testimonies, the Joint Committee would eventually draft the Fourteenth Amendment, which guaranteed citizenship status to anyone born or naturalized in the United States, including equal protection under the law.

Other investigations into the “condition of affairs” in the South had different origins and different purposes. In 1868, Louisiana issued a report into election-related violence titled the *Report of the Joint Committee of the General Assembly of Louisiana on the Conduct of the Late Elections and the Condition of Peace and Order in the State*. In the same year, Tennessee launched their own investigation, the first one to focus specifically on the Klan. W.J. Smith, chairman of the Tennessee Committee on the Military, presented the *Report of Evidence Taken before the Military Committee in Relation to Outrages Committed by the Ku Klux Klan in Middle and West Tennessee* to a special session of the state legislature on September 2nd, 1868.¹⁶ Allen Trelease summarizes the committee’s conclusion thusly: “a campaign of systematic terrorism had enveloped much of the state [but] not a single person had been legally punished for the duress or

¹⁴ U.S. Congress, House and Senate, Joint Committee on Reconstruction, *Journal*, 39th Cong., 1st sess., 1865-6. (Government Printing Office: Washington, D.C., 1915) <https://archive.org/details/journalofjointco03unit/page/52>.

¹⁵ Foner, *Reconstruction*, 601.

¹⁶ Tennessee General Assembly, Senate, Committee on Military Affairs. *Report of Evidence Taken Before the Military Committee in Relation to Outrages Committed by the Ku Klux Klan in Middle and West Tennessee*. (Nashville, Tenn: S.C. Mercer, Printer to the State, 1868), 1.

thousands of crimes committed, and [...] only the most drastic measures would bring the terror to a close short of full surrender to the terrorists.”¹⁷ In response to those findings, the state assembly passed two measures requested by Governor Brownlow: a new, more permissive militia law and a law criminalizing membership in the Klan or similar groups, including engaging in voter intimidation.¹⁸ Despite the promising nature of the investigation and subsequent legislation, the Tennessee case exemplifies the persistence of white terrorists. Brownlow’s reluctance to use the state militia meant the responsibility for controlling violence fell to federal soldiers who proved too few to deal with the extent of the crisis. By November of the same year, the Klan’s reign of terror resumed.¹⁹

These investigations then spread to the federal level. In early 1871, the Senate launched an investigation formally known as the *Report on the Alleged Outrages in the Southern States by the Select Committee of the Senate*. Senators set out to investigate “*First*, whether crimes of the character alleged have been committed by organized bands of a political character; *Second*, whether persons and property are secure in the Southern States.”²⁰ Responding to a letter from President Grant that expressed concern about North Carolina, the committee limited its inquiry to that state. The majority report did not equivocate; the state of affairs in North Carolina, they proclaimed, “now has gone so far as to present the issue between government and anarchy; and, if it has not reached it, is fast approaching the point where, in that issue, there can be no

¹⁷ Trelease, *White Terror*, 43.

¹⁸ *ibid.*, 43.

¹⁹ *ibid.*, 45-6.

²⁰ U.S. Congress, Senate, Select Committee to Investigate the Alleged Outrages in the Southern States, *Report on the Alleged Outrages in the Southern States by the Select Committee of the Senate, March 10, 1871*. 42nd Cong., 1st sess., 1871-2. Government Printing Office, Washington, D.C., 1871. <https://archive.org/details/reportonallegedo00unit/page/n7>, vol. 1, 2.

neutral.”²¹ When the committee published its report, the findings alarmed Republicans and angered Democrats; the battles waged over the committee’s findings would spill over into Congress’ next investigation.

When the Forty-second Congress convened, the North Carolina report loomed large on both sides of the aisle, even as the political path forward for either party remained elusive. There was, furthermore, the problem of asymmetrical partisan composition between the upper and lower chambers; while the Senate had a 25 percent Republican majority, the House was operating with the comparatively narrow margin of 4 percent.²² Thus, the fight over how to respond to the information gathered by the Joint Committee on Reconstruction played out on both the field of chamber as well as party. Furthermore, the debates about the establishment of the Joint Select Committee coincided with the legislative scramble to pass the *Ku Klux Klan Act*, a bill that would allow the federal government to make real the promises of the Reconstruction Amendments through significantly expanded federal power. For a moment during the spring of 1871, it appeared as though the Joint Select Committee, far from being the guarantor of equality, would thwart any meaningful action against southern terror.

Events of the previous Congress presaged the struggle over the Joint Select Committee. While the North Carolina investigation was still pending, the Senate passed a “rigorous anti-Klan law allowing the President a great deal of discretion in suppressing disorders and suspending the writ of *habeas coprus*.”²³ Prominent moderate Republicans, including Speaker James G. Blaine,

²¹ Senate, *Report on Alleged Outrages*, 31.

²² U.S. Congress, House and Senate, Joint Committee on Printing, *Official Congressional Directory*, 42nd Cong., 1st sess., 1871-2. Government Printing Office, Washington, D.C., 1872.

²³ Arthur M. Schlesinger, Jr. and Roger Bruns, eds., *Congress Investigates: A Documented History 1792-1974* (New York : Chelsea House Publishers, 1975), 1697.

skittish about overplaying their hand, were instrumental to the bill's failure in the House. The clarity and urgency of the North Carolina report, however, rendered the House's stonewalling less politically tenable. Blaine, perhaps sensing the volatility of the moment, tried to beat his more radical members to the legislative punch. On March 15th, 1871, Representative John A. Peters, at the behest of Speaker Blaine, introduced a resolution that "a select committee of thirteen be appointed by the Speaker, whose duty it shall be to inquire into the condition of the late insurrectionary States so far as regards the execution of the laws and the safety of the lives and property of the citizens of the United States, to report the result of the investigation to this House in December next, with such recommendation as they may deem expedient."²⁴ The resolution itself passed quickly and easily with 126 yeas and 64 nays.²⁵

The following day, however, an argument broke out between radical and moderate Republicans so dramatic that Blaine claimed he "left his place at the gavel for the first time in two Congresses" to defend the newly-formed committee.²⁶ Massachusetts radical and former Union general Benjamin Butler accused the Speaker of pulling a "legislative trick."²⁷ The failure to announce the bill in the previous evening's Republican caucus meeting, Butler said, meant that "there are gentleman all around me who did not feel at liberty to vote against the resolution when it was thus sprung upon them, who felt about it just the same as I do, but felt obliged to vote for it lest they should be compromised."²⁸ The accusation prompted Representative Peters to explain that "a great many Republicans thought it a desirable thing as a compromise, a middle ground;

²⁴ *Congressional Globe*, 116.

²⁵ *ibid.*, 117.

²⁶ *ibid.*, 127.

²⁷ *ibid.*, 123

²⁸ *ibid.*, 123.

that it ought to pass anywhere, even if other legislation was to follow it.”²⁹ The suggestion that further investigation constituted the sensible middle ground perturbed the radicals, who argued that the evidence of a Ku Klux conspiracy was not only sufficient for action, but so egregious as to make action a moral imperative. In the words of Representative Horace Maynard: “if this Congress, with its Republican majority, shall adjourn without taking some action and making some effort to put a stop to those outrages it will be a crime against humanity of the darkest character.”³⁰

The moral outrage of House radicals would have been futile without the strong-arm politicking of Republican senators. For, as House Republicans fought amongst themselves over the fairness of legislative procedure, Senate Republicans set in motion a plan to control the investigation that emerged from the congressional chaos. Two days after the House established their committee, the Senate passed a concurrent resolution to create a Joint Select Committee, meaning the two houses would issue a single report. The Joint Select Committee likely appeared imperative to Senate radicals in the wake of the prior day’s floor fight, during which radical Congressmen Benjamin Butler and Samuel Shellabarger resigned from the House committee in protest. Without the intervention of the Senate, House radicals’ worst fears about a Democratically-distorted report were in danger of being realized. Butler and Shellabarger understood that they alone would not be enough to sway the narrative of the investigation. The intervention of the upper chamber, however, would add a whole new dimension to the

²⁹ *ibid.*, 124.

³⁰ *ibid.*, 126.

investigation—senators would have the opportunity to significantly shift the ideological make-up of the investigators.

It is important to note that Senate Republicans never explicitly verbalized their strategy. The nearest evidence we have comes from a floor speech by Senator Oliver Morton of Indiana, who proclaimed: “I understood that this resolution of investigation was accepted by our Democratic friends as a substitute for legislation; that to prevent legislation with a view of putting down these outrages they were willing, especially in the House of Representatives, to grant this investigation.”³¹ Morton thus implies that the Senate jumped onto the House investigation because it otherwise would have been run by men who wanted to “prevent” legislation to end the terror. While Morton does not directly implicate moderate House Republicans, it is obvious that their eagerness to form an investigation represents an appeasement of their Democratic colleagues—which, Butler later suggests, could have been for the purposes of advancing a shared economic agenda. Among the many contentious economic issues of they day—rail-road aid, currency, southern infrastructure—the one most on the minds of legislators in March of 1871 was the question of retaining the tariff that had been implemented to fund the Civil War.³² Two further pieces of evidence suggest a broader culture of dissatisfaction between the two chambers despite the nominal Republican majorities in both.

Another indication of Senate Republicans’ fear over a solely House-led investigation comes during the floor debate over a different resolution authored by Senator Sherman, which would have prohibited the Senate from considering any bill other than “the deficiency

³¹ *ibid.*, 190.

³² Foner, *Reconstruction*, 106.

[appropriations] bill, the concurrent resolution for a joint committee to investigate into the condition of the States latterly in insurrection, and the resolution now pending instruction the Committee on the Judiciary to report a bill or bills that will enable the President and the courts to execute the laws in said states.”³³ While Senator Lyman Trumbull argued such a measure would be offensive to the House of Representatives, several of his colleague dismissed those concerns in light of the intransigence in the lower chamber. Senator Roscoe Conkling of New York, for example, countered that “the House has signified over and over again its indisposition to engage in any legislation whatever at this session, unless upon that belonging to the particular subject [tariffs] excepted here” and that they would hardly be in the wrong to insist on action.³⁴ In other words, the Senate was in danger of disrespecting the House only as much as the House had disrespected the Senate.

The second window into the friction between the House and Senate comes from the floor speech of Henry B. Anthony, the senator who authored the concurrent resolution to establish the Joint Select Committee. On the day Anthony introduced the resolution, he made clear that its passage would leave no possibility of an independent House investigation. In fact, in his one-paragraph preface to the resolution, Anthony managed to find three different ways to express that the House investigation would not be conducted independently. “This resolution covers the same ground as a resolution which passed the House of Representatives,” Anthony proclaims. Again he insists: “this is a concurrent resolution proposing that the Senate shall be represented upon [the newly-formed House] committee.” The only difference between Anthony’s resolution and

³³ *ibid.*, 154.

³⁴ *ibid.*, 162.

the one that passed the House, Anthony concludes, “is to provide that there shall be one investigation in which both Houses shall participate.”³⁵ Subtle, he was not. And yet, the move succeeded: Senate radicals had backed the House into a corner.

Without much choice but to include the Senate, the House attempted one last power grab in the form of three amendments to Anthony’s concurrent resolution. The first two amendments appear to be little more than inter-chamber score settling. In the first instance, the House changed the committee composition by increasing the number of congressmen from nine to fourteen, while the number of senators remained constant at seven. The House also amended the Senate resolution so that, instead of paying for the investigation from the contingent funds of both houses, it would be paid for by the Senate fund alone. Representative Butler raised the question in debate as to “whether it is competent [in this context, proper] for the House to order the payment out of the contingent fund of the Senate?”³⁶ Speaker Blaine countered that “it would not be unless the Senate concur.”³⁷ The statement was, on one level, patently obvious: he merely described the mechanisms of a bicameral legislature, a subject Butler surely would have mastered. And yet, the glibness of Blair’s comment reveals the ideological struggle at the center of the committee’s establishment. Both sides understood that whichever faction won control over the committee’s rules would have the power to press their agenda far beyond Capitol Hill.

For this reason, the third House amendment proved the sticking point in the reconciliation process. The amendment struck the provision authorizing the committee to “print and make

³⁵ *ibid.*, 134.

³⁶ *ibid.*, 181.

³⁷ *ibid.*

public from time to time the results of their investigations.”³⁸ Senate debate over the third amendment stretched across two days as Democrats’ protestations grew stronger, a shift best embodied by Allen Thurman, a prominent Democrat from Ohio. It was not immediately clear what prompted the growing concern over the committee among Thurman and his caucus. When Anthony first introduced the resolution, it had broad Democratic support. During the initial Senate resolution debate, Thurman conceded that “if a majority of the Senate are of the opinion that the investigation is necessary, I am the last man to oppose [it].”³⁹ He asked only that each traveling sub-committee have bipartisan representation—a request his Republican colleagues readily obliged. Yet, when the amended House resolution returned to the Senate, Thurman changed his tune.

Apparently, the provision allowing for the committee to intermittently make public the investigation’s reports during recess had “entirely escaped [his] notice.”⁴⁰ Had he noticed it, Thurman claims he would have asked for it to be struck, and thus urged his colleagues to adopt the House version as amended. Perhaps he was surprised the House acquiesced to the Senate incursion, or perhaps he really did overlook the committee’s reporting powers. Either way, his entire approach to the investigation markedly shifted over the course of a mere four days. During the same floor debate on reconciliation, he called the committee “a simple attempt to manufacture political and partisan capital.”⁴¹ On April 7th, when Senate debate on agreeing to the House version of the Joint Select Committee resumed, Thurman essentially revealed his

³⁸ *ibid.*, 189.

³⁹ *ibid.*, 134.

⁴⁰ *ibid.*, 189.

⁴¹ *ibid.*

hand, conceding that, though Democrats “all” voted for the resolution prior, they now “all understand that there is to be legislation on this subject [Klan violence] at this session. That being the case, I see no necessity for this committee at all, and I shall not vote for the resolution in any shape.”⁴² Herein lies the genesis of the Joint Select Committee: it was not a progressive attempt to chronicle the voices of terrorized freedpeople, but a political detente between Democrats and moderate Republicans to avoid the difficult job of curtailing said violence. Once it was clear that the *Ku Klux Klan Act* would pass, the investigation no longer served the conservative coalition, so they stopped portraying it as a sensible middle ground. Instead, they smeared the investigation as little more than a way for the federal government to become “publishers of partisan pamphlets.”⁴³

The origin of the committee renders its eventual existence all the more remarkable—even something of a mystery. Given that the committee represented the compromise position, a placeholder for the genuine action that everyone understood only the Klan Act could provide, it is not clear why the Senate adopted a modified resolution for the investigation. This is doubly curious given that the Senate acted on the same day that the House finally acquiesced to a more radical agenda and passed the first version of the Klan Act. From the moment the initial version of the Klan Act passed on April 7th, there was little doubt it would become law. Yet, three days later, the House adopted the Senate version of the Joint Select Committee resolution. It is not clear why legislators bothered to pass the compromise position—the investigation—when the radical alternative—the Klan Act—had already won. The obvious answer is that, if House

⁴² *ibid.*, 534.

⁴³ *ibid.*, 190.

Republicans had enough votes to clear the higher threshold of a Klan Act, they also had the votes for an investigation. But why launch an investigation into a problem for which the legislature had already provided a ‘solution?’

There are a number of possible explanations. The first is that, of course, the problem had yet to be solved, and that an investigation could provide insights into which parts of the South President Grant should direct his newfound enforcement authority. The movement on the Klan Act in the House came a few days after Grant sent a terse letter to Congress in which he said:

“The proof of [violent conditions] is now before the Senate. That the power to correct these evils is beyond the control of the State authorities I do not doubt; that the power of the Executive of the United States, acting with the limits of existing power of the Executive of the United States, acting within the limits of existing laws, is sufficient for present emergencies is not clear.”⁴⁴

Thus, Grant expended great political capital to ask for legislative action to help him restore order. Without the President’s explicit request, the Klan Act likely would have died on the floor of the House. After all, the bill constituted an unprecedented increase in federal, and especially presidential, power—a move that Foner claims “pushed Republicans to the outer limits of constitutional change.”⁴⁵ Perhaps given the uncharted territory, Grant and congressional Republicans saw a benefit in continued input from the legislative branch in the form of the Joint Select Committee.

While this is the most convenient explanation, it would mark a significant departure from the committee’s original aim, which was always more political than practical. For this reason, a better explanation might be a mundane case of legislative inertia. The resolution for the Joint

⁴⁴ Schlesinger and Bruns, *Congress Investigates*, 1740.

⁴⁵ Foner, *Reconstruction*, 1052.

Select Committee was in the congressional pipeline long before the passage of the Klan Act appeared politically viable. Perhaps, then, even though the committee was no longer explicitly necessary, Congress nonetheless had to resolve the matter, and the same people who felt political pressure to vote for the Klan Act did not want to be seen as voting against an investigation on the same issue.

The possibility that seems to best accord with the exigencies of the moment, however, lies in the necessity of the federal government to marshal not just troops but also public opinion against the Klan. This is doubly true given the curious dual reality of the organization. Elaine Frantz Parsons has described the group as not one but two “utterly entangled” entities: the embodied Klan—the “thousands of real men on the ground inflicting real pain, injury, and death on the bodies of freedpeople and those who allied with them”—and the disembodied Klan—“the abstract idea of the Klan as it was represented in public discourse.”⁴⁶ Most scholarship of postwar violence overlooks the role of the disembodied Klan, but the floor debates over the reporting capacity of the Joint Select Committee reveal that the discursive problems posed by Klan violence were very much on the mind of lawmakers from both sides of the aisle. Indeed, the bitterness of these debates indicates that these lawmakers understood the passage of the Klan Act not as the end of the saga of southern violence, but the begging of a new chapter in it, during which Republicans would have to continually justify their extraordinary expansion of power; the investigation’s findings would either justify or indict those extreme measures.

Given that the Klan derived its power from the fact that it was “at once invisible and impossible to ignore, a powerful force shaping the future of the South but at the same time

⁴⁶ Parsons, *Birth of the Klan*, 10.

deniable,” one might reasonably conclude that an investigation to demystify the Klan would have served a central role in its disbandment.⁴⁷ And yet, to arrive at this conclusion based on the mere *existence* of this congressional investigation would be to overlook the uncomfortable reality of how the Committee worked. Republicans insisted in the majority report of the North Carolina investigation that “no reasonable man can doubt that the purpose of [the Klan’s] organization was political”—but here “political” was narrowly-employed to mainly refer to violence related to the election of 1870.⁴⁸ Like so many other aspects of the 1871 North Carolina Senate investigation, the Republicans’ goal of proving that the Klan operated as a counter-Republican “political organization” would be continued in the work of the Joint Select Committee’s investigation only a few months later.

Yet, Republicans’ use of the term “political” instead of “electoral” confuses not just the final reports from these investigations, but the entire literature of the Klan violence that has since resulted. The term “political” allows historians to discuss a broader scope of violence than what actually concerned these investigators while still relying on their language. This is a dangerous historiographic workaround, because when these investigators treated the Klan as an electoral conspiracy, it flattened—and continues to flatten—the multifaceted experiences of Reconstruction violence. To be sure, the membership of local Democratic clubs was often indistinguishable from that of Klan groups, but freedmen and their sympathizers could be terrorized not only for voting the Republican ticket, but for protesting labor conditions, staking a claim to property, or even speaking out of turn. Indeed, victims were not always voters. Parsons

⁴⁷ *ibid.*

⁴⁸ Senate, *Report on Alleged Outrages*, 15.

argues that the construction of the Klan as an electoral force, while reductive, was nonetheless a common narrative at the time because it could serve the interests of different groups depending on the circumstance. Both Democrats and Republicans could benefit from arguments that the democratic process in the South had been corrupted.

It is worth acknowledging, therefore, the sliver of truth behind Democrats' protestations that the committee was just another partisan stunt. The fight to create the committee, despite the uncertainty around its finalization, reveals an awkward dichotomy that pervades the entirety of its endeavor: the investigation at once provided black people access to spaces long reserved for white people, and yet, the aims of that committee nonetheless created a fundamentally exploitative structure that leveraged the pain of victims to serve the interests of those in power. This is especially true given the Joint Select Committee's emphasis on sensational acts of violence—those in which black bodies were most harmed, most humiliated.

To cite one example among many, when 61-year-old black farmer Clem Bowden testified before the committee, he revealed that a mob forced him to engage in numerous sexual acts with a suspected white radical named William Champion.⁴⁹ While Bowden mentions that his wife was also present, he withholds evidence that she, too, was sexually assaulted—this fact was disclosed only during Champion's testimony. Even as the committee-members continually implored Bowden for greater detail, he never reveals what happened to his wife, no doubt in an attempt to shield the pain of such intimate violence from public view. Bowden could not, however, protect her story from the prying interests of the white Republicans who were his ostensible allies. Not only does this over-emphasis on the sensational imply a lack of black agency, it overlooks what

⁴⁹ *Klan Testimony*, vol. 3, 380.

Kidada Williams called the “ordinary violence of emancipation.”⁵⁰ In that sense, the very nature of the committee rendered it bound to fall short; no investigation—even a more all-encompassing one—could have captured the fullness of a problem so massive that, only a few years prior, it sparked the bloodiest conflict in American history.

Republican lawmakers’ depiction of the Klan as an electorally-motivated organization presents a fundamental misunderstanding about the reach and function of postbellum white supremacy. As Stephanie McCurry notes: “slaveholding, the owning of persons over lifetimes and generations, had a real, subjective effect” on the people who participated in the system both directly and indirectly.⁵¹ That subjectivity did not crumble alongside emancipation, and yet, for white people to cling to it amid the rise of black politicians, schools, and businesses presented them not simply with a political problem but a moral, economic, and intellectual one, as well. The story of how the Klan itself contributed to the persistence of white supremacist ideology has been amply documented; the story of how northern Republicans, particularly through the Joint Select Committee, disseminated the ideology of the ‘disembodied Klan’ by providing a space for white supremacists to enter the official record and by confining the testimonies of freedpeople to civic violence remains to be told.

Parsons engages critically with the investigation, but she does not ground herself in the history of the committee’s founding, and therefore makes bold claims with little evidence. Nevertheless, her arguments about the motivations of Republican committee members provide useful theories. She is at her best, for example, when describing the unequal bargain northern

⁵⁰ Williams, *They Left Great Marks on Me*, 19.

⁵¹ Stephanie McCurry, *Women’s War: Fighting and Surviving the American Civil War* (Cambridge, MA: Belknap Press of Harvard University Press, 2019), 141

Republicans struck with their testifiers. Members of Congress traveled long distances in the middle of the summer “because they needed freedpeople’s speech [...] to provide local knowledge that could be framed to contribute to the national Klan narrative that had become so important to their own careers and justifications.”⁵² Within this paradigm, legislators understood and treated their witnesses as inferiors—“their needs, interests, and words would be distinctly secondary to those of northern leaders.”⁵³ This is true, but vague. It is worth excavating the precise mechanisms through which northern leaders created narratives of the Klan, and how, if at all, those narratives aided the black people who shouldered the most risk in creating it.

Parson adds that, even as the investigation was a site of power production for northern Republicans, it also provided opportunities for resistance as freedpeople “emphasized their integrity as community members and citizens.”⁵⁴ Her argument echos Williams’s work in explaining how black people’s testimonies of trauma represent “an unappreciated form of direct-action protest against racial violence.”⁵⁵ Furthermore, because testimonies have an inherent element of resistance, they took on a historical agency of their own, becoming tools that “fashioned individual histories into one narrative [that] fostered community and calcified African Americans’ social and political links across time, space, and social status that formed the base of what became their collective effort to end racial violence.”⁵⁶ In approaching the testimonies as a site of black resistance, Williams laid bare the rhetorical strategies employed by freepeople to

⁵² Parsons, *Birth of the Klan*, 129

⁵³ *ibid.*

⁵⁴ *ibid.*, 140.

⁵⁵ Williams, *They Left Great Marks*, 6.

⁵⁶ *ibid.*, 9.

demonstrate how they communicated information that was outside committee-members' political agenda.

Williams's description of discursive acts of resistance mirrors Parsons's understanding of the Klan as an entity whose "influence rested on violence as deliberately refracted through discourse."⁵⁷ In other words, neither the violence of the Klan nor the fight against it were confined to the localities in which the violence unfolded; the struggles of the postwar South were discursive as well as physical. The discursive dimensions of these forces were amplified according to the political ends they served. For this reason, the committee represents the problems of Reconstruction writ small: progress rested upon the cooperation of northern and southern Republicans whose goals did not always align. Even as black resistance and political organizing on behalf of the Republican party won freedmen some important battles, most white Republicans looked like the moderates in the House—men who disliked the shameless violence of the Klan, but who also did not prioritize pursuing the full measure of freedom for their black southern allies. What resulted were imperfect compromises between the two sides, of which the Joint Select Committee was one example.

In the following chapter, I hope to tell the story of how the Joint Select Committee functioned as it began to gather testimony. Neither Parsons nor Williams have relied on the vast cache of newspaper accounts of the committee's work, nor have they read the committee itself for information on how it operated, and therefore what constraints testifiers faced and how their testimonies were used in their own time. Furthermore, the majority of recent Reconstruction scholarship has—with good reason—narrowed in on the minority of interviewees who were

⁵⁷ Parsons, *Birth of the Klan*, 10.

black. Yet, if we are to understand the committee as a place where different narratives of violence vied for legitimacy, it would be a mistake to overlook the overwhelming majority of white testifiers whose words would have wielded at least equal—if not greater—influence in the eyes of committee members, journalists, and the wider public. In adding context to the twelve volumes of testimony, I hope to understand how the dual discourses of Reconstruction espoused by the committee's minority and majority factions influenced the world outside the hearing-room. In short, I will examine not merely how these testimonies described this historical moment, but how they shaped it.

*Chapter 2**“To Put the Democratic Party Up and the Radical Party Down:” The Joint Select Committee and Creation of Partisan Narrative*

April 20th, 1871 has long gone down in the annals of history as the day President Grant signed the *Third Enforcement Act* into law.⁵⁸ It was clear to contemporary observers that, even given the previous ten years of federal expansion, the law provided the government with significant new powers. Most controversially, it allowed Grant to suspend the writ of habeas corpus—something Lincoln only dared to do during the nadir of the Civil War. However, another event on the same day, which commanded comparable public attention at the time, has since been forgotten: the inaugural meeting of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States. Ironically, the twelve volumes of testimony the Joint Select Committee produced appear in nearly every history of the era. The aesthetic neatness of those volumes—the carefully-curated majority and minority reports, the index of names and locations, the extensive appendices—suggests the committee served merely to observe and synthesize the state of southern affairs. Behind those volumes, however, lies unseen political organizing that transpired both within the halls of Congress and throughout the South. For this reason, I posit that the committee is best understood as a central event during, rather than a mere chronicler of, Reconstruction’s hardest-fought ideological battles.

The Joint Select Committee represented not one political endeavor but two; the technicalities of legislative procedure bound together the Republican majority and Democratic minority into a single investigatory body despite their conflicting aims. The majority sought to prove that Democrats throughout the South were engaged in an electoral conspiracy to intimidate

⁵⁸ *Third Enforcement Act* and *Ku Klux Klan Act* are used interchangeably, both historically and historiographically.

Republican voters. The minority tried to rebuff those claims by proving that any violence in the South emanated from the failures of Republican-controlled governments. The work of this chapter will be to prove that legislators and media alike used the findings of the Joint Select Committee as a tool to confirm their own interpretations of how Reconstruction had unfolded and to advance their visions of the future. Insofar as the investigation marked a discrete event in the course of Reconstruction, it was not because it uncovered dramatically new information, but because it allowed both sides to continue shaping the narrative of the events they chronicled. The Committee's evolving purpose, the partisan control over witnesses and evidence, and concurrent press coverage reveals the ways in which the investigation did not generate new understandings of postbellum violence. Rather, it provided policy-makers from each party new avenues to substantiate longstanding theories about the intentions of their political opposition.

One indication of the political, as opposed to legislative, importance of the Joint Select Committee lies in the simple fact that both the procedure and influence of the committee evolved to fulfill different purposes over the course of 1871 and 1872. When they met for the first time on April 20th, the committee-members did not yet have a clear sense of what shape it would take, so they established a seven person sub-committee "for the purpose of preparing such plan of proceeding."⁵⁹ Furthermore, the *New York Times* reported that the full committee would wait until late May to reconvene because "it was thought best not to hasten the beginning of the investigation, but to wait till the effect of the law just enacted could be observed"—referring to the Klan Act.⁶⁰ This was further confirmed in the committee's own journal, which logged the

⁵⁹ *Klan Report*, 590.

⁶⁰ "The Kuklux Committee." *New York Times*, April 21, 1871. p. 5.

passage of a resolution that limited testimonies to “facts existing at the time of examination, or which shall have occurred subsequent to the passage of the [Klan] law.”⁶¹ Once the committee had begun gathering testimony, however, newspapers speculated that it might produce “a plan of using the military to more effectively to prevent outrages will be arranged at some time not very distant.”⁶² These speculations eventually proved misplaced, but they speak to the contingency around the entire process; while the investigation began as a way to verify the effectiveness of the Klan Act, it appeared for a moment that it might become a proactive mechanism of federal administration. Additionally, while traveling sub-committees eventually gathered the vast majority of the testimonies, it was initially “left an open question whether different places in the south shall be visited through sub committees, or whether all the testimony shall be taken in Washington.”⁶³ In short, there was no grand design for the committee from the outset.

In this sense, the committee’s final product becomes all the more surprising. Over the course of the summer and fall of 1871, the committee called Americans from every corner of the former Confederacy to Washington or to traveling sub-committees to discuss some of the most violent actions they had ever perpetrated, witnessed, or experienced. In all, 586 men and women came before the committee; their testimonies, once transcribed, totaled just under 8,000 pages. It constituted the largest investigation Congress had ever attempted, and remains one of the largest to this day.⁶⁴

⁶¹ *Klan Report*, 693.

⁶² “The Kuklux.” *The New York Times*, June 23, 1871. p. 8.

⁶³ *ibid.*

⁶⁴ Here I take my cue from Lisa Cardyn, who, in footnote 76 of her essay “Sexualized Racism/ Gendered Violence: Outraging the Body Politic in the Reconstruction South,” (*Michigan Law Review* 100, no. 4 (2002): pp. 675-867) describes the investigation as “the most extensive congressional inquiry ever undertaken.”

The scale alone poses analytical problems for historians. First and foremost is the question of representation. The investigation is best understood not as a deep-dive into a single experience of postwar violence, but a broad survey of the postwar South's many violent iterations lived by a range of people, from northern-born schoolteachers to ex-Confederate generals, freedwomen, or prominent black men. It is precisely this variation that has rendered the committee's findings so valuable to historians. At the same time, however, historians' silence surrounding the production of the source coupled with their tendency to choose select perspectives from such a large body of evidence can unintentionally leave readers with the impression that the committee existed primarily to hear from freedmen and women.⁶⁵

The demographic data tells a very different story. Of the 586 testifiers, 376 of them, or sixty-four percent, were white men. The second-most represented group were black men, who gave 168 testimonies, or twenty-eight percent of the total. Only thirty-four black women appeared before the committee, representing a mere five percent of the total. White women were by far the least represented group, with only eight of them coming before the committee—just under two percent of the total. Of equal importance to who was called before the committee is which side called them. Of the 586 testifiers, 118 were called by Democrats, and the remaining 468 were called by Republicans. Furthermore, all but four of the Democrats' witnesses were white men—the remaining four were all black men from Alabama. While there remains a disparity between black and white testifiers on the Republican side, subtracting those men called by Democrats narrows the divide. 264 white men testified for the majority, fifty-six percent of

⁶⁵ For example, see Hannah Rosen, *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South*. (Chapel Hill: University of North Carolina Press, 2009), especially chapter 4. See also: Foner, *Reconstruction*; Williams: *They Left Great Marks on Me*. This topic will be explored further in the following chapter.

Republicans' total, which was far more diverse than the ninety-six percent of Democratic testifiers who were white men. These numbers alone provide evidence as to what kind of narrative each side was trying to craft through the investigation, and who they hoped that their narratives might persuade. Republicans wanted to hear victim testimony, Democrats did not.

Furthermore, much remains unknown about who each side initially asked to testify, as compared with the ultimate makeup of their witnesses. The testimony of Robert Fullerlove, a black sharecropper, exemplifies the tentative nature of the committee process and herculean lengths to which some victims went to tell their stories. On the night of October 30th, 1871, in the town of Black's Bluff, Alabama, Fullerlove was carrying his subpoena to testify to the Joint Select Committee in Livingston for the following day. Disoriented by the unfamiliar setting, he approached a house occupied by four white men to ask for directions to York Station. Perhaps afraid of the group and sensing their interest in his journey, Fullerlove answered in the affirmative when one of the men asked if he was John Downer. Not wanting to reveal his true purpose for traveling to the station—perhaps it was the formal holding-place for testifiers, or merely a well-known location close to the actual setting of the hearing—Fullerlove claimed he was carrying a letter on behalf of a “Mr Gilmore,” apparently a “known radical.”⁶⁶ He then left the house and began down the road to the station when two men rode up behind him and demanded the letter. Though neither of the men could read it, one of them pocketed the letter before unleashing violence on the unassuming Fullerlove. The men claimed they “would kill [him] if it was the last thing God Almighty let [them] do.”⁶⁷ After a brutal attack that included

⁶⁶ *Klan Testimony*, vol. 10, 1650.

⁶⁷ *ibid.*

stripping, whipping, and beating Fullerlove, the men returned the envelope but not the letter, instructing him to “carry it to York station, and get some gentleman to read it. Don't you give it to any God damned radical”—still not understanding that it was a subpoena for their victim to testify to racial violence.⁶⁸ There is no telling what would have happened had the assailants been literate.

Though Fullerlove could not himself read, he was able to comply with the subpoena because, as he explains: “I had gone to a gentleman to read it for me, and I was on my way here then, to get here in peace, as I ought to have done.”⁶⁹ When a committee member asked if Fullerlove was afraid to return to his hometown after having testified, he replied that he would probably have to lie out and eventually move.⁷⁰ Still, he was planning on leaving Alabama anyway because his land had been burned during a night ride and was, therefore, uncultivable. Nevertheless, he stood by his decision to testify, claiming that “some of the men will be shooting at me, killing me for what? for my rights.”⁷¹

Latent in Fullerlove’s story are several useful pieces of information about the functioning of the Joint Select Committee. First, to corroborate Fullerlove’s story, the sub-committee briefly subpoenaed the Senate’s deputy Sargent-at-Arms to confirm that he issued a subpoena to Fullerlove, and that the envelope he kept matched the envelope in which the subpoena was

⁶⁸ *ibid.*

⁶⁹ *ibid.*, 1659.

⁷⁰ “Lie out” was common southern vernacular during this period; it referred to the act of sleeping outdoors—usually in the forest or other wilderness—to avoid mob violence. “Lying out” represented one of the many strategies of resistance black southerners developed in response to the specific brand of terrorism perpetrated by “night riders.”

⁷¹ *ibid.*, 1657.

contained.⁷² The deputy Sargent-at-Arms' corroboration suggests that everyone who testified before the committee had been subpoenaed, which, if true, would hold vast implications for what body of people were given 'access' to the committee. Further affirmation of the many inequities surrounding testifying is Fullerlove's comment that "a dozen people got that subpoena; they couldn't make it out, but they have now got it all over the county."⁷³ For every one Robert Fullerlove, then, were many others who could not appear due to insufficient resources, illiteracy, intimidation, or, as his story reveals, outright violence.

Despite Fullerlove's claim that many other people throughout the county received a subpoena to testify, a story out of Yorkville, South Carolina should caution historians against assuming that Republican committee members' elevating of black voices during the investigation happened across the board, without regard to the political benefit or liability of such testimonies. A newspaper reported that "it was found impossible for the committee to examine more than a small part of the crowds of whipped, maimed or terror-stricken wretches, who flocked in upon hearing of their coming."⁷⁴ The traveling sub-committees, like the one to which this crowd "flocked," had often changed schedule to prolong stays at places thought particularly informative or visit new ones if the evidence encouraged them to do so. There was no procedural reason, therefore, that the stories of those terrorized in Yorkville could not have been heard. That report, coupled with Fullerlove's account of unanswered subpoenas, indicates that committee members sought specific kinds of stories, and that they subpoenaed witnesses accordingly.

⁷² *ibid.*, 1661

⁷³ *ibid.*

⁷⁴ "Return of the Sub-Committee from South Carolina" *Detroit Free Press (1858-1922)*, July 30, 1871. p. 4.

Fullerlove's testimony leaves unanswered the question of *how* Washington bureaucrats determined which of the millions of sharecroppers or thousands of Klan members would prove helpful to their investigation. Evidence disclosed incidentally during testimony, however, reveals that members of each party established local commissions, presumably to obtain those witnesses whose stories would align most closely to their ideological aims. While questioning a white sheriff-turned-US Commissioner named Landon M. Gentry, the chairman of the sub-committee asks: "Have you been acting as one of a committee appointed by the democratic citizens of this place to assist in preparing and attending to this investigation—to prompting the committee [implying the Democratic members] with anything that it might be thought proper to ask the witness?"⁷⁵ Gentry's affirmative answer confirms what the question itself revealed: committee members worked with partisan organizers throughout the South to shape who would be asked to testify and what subjects would be covered during those testimonies.

The text of a subpoena issued by the committee bolsters the idea that the topics of testimony would have been determined by the members who issued the subpoena and communicated to the witness prior to when he or she entered the hearing-room. On the same day the committee recalled Gentry, the chairman entered into the record the text of a subpoena he issued to another would-be testifier, the laconic nature of which suggests the recipient would have been familiar with what the committee would ask him. A deputy Sergeant-at-Arms delivered a subpoena to Klan captain Skip Price a mere seven days before his presence was requested. It read:

"Pursuant to lawful authority, you are hereby commanded to appear before the sub-committee of the Joint Select Committee to Inquire into the Condition of the

⁷⁵ *Klan Testimony*, vol. 4, 937.

Late Insurrectionary States forthwith, at ——o'clock——M. at their committee room at the Palmetto House, Spartanburg Court-house, South Carolina, then and there to testify what you may know relative to the subject-matters under consideration by said committee.”⁷⁶

Though there is no indication of how standardized this subpoena was, the mere fact that they asked only for what Price “may know relative to the subject-matters under consideration by said committee,” presumed his prior knowledge about the committee’s concerns. Furthermore, there are reports of witnesses bringing with them extensive documentation. In one case, the Committee recalled witness Francis S. Lyon at his own request because, “being called yesterday, when I was not expecting at the moment to be called, I came without my notes”—suggesting that he knew the questions he would be asked and gathered evidence accordingly.⁷⁷ Especially if all the subpoenas were as bureaucratic as the one given to Skip Price, this would imply the existence of a vast yet unseen infrastructure that worked behind the scenes to curate who and what would eventually appear in the committee’s volumes and in its reports to the public. Of course, it would be impossible to gauge the difference between what party leaders expected their witnesses to say, and what the witnesses actually said. At the same time, however, when seeking to understand the place of the committee within the larger ecosystem of Reconstruction, the questions of procedure and the unseen organizing behind them reveal the extent of the partisan milieu in which witnesses operated.

Even though Republicans were responsible for the presence of black people at these committee hearings, they expended far more energy tracking down white perpetrators of violence than safeguarding the rights of their black victims to testify. On July 31st, the Washington group

⁷⁶ *ibid.*, 967.

⁷⁷ *Klan Testimony*, vol. 10, 1408.

subpoenaed the Senate's Sargent-at-Arms, John R. French, to ask him about the failure of several witnesses to appear before the committee. French relayed his correspondence with five different white southerners, each of whom went to varying lengths to avoid testifying, offering explanations that ranged from a doctor's note to an escape to Canada. As the *New York Tribune* explained, the committee experienced great "trouble in obtaining the testimony of Southern Democrats [...] and has thus far been unable to get their views and information. They evade the summons, ask for time, or beg off entirely."⁷⁸ As the investigation wore on, however, investigators apparently grew increasingly exasperated with such flagrant defiance. When three would-be witnesses explicitly ignored subpoenas, Congress tried to make a statement by holding them in contempt.

The same expansion of federal power that made possible the scale and reach of the investigation also landed Congress in uncharted territory about how to enforce its own authority. As one newspaper noted, the contempt cases against Klan members David Dist and Clayton Camp, who failed to appear before the Washington sub-committee, and William L. Saunders, who refused to speak so as to avoid self-incrimination, raised new legal questions. For one thing, witnesses have "refused to answer questions proposed by a Joint Committee of both houses, and none of the laws enacted for the punishment of this offense seem to have provided for it. The law of 1857, and also that of 1863, specify only the refusal to testify before a committee of 'either' house of congress."⁷⁹ It was, therefore, unclear if one of the two houses could arraign the witnesses independent of the other, or if defying a joint committee demanded joint contempt

⁷⁸ "Washington: The Ku Klux Question" *New York Tribune* (1866-1899); June 17, 1871, p. 1.

⁷⁹ "XLIIID Congress—IID Session" *New York Tribune* (1866-1899); December 7, 1871, p. 4.

charges. Furthermore, because these men were technically called by sub-committees within a larger committee, it also raised the question of what difference of authority, if any, existed between a sub-committee summons and a summons issued from the whole committee.

Committee Chairman John Scott, speaking on the floor of the Senate, admitted that he was unaware of any similar case, not only because of the bicameral nature of the committee, but because the scope and aim of the investigation had yet to be attempted. Senators debated the scope of their power for a long time before deciding they could hold the witnesses in contempt without a concurrent resolution from the House. Of course, this modest increase in the Senate's power is not necessarily important to understanding the Joint Select Committee's broad importance to Reconstruction. Rather, the question of how to compel testimony demonstrates the high premiums the investigators placed on testimonies of the perpetrators. It was not enough for black and white victims to relate their experiences to the committee; the majority also hoped to pin down the stories of as many Klan members as possible. Republicans sought not merely to expose the full reach of white supremacist violence but, more broadly, to excavate and thus clarify that there was indeed a vast conspiracy against Republican state governments.

In one sense, Republicans' emphasis on perpetrators and victims alike suggests a broad inquiry into the 'condition of affairs' in the South. In another sense, however, the partisan culvert through which all witnesses had to pass in order to appear before the committee betrays a much more specific goal—one not strictly investigatory but political. After all, if the committee members already had the stories of election violence from prior reports and local party leaders, why bother with the massive task of gathering witnesses and taking testimony?

For a long time, the assumption among historians was the committee spurred the federal trials, and thus the restoration of law and order in South Carolina, among other places. Of all the proponents of this argument, Allen Trelease offers the most compelling evidence that John Scott helped set in motion the South Carolina federal investigations and that, as chairman of the committee, the investigatory powers afforded to him proved indispensable in gathering the information which he eventually compelled Grant to suspend habeas corpus. According to Trelease, on August 31st, 1871, “after a lengthy interview [with Scott,] Grant was convinced and leaned strongly toward implementing Scott’s recommendation [of immediate military action].”⁸⁰ But Grant then held individual meetings with cabinet members, and called a collective meeting that tempered his opinion because “unlike Senator Scott, the Cabinet apparently still hoped to break up the Klan in South Carolina and elsewhere by normal legal process.”⁸¹ In reality, then, when Scott showed Grant evidence of Klan terror in the South, it set off yet another extended process that further occludes any simple attempt at causality. Scott was, therefore, unable to convince Grant to employ the full force of federal power, and months more would pass before the the President would suspend habeas corpus, and, even then, sparingly.

The president’s own account of these events further confirms the opaque relationship between the Department of Justice, local military and justice officials, information relayed directly to President Grant, and evidenced gathered by the Joint Select Committee. The committee passed a rule on January 25th, 1872 that mandated the president “communicate to the House of Representative all information in his possession upon which he acted in exercising the

⁸⁰ Trelease, *White Terror*, 401.

⁸¹ *ibid.*

power conferred upon him by the third and fourth sections of the act of Congress, approved April 20, 1871 [the Klan act].”⁸² For this reason, we have the president’s personal account of why he sent Attorney General Akerman to South Carolina in October, 1871. He explained the events thusly: “Representations having been made to me that in certain portions of South Carolina a condition of lawlessness and terror existed, I requested the then Attorney General, Akerman, to visit that State, and, after a personal examination, to report to me the facts in relation to the subject.”⁸³ The Joint Select Committee’s findings were one of seven sources from which Grant received information of “a similar report,” including “the officers of the State, the military officers of the United States on duty in South Carolina, the United States attorney and marshal and other civil officers of the Government, repentant and abjuring member of those unlawful organizations, persons specially employed by the Department of Justice to detect crimes against the United States, and from other credible persons.”⁸⁴ Evidently, then, if the committee factored into Akerman’s post, it was one of many factors and therefore cannot be seen as the instigating force that historians have long assumed it was.

Furthermore, in the early days of the Justice Department, it is not clear to what extent district attorneys took their cues from the top; across the South, federal lawyers began taking matters into their own hands as soon as the *First Enforcement Act* granted them the power to do so. Wiley G. Wells of Mississippi secured “almost 200 indictments by September” of 1870.⁸⁵

⁸² Ulysses S. Grant, *Message from the President of the United States*. April 19, 1872. 42nd Congress, 2nd session; H. Exec. Doc. 286. Referred to the Select Committee on Insurrectionary States. (Washington, D.C.: Government Printing Office, 1872), 1-2.

⁸³ *ibid.*

⁸⁴ *ibid.*

⁸⁵ Trelease, *White Terror*, 399.

Furthermore, in North Carolina, US District Attorney D. H. Starbuck appears to have been the driving force behind that state's June, 1871 anti-Klan crusade. Indeed, even in William McFeely's flattering portrait of Akerman, he nonetheless admits that in North Carolina Starbuck was "hampered a bit by an inefficient Justice Department. He asked Akerman, for a second time, for a copy of the law being contested; two months after its passage, he knew only what he had read in the papers."⁸⁶ Lou Faulkner Williams' description of South Carolina trials proves similarly vague as to who initiated the investigation. "Responsibility for planning and implementing prosecution strategy fell primarily on the shoulders of federal District Attorney David T. Corbin," Williams says, even though he "enjoyed the full support of [the] Attorney General."⁸⁷ Akerman's curious position as a northern-born, ex-Confederate civil right's advocate has earned him plenty of historiographic attention. As Williams makes clear, however, it was Corbin, not Akerman, driving the legal strategy behind the trials. Thus, the responsibility for every stage of the South Carolina trials continues to be a matter of historical debate, and any evidence that the trials existed because of the committee is inconclusive at best.

All evidence about the committee's procedure confirms that the political motivations that led to the committee's establishment remained the primary force once legislators cemented the shape of the investigation. As discussed in chapter one, the provision that gave the committee interim reporting capacity threatened to derail the House and Senate reconciliation process because, as Senator Thurman declared at the time, he thought such power would be misused to

⁸⁶ William S. McFeely, "Amos T. Akerman: The Lawyer and Racial Justice," in *Region, Race, and Reconstruction: Essays in Honor of C. Vann Woodward* edited by J. Morgan Kousser and James M. McPherson. (New York : Oxford University Press, 1982), 407.

⁸⁷ Lou Falkner Williams, "The South Carolina Ku Klux Klan Trials and Enforcement of Federal Rights, 1871-1872." *Civil War History*, Volume 39, Number 1 (March 1993): 47-66. 48.

“manufacture political and partisan capital.”⁸⁸ And yet, during these very debates about the power of reporting, legislators would read from local newspapers to bolster their points. These senators and congressmen understood the synergistic relationship between the partisan press, public opinion, and political capital. That support for the investigation scrambled partisan lines, and that it shifted in the wake of evolving reporting rules, suggests the passage of the resolution relied more on both Democratic and Republican lawmakers’ confidence in their own side’s ability to bend the investigation to serve their political ends than a grounding in the abstract virtue of bringing the truth to light.

From the Republican perspective, the secrecy surrounding the Klan and the categorical denials of its existence from Democrats demanded the kind of exposé only possible in the form of an extensive government investigation. From the Democratic perspective, the investigation provided the opportunity not only to further muddy the informational waters, but to enter that information into the public record, thereby conferring propaganda about the Klan’s nonexistence and Republican mismanagement with an air of legitimacy. In this sense, especially given the investigation’s tenuous connection to the South Carolina trials—the most effective, if still imperfect anti-Klan tool of the era—any discussion of the committee as an ‘event’ in Reconstruction should be considered in the context of the partisan press through which its findings were communicated to the public.

The best and most obvious evidence that the Joint Select Committee’s investigation was influential in its own time is that the press covered it as such. Much as there was not a uniform ‘investigation,’ however, there also was not one media ecosystem but two: the Democratic press

⁸⁸ *Congressional Globe*, 189.

(concentrated in the South) and Republican press (concentrated in the North). As Carl Osthaus argues in his book *Partisans of the Southern Press: Editorial Spokesman of the Nineteenth Century*, the Civil War moved northern journalism from political essay-writing into a genuine industry by making the technological and infrastructural advancements necessary to gather and disseminate information. Concurrently, the war caused southern journalism to slide backward, from “old-fashioned” to “positively archaic,” leading to a media culture that “embraced orthodoxy in substance and style.”⁸⁹ While Osthaus’s account ignores the founding of black newspapers that occurred in the wake of emancipation and the existence of certain short-lived Republican papers (the *New Orleans Republican*, for example, had plenty of fair reporting on the Joint Select Committee), it is nonetheless useful when thinking about how the white elites working or commenting on the committee sought to represent it to the larger public. Just as the demographic data and nature of the Republican coalition in the South meant that the majority was forced to listen to more perspectives on the terror, so too did the structure of the news industry in the North incentivize reputable reporting that painted a still-biased but considerably more circumspect portrait of events. In the South, on the other hand, the reliance on party or personal patronage in comparatively less industrialized and urbanized spaces meant there were not enough resources to actually gather facts, and that the financial incentive was to echo and even champion the views of the elites who could afford to buy papers.

What resulted from these asymmetrical media markets were two very different renderings of the Joint Select Committee and of the Reconstruction violence it investigated. Consider, for example, two reports of the same event, from around the time the initial stage of the investigation

⁸⁹ Carl R. Osthaus, *Partisans of the Southern Press: Editorial Spokesmen of the Nineteenth Century* (Lexington: The University Press of Kentucky, 2015), 10.

was concluding. One report, from the notable Democratic paper, *The Courier-Journal* of Kentucky, reported in mid-July that:

“the Kuklux Committee, or rather the members who have been faithfully attending to the business here during the hot months, are very anxious to adjourn, and, therefore, Judge Polland [sic], the acting chairman of the committee, has refused to summon any more witnesses. Every day develops the fact more and more that the Radicals have lost, and are continually losing, ground by the investigation.”⁹⁰

This triumphalist report came after rumors that certain Democratic witnesses had been summoned by the committee but were then excused from attendance because the committee had to begin the next stages of the investigation. The majority of these outlets used the occasion to raise accusations of a Republican plot to prevent Democrats from testifying. In a further deviation from the truth, sympathetic papers like the *Courier-Journal* attempted to spin the development as proof that Republicans were “losing ground” in an implied partisan war.

Compare that report with the one given by the *New York Times*:

“The Committee is to discontinue its examination in a few days, and take a recess till the full Committee meets again, in September. This fact will serve to explain the sending of telegrams to several witnesses who had been summoned, excusing them from attendance, which some of the Democratic papers have worked up into a story of a “Radical Trick,” as they term it, to prevent the testimony of Democratic witnesses from being received.”⁹¹

Even the difference of tone exposes the chasm between the two sides. A reader of the *Courier-Journal* likely would have come away with the impression that the committee process was tainted, that Democratic witnesses were being sent away; a reader of the *Times* would have understood what the “Democratic papers” had been saying and why it was inaccurate.

⁹⁰ Special Telegraphic Correspondence of the Courier Journal. “Washington: The Kuklux Committee Getting Tired.” Louisville: *Courier-Journal* (1869-1922), Jul 13, 1871. p. 1.

⁹¹ “The KuKlux Committee” *New York Times*, July, 24 1871. p. 1.

The coverage also conveyed explicitly the fact that the eyes of the nation were upon the committee. For example, North Carolina Republican Senator John Pool issued requests to state officials for a wide array of figures, including how much debt each state had in 1861, 1865, upon the reformation of state governments (dates varied), and on January 1st, 1871. The Republican-leaning *Baltimore Sun* remarked that such figures “will be of public value as well as public interest. That the Southern States have been literally plundered is not denied: but the amount and method of it ought now to be authoritatively made known.”⁹² At the time, the issue of state debt could not be divorced from the question of statewide conspiracy; central to Democrats’ arguments about the corruption and poor administration of Reconstruction governments were claims that local Republican officials were lining their own pockets instead of serving the public interest. While such accusations certainly had some truth to them, Eric Foner notes that southern Reconstruction-era Republicans’ corruption “paled before that of the Tweed Ring, Crédit Mobilier scandal, and Whiskey Rings in the post-Civil War North.”⁹³ Furthermore, ballooning state debts did not necessarily signify rampant self-dealing; when Republicans came to power, they inherited empty coffers, damaged infrastructure, and responsibility for citizens—especially the newly-freed—desperately in need of public assistance.

The response of Georgia Governor Rufus Bullock to the majority’s request for documents illustrates the way in which other public officials tried to leverage the publicity of the investigation to their advantage. Bullock, a Republican navigating dissatisfied constituents on both sides of the aisle, penned an open letter to the committee’s chairman in which he

⁹² “The Ku-Klux Investigations--What Is Doing and to be Done” Baltimore: *The Sun* (1837-1994), Oct 28, 1871, p. 4

⁹³ Foner, *Reconstruction*, 23.

admonished his own party by berating the investigators for their overreach. Because Georgia had met all the requirements for readmission to the Union, he argued, there was nothing in her “lately-insurrectionary” character to justify “the representatives of the people of other States in Congress to order proceedings toward her [Georgia] which would not equally apply to the people of the several States represented by themselves.”⁹⁴ Bullock bolstered his point though an appeal to conservative ideology, quoting Jefferson’s essential principles of American government and emphasizing the line “The support of the state government in all their rights as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies.”⁹⁵ It was not merely the audacity of an audit that Bullock disdained, but what he referred to as the “extreme construction which is sought to be given to the late amendments of the Constitution” by his fellow Republicans.⁹⁶

At the same time, however, Bullock admitted he welcomed the opportunity to address charges of corruption leveled at him and his administration. He claimed that, far from personal corruption, it was the corruption of “a small political clique, in opposition to the present administration,” in particular the state treasurer and a railroad cooperation, that sought to “strangle or absorb every other railroad enterprise in the State,” and therefore perpetrated “willful, malicious, unfounded and unfair statements have been scattered broadcast through the press, for the purpose of injuring, to as great an extent as possible, the credit of the State.”⁹⁷ No

⁹⁴ Rufus Bullock, “Letter from His Excellency Governor Bullock, of Georgia, in Reply to the Honorable John Scott, United States Senator,” *YA Pamphlet Collection, Library of Congress*. (Atlanta: 1871), 6.

⁹⁵ *ibid.*, 8.

⁹⁶ *ibid.*

⁹⁷ *ibid.*

doubt Bullock here meant the Democratic press and not the publications in the North he used to amplify the letter he sent to Chairman Scott.

In this sense, Bullock's letter proved to be a rare moment when criticism of the committee was directed at both sides. More often, public figures' statements on the investigation reflected the Manichaeian nature of their era. Such was the case with former Confederate President Jefferson Davis who, also borrowing from Thomas Jefferson, characterized the Joint Select Committee as "filled with that jealousy which springs from the knowledge of their [the Republican majority's] inferiority and of the justice of your [Democrats'] retentions and conscious of broken covenant and a violated constitution, they mistrust every movement and tremble with fear when they think that right may again prevail."⁹⁸ Prominent Republicans also took to the stump in support of the investigation, including committee member Job E. Stevenson, who delivered a speech in September of 1871 to a group in Delaware, Ohio. Here, Stevenson summarized his conclusions as an investigator thusly: "the Ku Klux is the most powerful political machine ever invented. It has conquered several States and may, if not checked, rule the whole country."⁹⁹ Ultimately, then, the debates within party coalitions from April, 1871 over whether or not to have an investigation quickly gave way to familiar talking points; Republicans and Democrats alike argued the committee's findings benefitted their party's preferred policies.

The partisan interpretation of southern disorder proved so durable that, despite a year of investigation and thousands of dollars expended, neither side significantly reformed their story.

⁹⁸ "Humane Government" *New Orleans Republican* (1867-1878). June 6, 1871. p 4.

⁹⁹ "Anarchy in the South" Washington, DC: *New National Era* (1870-1874), September 14, 1871. vol II no 36. p. 3.

Ohio Senator John Sherman issued a resolution unrelated to the Joint Select Committee on March 18th, 1871, that alleged the following:

“organized gangs of desperate and lawless men mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oaths and secrets obligations, have, by force, terror, and violence, subverted all civil authority in large parts of the late insurrectionary States, thus utterly overthrowing the safety of person and property, and all those rights which are the primary basis and object of all civil government and which are expressly guaranteed by the Constitution of the United States to all its citizens.”¹⁰⁰

Democratic Senator Allen Thurman, also of Ohio proposed his own understanding of southern disorder a few days thereafter. Addressing his northern colleagues, Thurman argued that instead of restoring constitutional order, his fellow lawmakers “put them [southerners] down under martial law, you abolished their State constitutions, you compelled them at the point of the bayonet to adopt other constitutions, you set their lately freed slaves above them, and gave control of State after State to the most ignorant, the least informed and the least interested portion of the community.”¹⁰¹ In short, any disorder emanated not from a lawless band of white men, but from indulging black men and their allies.

Compare those arguments with the ones made in the majority and minority reports. Republicans’ final assessment of the situation was that the Klan was “a political organization whose purpose, as variously expressed, is to put the democratic party up and the radical party down, to oppose the amendments to the Constitution, to have a white man’s government [and ...] to oppose and reject the principles of the radical party.”¹⁰² Democrats had a familiar counter: the condition of affairs in the South was “the clearest natural offspring of as corrupt and oppressive a

¹⁰⁰ *Congressional Globe*, 153.

¹⁰¹ *ibid.*, 192.

¹⁰² *Klan Report*, 85.

system of local State government as ever disgraced humanity, and utterly unparalleled in the history of civilization.”¹⁰³ In other words, black enfranchisement and the subsequent changes it instigated were the source of, rather than the justification for, the violent state of affairs. Put simply, the claims of both sides remained the same before and after the investigation.

Historians have tried to understand the violence of Reconstruction through the Joint Select Committee’s evidence without acknowledging that that evidence was carefully curated to advance partisan interpretations of ‘southern disorder.’ The third and final chapter will grapple with the prevailing narratives of the Ku Klux Klan and racial progress during Reconstruction that have resulted from historians’ heavy reliance on the Joint Select Committee’s findings. To this end, I hope to explore the inherent limitations on black Americans’ testimony and the subsequent exploitation of black voices even among the most progressive white Americans of the era and the potential for replicating those biases in modern historiographies of Reconstruction.

¹⁰³ *ibid.*, 515.

Chapter 3

“In a Worse Condition than They Found Us:” The Consequences of the Federal Fixation on Electoral Conspiracy for Black Southerners

On February 24th, 1869, Henry McNeal Turner, president of the Civil and Political Rights Association in Georgia, sent a letter to George Boutwell, former Massachusetts governor and President Grant’s treasury secretary, eviscerating the federal government for its response to the rise of white supremacist violence throughout his state. Surprisingly, however, Turner does not dwell on the perpetrators of the violence. Rather, he directs his anger towards the Republican party—a party “for which so much blood has been spilt in Georgia, and children made fatherless, and wives widows, and graves dug, and innocent men imprisoned.”¹⁰⁴ In spite of black people’s fidelity to the party and to upholding the laws of the United States, Republican leaders had, in Turner’s words, “willfully and flagrantly deserted us, and by so doing, have encouraged the brutal outrages which have been inflicted upon my race.”¹⁰⁵ Although the Democrats carried out this postwar terrorism, Turner believed the Republican party bore some responsibility for the deaths of its most loyal supporters; even in his personal message to Boutwell, one of the party’s most outspoken radicals, Turner did not attempt to mask his outrage.

Turner’s letter is a striking one, if only for being so out of step with the current historiography of the Reconstruction-era Republican party, which is presently regarded as a deeply-flawed organization, but one that nonetheless temporarily championed the cause of black Americans. Turner argues against this narrative by claiming that Republicans “have at last

¹⁰⁴ “Henry McNeal Turner to George Boutwell, Treasury Secretary, Macon, Georgia, Feb. 24th, 1869;” HR 40A-F29.16 (Georgia) 201-208; Committee Papers, Geographical; *Select Committee on Reconstruction; 40th and 41st Congress; Records of the U.S. House of Representatives, Record Group 233*; National Archives Building, Washington, DC.

¹⁰⁵ *ibid.*

determined to fulfill the prediction of democrats everywhere. That is, forsake us and leave us in a worse condition than they found us.”¹⁰⁶ Considering the obvious allusion to enslavement, Turner was leveling a massive accusation against the Republican party—one that, while perhaps inflated, must be taken seriously. That Turner wrote this letter during what was ostensibly the most radical period of Reconstruction demands a reconsideration of how scholars think about the moment. His letter would suggest that, even as some radical reforms came out of Washington, black Americans throughout the South endured a culture of terror that, if not “worse” than slavery, certainly marked a continuation of its worst features.

Just as Turner criticized the Republicans of his time, so too should present observers question the historical narratives that neglect what black people tried to communicate about their condition during the high point of Radical Reconstruction. The failure of the Joint Select Committee to produce any substantial policy proposals at its conclusion in 1872, the danger faced by black testifiers, and the manipulation of the term “ku-klux” all indicate serious distortions in the investigation. Different readings of the findings have been more salient depending on the historiographic moment in which they were interpreted—the influence of Democratic witnesses and the minority committee-members’ report clearly influenced historians of the Dunning School, for example. On the other hand, more recent scholarship has tended to emphasize the Republican interpretation of events. As chapter two argued, the very nature of the Republican coalition and media ecosystem forced the party to consider more perspectives of postwar violence than that of white men, and therefore told a more reliable story. Even still, the narrative of the majority report was tainted by the political agenda of the Republican party that

¹⁰⁶ *ibid.*

controlled it. As a result, historians now must understand that past through the evidentiary groundwork laid carefully by a set of white male legislators who would have contemporary and future observers see the Republican party as the stewards of justice in the story of the postwar era. Probing the Republican narrative—showing the damage the Republican party inflicted on black Southerners not only through legislative delays and half-measures, but also by the exploitation of their voices and votes—will be the work of this chapter.

It would take Congress two more years after Turner sent his letter to Boutwell to pass an enforcement bill strong enough to curtail white supremacist violence—and to this day, the success of the federal government's efforts is a matter of historiographic debate.¹⁰⁷ Even still, it is worth considering that the dynamics of Republican exploitation that Turner described in 1869 did not dissipate upon the passage of the Klan Act in April of 1871. In fact, the stories of retribution against those brave enough to testify before the Joint Select Committee reveal a continued culture of violence in the South—one that was heightened, not abated, by the presence of the federal government.

The strained relationship between white northern Republicans and black southerners, especially as it relates to those who testified before the committee at great personal expense, is further complicated by the fact that the committee's investigation yielded only one official policy recommendation. It read:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the fourth section of the act approved April twenty, one thousand eight hundred and seventy-one, entitled 'An act to enforce the provisions of the fourteenth amendment to the Constitution

¹⁰⁷ For a persuasive argument about the limited pursuit of 'political justice' during the South Carolina Ku Klux Klan trials, see Kermit L. Hall, "Political Power and Constitutional Legitimacy: The South Carolina Ku Klux Klan Trials, 1871-1872," *Emory Law Journal* 33, no. 4 (Fall 1984): 921-952.

of- the United States, and for other purposes,' shall continue in force until the end of the next regular session of Congress.”¹⁰⁸

In essence, the committee recommended the federal government stay the course—especially because the ‘fourth section’ of the Klan Act was the provision allowing for the suspension of habeas corpus. Grant never invoked that power after the South Carolina trials, and his general reluctance to use it at the time was a matter of public knowledge. In any event, Grant’s reluctance did not matter; the proposal died in the House.¹⁰⁹ More noteworthy, however, is that the committee proposed no new solutions after nearly a year spent gathering evidence on the prevalence of terrorism in the South, which confirms that the fact-finding was not a means to some other end but an end in and of itself.

The power of these testimonies, however, is not to be disputed; as Kidada Williams argues, to testify about violence was to protest against it. But recognizing the bravery of those victims who appeared before the committee should not be conflated with a wholesale approval of the committee’s methods, especially given its anemic results. White Republicans in the federal government established a highly-publicized forum that allowed them to make the case for the continuance of their power both within and without the South—arguments they could not have crafted without black Southerners. After black people’s speech was secured, however, white Republicans left them vulnerable to further violence. On at least two occasions, previous black witnesses were recalled to testify because they had further run-ins with the Klan and were forced to flee their hometowns.

¹⁰⁸ *Klan Testimony*, vol 1, 626.

¹⁰⁹ Trelease, *White Terror*, 411.

In one instance, Samuel Gaffney gave his original testimony on a Monday and was recalled six days later because the Klan visited his house after he returned home. During the interim, Gaffney endured a second night ride. He narrowly escaped because he happened to hear the galloping horses approaching. When the mob arrived, its members then asked Gaffney's wife "what business" he had before the Joint Select Committee—indicating the reason for their visit.¹¹⁰ During his second testimony Gaffney also revealed the group took his gun, which he had bought on the same day he gave his first testimony, ostensibly "to scare the crows out of [his] field."¹¹¹ In Gaffney's original statement—only a page long—he testified to being whipped for "voting the radical ticket."¹¹² His testimony also indicates he probably was formerly enslaved, because he says he was "raised" at "Richards's old place"—presumably a plantation.¹¹³ In any case, once the war ended he had managed to acquire 150 acres of land, which he was in the process of paying off. He also had a wife and a "a pretty large family," all of whom were at the house during at least the second night ride, and probably the first as well.¹¹⁴

In short, the Gaffneys' were in the process of building a free family and farm built on free labor; Samuel supported the Republican party—he "went and voted, and turned around and came home"—but he was no leader, and was mostly occupied with tending to his crops and supporting his children.¹¹⁵ The committee chairman asked Gaffney if he was afraid to go back, to which he responded: "Yes, sir; I am going to hire out on the railroad."¹¹⁶ The original acts of violence were

¹¹⁰ *Klan Testimony*, vol 4, 603

¹¹¹ *ibid.*

¹¹² *ibid.*, 602.

¹¹³ *ibid.*, 601.

¹¹⁴ *ibid.*, 602.

¹¹⁵ *ibid.*

¹¹⁶ *ibid.*, 604.

not enough to scare off Gaffney from his land, but the consequences that followed his testimony were.

Samuel's wife would be deprived of her husband, his children of their father, and his crops would no doubt suffer in his absence. Would his rail road wages be enough to continue making payments on his land? There is no way to account for the cascading effects that followed Gaffney's one-page testimony, but the rarity of his being recalled sheds some critical light onto the otherwise vast yet unknown effects of testifying to the Joint Select Committee—not in a legislative sense, or even in a political sense, but for the lived experiences of the black men and women who came forward. How many other families were separated, homes abandoned, and property destroyed all for the simple act of speaking the truth about the postbellum world?

The other recalled black witness shared a similar experience. John Johnson first testified to the sub-committee in Atlanta on October 27th about the mob murder of accused rapist Charles Clarke in a Morgan County jail—a foreshadowing of patterns of violence that would emerge during the Jim Crow era. Johnson and his friend, Tom Jackson, stayed by the jail on the night they suspected white townsmen would murder Clarke because, in Johnson's words, "we wanted to see him safe, not killed in that way [...] like a snake or dog."¹¹⁷ Johnson returned before the committee five days later to report that the Klan was going to kill him because he "came up here [to Atlanta] and reported."¹¹⁸ Johnson further estimated that, when he returned to his hometown of Madison, "near about a hundred colored people told me that they were scared to see me there, although they were glad to see me."¹¹⁹ Johnson's comment speaks to the concerns of his larger

¹¹⁷ *Klan Testimony*, vol 7, 664.

¹¹⁸ *ibid.*, 868.

¹¹⁹ *ibid.*, 869.

community; black people in Madison understood the Klan's capacity for violence, but they also all heard of and admired Johnson's decision to bear witness to Charles Clarke's murder. Johnson, like the rest of his community, no doubt knew the risks of returning; that he did so anyway must have required tremendous courage.

It is this courage that renders the conclusion of Johnson's second testimony all the more noteworthy. Representative Bayard finishes by asking Johnson if he could "give the name of one who has sworn to kill [local politicians] Dukes or Monday Floyd?" to which Johnson responded: "I could do it, but it has done slipped out of my mind; I had so many other things to think of."¹²⁰ In essence, Johnson admits that he is unwilling to name names—that perhaps he was trying to give the Committee as much concrete information about the extent of the terror in his community as possible without providing the kind of explicit details he thought most likely to provoke retribution. Johnson understood that, like his first testimony, his second act of resistance would not come without consequences.

The window into the post-testimony lives of Gaffney and Johnson suggests that black people suffered repercussions for a process that served to advance the political agendas of warring parties. An investigation truly committed to understanding the sources and the most painful effects of white supremacist violence would not have deemphasized the manifold forms of violence black southerners endured. After all, there is little evidence that Republicans on the committee held a deep ideological commitment to the cause of black male enfranchisement—the most strident radicals like Congressmen Butler and Shellabarger refused to join the committee. Rather, the apparent interest bolstering black civil and political rights was overshadowed by the

¹²⁰ *ibid.*, 870.

concern for Republican (and therefore black men's) voting rights. The subtle distinction in the committee's purpose set the stage for the ways in which the functioning of the committee would itself reproduce white supremacist power structures.

That black people would bear the long-term consequences of the investigation was obvious from the ambivalence of Republicans on the traveling sub-committees towards their black supporters who made their investigation possible. While on the road, the committee members faced concrete questions of racial justice; they were traveling in the most violence-stricken parts of the South, and their presence was, naturally, unwelcome to white residents who knew better than to unleash the worst of that hostility onto senators and congressmen. Retaliation for the presence of federal officials fell on black people, even when the sub-committees were in town, and there is little evidence that officials used their considerable power to alleviate or punish it.

Another vignette from Yorkville, South Carolina lends insight into the lives of black residents who lived in localities visited by the sub-committees. The report begins in a hotel dining-room, where a white Yorkville resident threw a pitcher of milk (or water, by some accounts) on the local congressman, A. S. Wallace, and Representative Stevenson, of the committee. Wallace responded by pulling out a revolver to shoot the disgruntled resident, at which point the hotel owner stepped in to prevent the shooting. In response, "a colored band serenaded the committee in the latter part of the evening."¹²¹ A crowd of white men grew outside the hotel, however, and as the band dispersed, the white men followed and began to harass the black residents. Two policemen arrived, but reprimanded the band members rather than the white

¹²¹ "The Ku-Klux Investigation, Return of the Sub-Committee" *Detroit Free Press* (1858-1922); July 3, 1871. p. 3.

hecklers; as one black man struggled to escape the grip of a policeman who “seized, cursed and struck him[, t]he policeman fired at the negro, and continued firing until he had inflicted five wounds.”¹²² The policeman faced no consequences. When news of the events were sent out the next morning, however, it was not clear if the man would survive.

Though the power of the federal government could not have been more close by, no arrests were made. In fact, federal officials like Colonel Lewis Merrill, who Grant sent to South Carolina following the passage of the Klan Act, were in town that very night to testify the next day. The story illustrates how white supremacists infected local justice systems, but, just as importantly, how federal investigators failed to marshal the power at their disposal to protect black citizens. While the extent of the investigators’ personal security is unknown, it is hard to believe that the request of a senator—even to the most stalwart Democratic sheriff—would not have yielded an arrest, or at least an inquiry.

The day after the attack, reports surfaced of the committee’s inability to hear testimony from the hundreds of citizens who anxiously awaited the opportunity to speak to the committee—even, as the events of the previous night made clear—at great personal expense. Instead, the Republicans on the committee chose to listen to the protracted testimonies of white officials like Colonel Merrill, who relayed “sixty-eight cases of outrages, which he had investigated, some of them most revolting and horrible.”¹²³ In the eyes of the majority, Merrill was the authority on those crimes, even though the black people waiting outside the hearing-room surely could have

¹²² *ibid.*

¹²³ *ibid.*

spoken about them with greater, if not firsthand, knowledge. But, again, the government did not want to listen to black voices who did not aid the political goals of the Republican party.

One might well refute the argument about the committee's fixation on preserving Republican rule by pointing to the presence of women testifiers as proof of a broader inquiry. After all, women could not face voter intimidation, and paternalistic attitudes often created the false sense that women existed outside the political conflicts of the time. Indeed, scholars of the period might thus be tempted to treat the investigation with greater generosity than it perhaps deserves. For instance, Hannah Rosen, tracing the relationship of freedwomen to the state, particularly as it related to the the investigation, notes that "we know that the state they [freedwomen] called on to be their protector, the state whose authority they sought to legitimate by demanding that it defend their rights as citizens, the state that, for a time anyway, granted 'truth' to their words, would ultimately turn its back on them."¹²⁴ The term 'ultimately' is perplexing—it suggests there was a time when the federal government protected the rights of black women. If such a time existed, it certainly was not, as Rosen obliquely references, during the congressional investigation. Seldom did a black woman come before the committee without enduring skepticism and disrespect; if the committee members treated the words of those women as 'truth' it was only insofar as they corroborated the stories of male witnesses.

The real explanation for women's presence, then, is far more indicative of the banality of patriarchy: women appear in the record because they are the mothers, daughters, sisters and wives of men. Of the thirty-four black women who testified, twenty-six of them were asked about the experiences of a male relative. Still another six were asked to relay information on the

¹²⁴ Rosen, *Terror in the Heart of Freedom*, 234.

assaults or conflicts of men to whom they were not related. In total, only two black women shared testimonies in which the committee did not steer the topic to conflicts among men, and one of them was simply asked about her work as a seamstress in potentially sewing costumes for the Klan.¹²⁵ Of course, these categories are somewhat fluid, and to imply that these women were not asked about their own experiences would be incorrect. The point, however, is that these investigators, because of their electoral bias, grounded their investigation in the experiences of men in a way that was neither reflective of the multifaceted struggles created by mob violence, nor of all those who fell victim to it.

That these women were able to enter the historical record—that they came before senators and congressmen and told their own stories despite the overwhelming pressure to stay on the story those men would have had them tell—demonstrates one of the countless ways in which black women fought for their agency in a postemancipation world. We should not, however, give the investigators credit for the risks and resilience of these women. Indeed, speaking to their own stories of racial violence despite the constraints of the committee serves as a further example of black women’s resistance through testimony—resistance even against popular narratives of violence that did not accord with their own experiences. When these women testified, they often conceded that violence was perpetrated by the Klan, but they were not beholden to the narrow understandings of that violence based on committee members’ patriarchal or partisan political frameworks. As Williams argues: “assuming silences where none existed, historians have missed opportunities to reveal who blacks thought they were as a people in direct relation to the violence that they and their family members, friends, and neighbors

¹²⁵ This is the testimony of Christina Page, *Klan Testimony*, vol. 4, 1142.

endured and how this aided African Americans' mobilization against violence."¹²⁶ It would be a mistake, therefore, to assume that because those in power had one view of what topics testimonies should cover, that black Americans—and black women in particular—acquiesced to that view. Freedwomen spoke of their children and their labor, they could recite statistics about their land, and they often could name their assailants, proving they were not cloistered in their homes but members of larger communities. Though these women could not vote, their freedom posed as much a problem to the maintenance of a white hegemony as that of their male counterparts.

While Williams does the hard work of recovering the subjectivities of the black people who testified, the overwhelming presence of white men, the culture of terror that continued to torment black communities, and the procedural hurdles so many victims had to overcome to testify leaves us with the question of how much really can be recovered from these volumes about the experiences of black Americans. In one sense, this is an entirely unoriginal observation; historians have long understood that every archive is defined by silence as much as by presence. The unique difficulty posed by the testimonies of the Joint Select Committee, however, is that they really do contain black perspectives; the presence of these long-silenced voices makes it tempting to shorthand what they said as representative of the fullness of their lived experiences. And yet, as we have seen, these voices were heavily mediated by forces of racism both overt and clandestine. To what extent, then, can the Joint Select Committee be said to represent a break in historical time, a reflection of a permanent change in American life towards a more egalitarian government?

¹²⁶ Williams, *They Left Great Marks on Me*, 4.

Part of the answer lies in how one understands the culture of violence that followed emancipation—can we trace this change in archival presence to a change within the broader conditions of black people’s lives? To answer this question, it is important to first note that the investigation ostensibly centered on the ‘Ku Klux,’ though a close reading of the testimonies suggests there might be a historiographic misunderstanding in how ‘Ku Klux’ was evoked by both testifiers and investigators alike. The majority report refers to a “generic [sic] Ku-Klux” which, when the report was published in 1872, was “still distributed under specific names in various States and localities, such as ‘White Brotherhoods,’ ‘Constitutional Union Guards,’ ‘Invisible Empires,’ in North Carolina; ‘Invisible Circle,’ in South Carolina; ‘Pale Faces,’ &c., in Tennessee; ‘Knights of the White Camelia,’ in Louisiana, &c.”¹²⁷ The Ku Klux, therefore, did not function as a unified organization. Even allowing for the possibility, as recent scholarship by Bradley Proctor has suggested, that *the* Ku Klux Klan might have spread in a more covert and organized fashion than previously understood, that organization alone could not have been responsible for the sheer scope of violence eventually committed in its name.¹²⁸ Rather, evidence suggests that Southerners often used the term “ku klux” to describe an action instead of an organization.

Throughout the twelve volumes, the term “ku-kluxing” appears 139 times, not counting other verb variants like “ku-kluxed.” That ‘ku klux’ assumed vernacular use as a verb suggests historians have perhaps retrofitted contemporary understandings of organizational structure onto something far more nebulous. The linguistic evolution of organizations becoming verbs—‘to

¹²⁷ *Klan Report*, 22

¹²⁸ Bradley D. Proctor, “‘The KKK Alphabet’: Secret Communication and Coordination of the Reconstruction -Era Ku Klux Klan in the Carolinas.” *The Journal of the Civil War Era* 8, no. 3 (2018): 455-487. doi:10.1353/cwe.2018.0050.

google,’ as shorthand for searching the internet, for example—happens only in circumstances where the function of the organization has become so intertwined with the popular idea of the organization that there is no need to distinguish between the two. Much the same process appears to have unfolded here. Ku-kluxing signifies an action emanating from the *idea* of domestic terrorism, though not necessarily performed by “The Ku Klux Klan.”

The Joint Select Committee’s obsession with electoral violence perhaps hastened the process of equating ku klux the action with Ku Klux the organization. Politics are essentially organization-driven. But ‘ku-klux’ as a verb could stand in for so many different forms of violence, each of which created so many different forms of meaning. To ku-klux could be to whip, beat, strip, shoot, maim, castrate, rape, kill. It could unfold with the goal of settling a labor or sexual dispute, scaring someone off their land, discouraging ‘disrespectful’ conduct, avenging alleged criminal behavior, silencing community leaders and, yes, suppressing the Republican vote.

Historians, relying on the framing provided by the Joint Select Committee, have perpetuated this thinking. For example, consider Trelease’s awkward description of the violence that occurred immediately before the election of 1868: “In the South Atlantic states the Klan showed signs of increasing organization at the local level everywhere except Virginia. In North Carolina, the White Brotherhood, the Invisible Empire, and the Constitution Union Guard all expanded and acquired new members independent of one another.”¹²⁹ In the context of the paragraph, the second sentence clearly was meant to build upon, not discount, the previous sentence. Taken out of context, however, it reveals the strangeness of Trelease’s original framing.

¹²⁹ Trelease, *White Terror*, 114.

His use of “the Klan” in the first sentence suggests to the reader that postwar violence was the result of a single organization and not, as the second sentence reveals, a process unfolding independently and simultaneously. To acknowledge that second reality would necessitate a reckoning with the full extent of white supremacy in America. Racist violence was harvested over centuries of enslavement, but also existed in this moment because of the intransigence of the federal government and the corruption of state and local officials. In other words, white supremacist violence could only have thrived in fertile soil—and many people did the tilling. To confine culpability to “The Ku Klux Klan” is to underestimate the problem.

The alarm of investigators and legislators over electoral violence, and the historians’ use of evidence produced in response to that alarm, gives the impression of newness to the old and multifaceted methods of harming of black Americans. In linking the beginning of white supremacist terrorism to the dawn of black enfranchisement, historians like Allen Trelease risk missing the forest for the trees. Black people had been enduring such violence since the moment they arrived on American soil. This violence, in short, did not emanate exclusively from electoral concerns because it predated any possibility of black electoral engagement. Furthermore, the alarm of Reconstruction-era federal officials surrounding this electoral violence did not map onto its worst period, which Trelease traces to the spring and summer of 1868, but to a moment when that violence posed a problem for those who investigated it.¹³⁰ Surely the 1872 presidential election loomed large in the minds of Republicans—would the black voters who had to literally fight their way to the polls in 1868 do so again? Could generating press coverage around those electoral battles mobilize the national Republican coalition? After all, if Republicans were

¹³⁰ Trelease, *White Terror*, 63.

simply searching for proof of violence against black southerners, it had been pouring into the Joint Committee on Reconstruction since the moment Representative Thaddeus Stevens established it in 1865, or in the myriad of state-level investigations that began being published in 1868, not to mention the detailed knowledge congressmen had of their own districts. In short, the state of southern affairs was no secret, nor was it new.

The simultaneous historiographic allure and difficulty of the Joint Select Committee lies in the truth of that unrelenting violence. The presence of black voices in the archive has led historians to believe it represented a change in the priorities of the federal government that had so long been the guarantor of black Americans' archival silence. It should not follow, however, that a new relationship with the archive signified a new relationship with the violence. Violence was—and is—a constant fixture in the black experience around which political exigencies changed. It was the political mobilization of freedmen and women, their administration of state and local governments, and their insistence on exercising their rights as citizens that forced the government to chronicle, for the first time, the age-old terror perpetrated by white Americans.

When gathering evidence gave way to finding solutions, even the most forward-thinking federal officials proved incapable of honestly assessing the full reach of violent white supremacy. In a letter from Colonel Merrill to Senator Scott about the success of the South Carolina Klan trials, Merrill notes that “the causes from which this organization, with all its revolting crimes, has sprung, are still to a great extent present, and will only be eradicated by time, and the better education and government of the people.”¹³¹ Only when the mass of uneducated men who perpetrate this disorder become educated would they cease to be “slaves of men whose haughty

¹³¹ *Klan Testimony*, vol. 5, 333.

arrogance and bigoted intolerance of political opinion, differing from their own, have made them override every dictate of justice and prudence in their treatment of their political opponents.”¹³²

Although he certainly provided a full-throated condemnation of the leaders of this violence, Merrill utterly missed the point. The chaos that roiled South Carolina was not an unfortunate by-product of demagoguery but an intentional abandonment of law and order because white patriachs sensed that it no longer served their interests.

Thus, at the unique juncture of 1871, as the federal government accumulated new powers, it did so to fix what it *perceived* as the problem, and set precedents accordingly. Further correspondence between Chairman Scott and Colonel Lewis Merrill reveals that Attorney General Akerman was aware of the evidence the Committee gathered in South Carolina. Federal officials then instigated what Lou Faulkner Williams referred to as the “great South Carolina Klan trials.”¹³³ These trials were, in fact, successful in breaking the organized terrorist bands which some called the Klan, at least for a moment. The federal government responded to the continued barrage of white supremacist violence with yet another retributive process of imprisonment (though, even then, few served time).¹³⁴ That historians have cited this moment as a Republican success, however, betrays their conflation of Republican success with the improvement of conditions for black people. In reality, the two are related but not synonymous. The violence subsided for a moment, but it was for black communities alone to rebuild their lives after their neighbors burned their houses, stole their crops, lynched their loved-ones, occupied their land, and terrorized their children.

¹³² *ibid.*

¹³³ Williams, “The South Carolina Ku Klux Klan Trials.”

¹³⁴ *Klan Testimony*, vol 5, 332.

The significant improvement in the lives of black people after the passage of the Klan Act and the federal troops and lawyers that followed cannot be downplayed. There appears to have been a temporary abatement in violence, but, as discussed in chapter two, evidence that the committee contributed to that abatement is tenuous at best. More importantly, though, the narrative first articulated by the majority report in which the first Klan rose from the ashes of the Confederacy and fell at the hands of the federal government has perpetuated a story with far too much focus on specific violent white supremacist groups and not enough focus on the enduring fact of violent white supremacy everywhere in the South. To quote W. E. B. Du Bois' *Black Reconstruction*, when campaigning began in Louisiana for the 1868 election, "a civil war of secret assassination and open intimidation and murder began and did not end until 1876, and not entirely then."¹³⁵ Both the beginning—the invocation of civil war—and the refusal to say when that war ended, speaks to Du Bois' sense of continuity. Slaveholders were a group of violent white supremacists, as were Confederates, as were Klansmen, as were Red Shirts, as were perpetrators of Jim Crow, as are the arbiters of the modern American carceral state.

With the exception of the present system of mass incarceration, the ugliest elements of these movements have all been put down after belated mobilization, but there has never been reparations for the damage they have done. At the moment of contingency in 1871, when the federal government had legislative approval to investigate terrorism of white Southerners and the necessary resources to reconstruct the South to benefit its most loyal citizens, they chose instead to narrowly interpret their mission "to inquire into the condition of the late insurrectionary States" as a mission to secure their own political power. Congress set out to find a conspiracy

¹³⁵ Du Bois, *Black Reconstruction*, 474.

and it did. But, in seeking to treat the violent symptoms instead of their white supremacist origins, the federal government failed to aid those most affected by this violence. The Republican lawmakers who established the committee would remain in power long after the subcommittees returned to Washington, but throughout the South, black families would struggle for generations to obtain the rights the Republican party had promised them.

Conclusion

It is hard to say when Reconstruction ended. The simplest answer—the one on which historians have generally relied—is with the 1877 inauguration of President Rutherford B. Hayes, who withdrew the last remaining troops from Columbia, South Carolina, and New Orleans, Louisiana, thus ensuring the restoration of Democratic state governments throughout the region. But Reconstruction never was a singular process; the presence of the federal government, the extent of white terrorism, the opportunities for black land ownership—all were factors that influenced the meaning of freedom in individual localities. Most of these ‘freedoms’ might seem illegible to us now, but back then they were bound together by an essential element: possibility, both for the lives of the formerly-enslaved and for the capacity of the American government to fulfill its egalitarian creed. Much like the rest of Reconstruction, possibility was felt differently, and thus receded unevenly.

For Henry McNeal Turner, the light of possibility extinguished in 1883, when the Supreme Court declared the 1875 Civil Rights Bill unconstitutional. From that point forward, he abandoned his radical Republican ideology, arguing instead that African colonization was the only viable option for black Americans. The first black chaplain in the US military and former state legislator, one of the 202 black witnesses for the Joint Select Committee, Turner could no longer see the possibility of multiracial democracy materializing in America. The dawn of Jim Crow, it seemed, was really just a reversion to the norm of American racism. Turner’s abandonment of the American project suggests the fears he articulated in his 1869 letter had been realized—that in his mind, at least, the Republican party really would leave black Americans in a worse condition than they found them.

Turner's evolution mirrors the enduring scholarly debate about the trajectory of American history—the question of whether the long arc of history really does bend towards justice, to borrow from Martin Luther King. Even with over a century more of data, the picture of America's true nature—the limits of the possible—remains bleak. But if the overthrow of Reconstruction reveals to us the intractability of American racism, the simple fact of Reconstruction's existence should reveal the contingencies of history. For a brief moment, the federal government was compelled to chronicle the conditions of terror its own policies helped create. The black people who came before the Joint Select Committee forced the truth of white terror upon the federal government—and upon us.

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