IN THE CIRCUIT COURT FOR THE STATE OF TENNESSEE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

PAMELA MOSES,	)	
	)	
Plaintiff,	)	**Case No. CT-1579-19**
	)	**Division I**
v.	)	
	)	**Judge Felicia Corbin-Johnson**
MARK GOINS, TRE HARGETT, and	)	**Judge Suzanne S. Cook**
JONATHAN SKRMETTI, in their official capacities,	)	**Judge Barry Tidwell**
	)	
Defendants.	)	

EXPERT REPORT OF DR. PHILIPPA (PIPPA) HOLLOWAY

April 15, 2025

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I. INTRODUCTION AND SUMMARY OF OPINIONS

My name is Philippa (Pippa) Holloway. I am the Cornerstones Professor of History and Chair of the History Department at the University of Richmond. I have been asked by attorneys for the plaintiff in this litigation to assist the court in assessing the history and intent underlying the constitutional provisions and statutes governing the qualification of voters and operation of elections, including provisions related to the eligibility of convicted felons to vote, such as the Free and Equal Elections Clause of the Tennessee Constitution.

Based on my knowledge and over 20 years of experience as a historian of the U.S. South, and my review and research of this question for the purposes of this report, it is my opinion that

(1) For much of the first century of Tennessee's history, its citizens benefitted from a tradition of democracy, free and equal elections, and broad-based electoral participation, particularly in comparison to their regional neighbors.

(2) Consistent with Tennessee's initial commitment to relatively broad electoral participation, the delegates to the 1870 Constitutional Convention responded to the attempts during and after the Civil War to limit the political power, including the voting rights, of Confederate supporters by expanding the Free and Equal Elections Clause of the Tennessee Constitution to more robustly protect the right of suffrage. Specifically, they inserted into the Free and Equal Elections Clause a requirement of a conviction by a jury before a person otherwise entitled to vote could be denied suffrage on the basis of a criminal conviction.

(3) However, in the late 19th century, Tennessee's General Assembly deviated from tradition, abandoning the historic commitment to free and equal elections and intentionally constraining access to suffrage with a series of laws intended to target and limit the political power of Black Tennesseans.

(4) These restrictive election laws, passed in the late 1880s and 1890s, remained the law in Tennessee for decades to come, manipulating Black voting, shaping the state's politics, and undermining the freedom of elections and equality of suffrage. Successive legislatures refused to change these laws, maintaining a system which undermined the voting rights of Black Tennesseans.

These opinions are explained and supported in further detail in the discussion portion of this report.

II. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

I received a B.A. from the University of North Carolina in 1990, a M.A. in History from the University of North Carolina at Greensboro in 1994, and a Ph.D. in History from Ohio State University in 1999. I was a professor of history at Middle Tennessee State University from 1999 until 2021, achieving the rank of tenured Professor of History in 2009. At MTSU, I taught history to BA, MA, and PhD students, served as Director of Graduate studies for the History Department, and was elected President of the MTSU Faculty Senate. In 2020, I was hired by the University of

Richmond as the Cornerstones Chair in History. Two years later I became Chair of the University of Richmond History Department.

I am the author of two books and editor of one. I have also published numerous articles and essays. A full curriculum vitae is attached to this report. My first monograph, *Sexuality, Politics and Social Control in Virginia, 1920-1945,* was published by the University of North Carolina Press in 2006. It was awarded the Willie Lee Rose prize by the Southern Association of Women's historians. My second book, *Living in Infamy: Felon Disfranchisement and the History of American Citizenship,* was published by Oxford University Press in 2013. It received favorable reviews from nine different academic journals: *American Historical Review, American Journal of Legal History, Corrections Today, Criminal Justice Review, International Journal of Legal Information, Journal of American History, Journal of Southern History, Punishment and Society, and Social and Legal Studies.*

Living in Infamy is the only comprehensive history of felon disfranchisement in the United States that has been published, making me the leading expert in this topic. My work has been cited in over forty scholarly articles and books. Chapter three was published as an article and has been cited in approximately twenty scholarly articles and books.

My research has also been cited by two state supreme court opinions (Griffin v. Pate (Iowa 2016) and Schroeder v. Simon (Minnesota, 2023) (Stevens, N., dissenting)), petitions for certiorari, and amicus briefs.

III. AIMS, METHODOLOGY, AND MATERIALS REVIEWED

In writing this report, I have relied on the standard methodology used by historians and other social scientists in investigating the intent underlying the adoption, operation, and maintenance of constitutional provisions and statutes, which I learned in graduate school, utilize in my published research, and have taught to students throughout my career.

To understand the intent behind and impact of constitutional provisions and statutes, I reviewed primary and secondary sources. Primary sources are first-hand accounts from the time under study. Secondary sources are published works by scholars. I rely on my own published book on the history of felon disfranchisement, which is also based on many primary and secondary sources.

I used primary and secondary sources to locate direct and contextual evidence. Direct evidence of the intent and impact of election laws include statements made by their authors, supporters, and detractors. Such explanations can be found in the records of constitutional conventions and legislative sessions, as well as in newspaper coverage of them. Sometimes secondary sources quote primary sources directly. I have made clear in my footnotes which primary sources I consulted and when I am quoting from a secondary source. When researching in newspapers, I used digitized collections of newspapers, which span multiple newspapers from the three Grand Divisions of Tennessee. Nineteenth century newspapers were highly partisan, and I read newspapers that represented the spectrum of partisan positions. I scanned newspapers printed on relevant dates (such as the dates of constitutional conventions and legislative sessions) looking for relevant articles. I also performed keyword searches to find articles. I also read other state constitutions and statutes to compare them to Tennessee's constitution and statutes.

When possible, I also drew on accounts of election law and procedure from contemporary scholars and researchers. Two prominent research teams observed Tennessee elections in the 1930s and 1950s and are key sources for some sections of this report. One was led by V.O. Key, the author of *Southern Politics in State and Nation* (1949).[1] The other was led by Ralph Bunche as part of a research team for Gunnar Myrdal's *An American Dilemma: The Negro Problem and Modern Democracy* (1944).[2]

Contextual evidence considers ideas and events that may have influenced the passage or enforcement of these provisions. This includes a consideration of relevant antecedent and contemporaneous events within and beyond the state. While I obtained some contextual evidence from primary sources, much of this comes from secondary sources, specifically respected accounts by professional historians.

This report features extensive footnotes to allow readers to assess the accuracy and credibility of my evidence and my conclusions.

IV. TENNESSEE'S INITIAL COMMITMENT TO RELATIVELY BROAD ELECTORAL PARTICIPATION

For much of the first century of its history, Tennessee had a long tradition of democracy, free and fair elections, and broad-based electoral participation, particularly in comparison to its regional peers. This tradition began with Tennessee's Constitution in 1796 and was continued in Tennessee's Constitution of 1834 and the Tennessee Code of 1855, which both promoted relatively widespread access to suffrage as compared to contemporary constitutions and statutes of other southern states, notwithstanding that they did impose some restrictions on voting rights.

A. Voting Rights Under the Tennessee Constitution of 1796

Thomas Jefferson is said to have called Tennessee's Constitution of 1796 "the least imperfect and most republican" of the state constitutions.[3]

The Tennessee Constitution of 1796 did not contain a racial prohibition on voting, nor did it require property ownership. "Freemen" of twenty-one years of age who owned a freehold (i.e. land) or who had resided in the county for at least six months had the right to vote:

> Every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this State, and every freeman, being an inhabitant of any one county in the State six months immediately

[1] V.O. Key, *Southern Politics in State and Nation* (New York: Alfred Knopf, 1949).

[2] Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper and Brothers, 1944).

[3] J.G.M. Ramsey, *The Annals of Tennessee to the End of the Eighteenth Century* (Charleston, SC: John Russell, 1853), 657.

> preceding the day of election, shall be entitled to vote for members of the general assembly, for the county in which he shall reside. [4]

Tennessee's suffrage provision was modeled on North Carolina's, the state from which Tennessee had emerged.[5] Black, male, Tennesseans comprised a tiny fraction of the population but there was no explicit barrier to their ability to vote.[6] This was in marked contrast with several of Tennessee's neighboring states, which already prohibited Black residents from voting.[7] Nor were there any restrictions in Tennessee on voting by those with criminal convictions at this time.[8]

B. Voting Rights Under the Tennessee Constitution of 1834

The Tennessee Constitution of 1834 widened access to the franchise by eliminating the property qualification for suffrage. This expanded understanding of the right of suffrage – and the rights of citizens broadly – was further underscored by the convention's decision to move the "Declaration of Rights," which had been Article XI of the 1796 constitution, to Article I of the new constitution.[9] However, the constitutional convention narrowed access to voting rights by enacting provisions which limited the suffrage of free and infamous convicts.

1. Disfranchisement of Free Black Men in the 1834 Constitution

Delegates to the 1834 constitutional convention inserted the word "white" into the suffrage requirement, a change which disfranchised free Black men:

> Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote six months next preceding the day of election, shall be entitled to vote for members of the general assembly, and other civil officers for the county or district in which he resides:

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[4] Tennessee Constitution (1796), Article III, Sect. 1.

[5] Lewis L. Laska, *The Tennessee State Constitution: A Reference Guide* (New York: Oxford University Press, 1990), 5.

[6] The best approximation I can find is from an early 20th century writer who estimated that Tennessee had approximately 361 free Blacks at statehood in 1790. This tracks with census data from 1800 which found that the population in 1800 was slightly smaller. William Lloyd Imes, "The Legal Status of Free Negroes and Slaves in Tennessee," *The Journal of Negro History*, 4:3 (1919), 254; NCPedia online, https://www.ncpedia.org/sites/default/files/census_stats_1790-1860.pdf. Assuming that approximately half of them were men and a third under twenty-one, this would have amounted to approximately one hundred eligible Black voters.

[7] John G. Kolp, "Elections in Colonial Virginia," *Encyclopedia of Virginia*, https://encyclopediavirginia.org/entries/elections-in-colonial-virginia/; Virginia Constitution of 1776; South Carolina Constitution of 1778, Article XIII, Georgia Constitution of 1777, Article IX.

[8] Tennessee Constitution (1796), Article III, Sect. 1.

[9] Tennessee Constitution (1796), Article XI; Tennessee Constitution of 1834, Article I.

> *Provided,* That no person shall be disqualified from voting in any election on account of color, who is now, by the laws of this State, a competent witness in a court of justice against a white man. All free men of color shall be exempt from military duty in time of peace, and also from paying a free poll-tax.[10]

This decision to deny voting rights to free Black Tennesseans reflected the deep racism of delegates to the 1834 constitutional convention, specifically their belief that inferior character and subordinate social status of free Black Tennesseans meant that they should have no more rights than those who were enslaved.[11] Delegate William H. Loving, who represented Haywood and Tipton counties, explained why free Black Tennesseans– whom he referred to as a "degraded people" – should be barred from participating in government alongside white men: "Does not their color, their habits in all their associations in life….totally forbid the idea that they should be tied up and associated in government together? Their degraded condition, their general worthlessness of character, and idle and dissolute habit exclude any claims to such right?"[12]

This belief that free Black Tennesseans were just as "degraded" as those who were enslaved was echoed in the Tennessee Supreme Court's *State v. Claiborne* opinion in 1838. The Tennessee Supreme Court wrote, "An emancipated slave, is called a freeman in common parlance, and in reference to his former state, he is so, having acquired privileges and immunities which he did not enjoy before. But in reference to the condition of the white citizen, his condition is still that of a degraded man, aspiring to no equality of rights with white men, and possessing a very *few only,* of the privileges pertaining to a 'freeman' or 'citizen.'"[13]

A secondary motivation for disfranchising Black Tennesseans was the fear that the empowered free Black population might inspire enslaved people to violent overthrow. The 1834 convention met in a period of increasingly successful slave insurrections – including Nat Turner's 1831 uprising in Virginia.[14] Delegates believed that politically empowered free Black Tennesseans might work together with enslaved men to eliminate whites and take over the region.[15]

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[10] Tennessee Constitution (1834), Article IV, Sect. 1.

[11] This idea of a connection between degraded civil status and inferior moral and mental characteristics was common across the US in the slave era. For a discussion of this see, Gary Nash, *Forging Freedom: The Formation of Philadelphia's Black Community, 1720-1840* (Cambridge: Harvard University Press, 1988), 114-115, 230-259; and Andrew Fede, *A Degraded Caste of Society: Unequal Protection of the Law as a Badge of Slavery* (Athens: University of Georgia Press, 2024).

[12] *National Banner and Daily Advertiser* (Nashville, Tennessee), Jul 15, 1834, 2.

[13] *State v. Claiborne*, 19 Tenn. 331 (1838).

[14] Patrick H. Breen, *The Land Shall Be Deluged in Blood: A New History of the Nat Turner Revolt* (New York: Oxford University Press, 2015).

[15] Chase C. Mooney, "The Question of Slavery and the Free Negro in the Tennessee Constitutional Convention of 1834," *The Journal of Southern History* 12:4 (1946), 487–509, quote 494.

2. Disfranchisement of Infamous Convicts in the 1834 Constitution

The delegates to the 1834 Constitutional Convention also added a clause to the constitution which permitted the General Assembly to pass laws denying the vote to people convicted of "infamous" crimes. The clause stated, "Laws may be passed excluding from the right of suffrage, persons who may be convicted of infamous crimes."[16] Such provisions were common across the region during this period, with several neighboring states amending their constitutions in the 1830s in this manner.[17]

While the Tennessee Constitution of 1834 gave the General Assembly the ability to disfranchise these infamous individuals ("laws may be passed"), it did not mandate their disfranchisement. This was in sharp contrast to other southern states at that time which either passed self-executing constitutional provisions directly disfranchising individuals convicted of certain crimes or soon passed statutes executing these constitutional provisions. For example Virginia's 1830 constitution required disfranchisement for infamous convicts: "That the Right of Suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, of a non-commissioned officer, soldier, seaman or marine, in the service of the United States, or by any person convicted of any infamous offence."[18] Arkansas's 1836 constitution required the legislature to pass executing legislation, using "shall" rather than Tennessee's "may."[19] Alabama and Mississippi's disfranchisement provisions were not self-executing, but their legislatures passed enabling statutes within a few years of the constitutional enactments.[20]

The Tennessee General Assembly did not choose to immediately exercise this new authority to deny the vote to people with infamous convictions. Rather, it would wait more than two decades before it passed disfranchising legislation, further demonstrating the state's relative commitment to a broad and liberal suffrage regime at that time.

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[16] Tennessee Constitution (1834), Art. IV, Sect. 2.

[17] Pippa Holloway, *Living in Infamy: Felon Disfranchisement and the History of American Citizenship* (New York, Oxford University Press, 2008), 54-78 and 174 fn 10.

[18] Virginia Constitution (1830), Art. III, Sect. 14.

[19] Arkansas Constitution (1836), Art. IV, Sect. 12.

[20] Mississippi allowed disfranchisement for bribery, perjury, forgery, or other high crimes or misdemeanors in 1817 Mississippi Constitution (1817), Art. VI, Sect. 5; in 1833, the Mississippi legislature passed "An Act to Regulate Elections in the State," *Laws of the State of Mississippi* (Jackson, MS: State of Mississippi, 1838), 418. The Alabama Constitution of 1819 allowed the legislature to disfranchise for bribery, perjury, forgery, or other high crimes or misdemeanors; Alabama Constitution (1819), Art. 6, Sect. 5; "An Act Notes Excluding from Suffrage, Serving as Jurors, and Holding Offices, Such Persons as May be Convicted of Bribery, Forgery, Perjury, and other High Crimes and Misdemeanors." Later that year, the legislature passed enabling legislation; *Acts of the General Assembly of the State of Alabama, 1819* (Huntsville: John Boardman, 1820), 67–68. This act was amended in 1827 to include those convicted of larceny, receiving stolen goods, subordination of perjury, and certain kinds of fraud. John G. Aiken, compiler, *A Digest of the Laws of the State of Alabama* (Philadelphia: Alexander Towar, 1833), 129.

C. Disfranchisement for Infamous Crime Under the 1858 Tennessee Code

More than twenty years after the enactment of the Tennessee Constitution of 1834, the General Assembly exercised its prerogative to disfranchise individuals convicted of certain crimes via a major revision of the state's statutes – the 1858 code.[21] The new code mandated disfranchisement for bribery, larceny, and other crimes statutorily defined as infamous.[22]

> No person shall vote at any election in this State who has been convicted of bribery, or the offer to bribe, of larceny, or any other offence declared infamous by the laws of this State, unless he has been restored to citizenship in the mode pointed out by law.[23]

The 1858 code also defined the mode for restoration of citizenship:

> Persons rendered infamous, or deprived of the rights of citizenship, by the judgment of a court, may be restored by the Circuit Court; those pardoned, immediately after the pardon; those convicted of murder in the second degree, voluntary manslaughter, malicious maiming or wounding, fighting a duel, carrying a challenge to fight a duel, publishing a person as a coward for refusing to fight a duel, of refusing to give up the author of such publication, of rescuing a person under lawful arrest, after the lapse of six months; and all others after the lapse of three years from conviction.[24]

While the 1858 code imposed certain limits on the right of suffrage for those convicted of infamous crimes, the General Assembly narrowly tailored the extent of disfranchisement, carrying forward Tennessee's relative commitment to broad electoral participation.

First, there was no permanent disfranchisement under the 1858 code. Any individual could petition for the restoration of rights after they had completed their sentence or been pardoned. Whether it was a sexual offense that demonstrated immoral character, an attack on property such as larceny

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[21] The adoption of the 1858 code was more than a mere revision of preexisting statutes of the state; it was a legislative act. *Whitworth v. Hager*, 124 Tenn. 355 (1910). The statutory definition of infamy came primarily from the list of crimes largely derived from Chapter 23 of the Acts of 1829, the statute that defined infamous crimes in Tennessee.

[22] At this time, only white men could vote, so the following discussion pertains solely to the impact of the 1858 Code on the voting rights or lack thereof of white men convicted of certain crimes.

[23] Part I, Title VI, Chapter 2, Article IV, Sect. 834, *The Code of Tennessee: Enacted by the General Assembly of 1857-'8* (Nashville: Eastman and Company, 1858), 225.

[24] Part II, Title I, Chapter 1, Sect. 1994, *The Code of Tennessee: Enacted by the General Assembly of 1857-'8*, 406.

or arson, or even a crime that demonstrated a disregard for justice and democracy such as bribery or perjury, anyone could have their rights restored.[25]

Moreover, the 1858 General Assembly eliminated the waiting period for restoration of citizenship rights that had previously been established under 1840 and 1844 statues.

In 1840, the legislature had given courts broad leeway to restore rights of citizenship following an infamy judgment.[26] Four years later, the General Assembly amended the process to add an additional requirement of two character references and a three-year waiting period.[27] In 1840 and 1844, Tennessee had no prohibition on voting by infamous convicts. Rather these statutes applied to the restoration of the rights to testify in court and run for office if these rights had been lost due to an infamous conviction.

In 1858, when the limitations on citizenship rights following an infamous conviction were expanded to include the curtailment of voting rights, the General Assembly made getting one's rights restored easier and potentially faster. The 1858 code eliminated the three-year period that infamous individuals had to wait before petitioning for restoration and eliminated the requirement that two witnesses attest to their character. It also established an automatic restoration process for people with certain convictions.[28]

In short, the legislature of 1858 defined the parameters of disfranchisement for crime in a way that restrained the punishment and protected the voting rights of those with infamous convictions in key ways.

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[25] Part I, Title VI, Chapter 2, Article IV, Sect. 834, *The Code of Tennessee: Enacted by the General Assembly of 1857-'8* (Nashville: Eastman and Company, 1858), 225.

[26] "That the circuit courts of this State may, upon petition of any citizen of the State who may have been rendered infamous by the judgment of any of the courts of this State ten years previous to the passage of this act, restore any such person to the full rights of citizenship." Chapter 152, *Acts Passed at the First Session of the Twenty-Third General Assembly of the State of Tennessee* (Nashville: J. Geo. Harris, 1840), 245.

[27] "That it shall and may be lawful for any person who has been rendered infamous, or deprived of any of the rights of citizenship, by the judgments of any of the courts of this State, to be restored to the same upon application by petition to the circuit court of the county in which such person resides, and satisfactory proof by two credible witnesses on oath, that for three years next before such application, and since said judgment of dis- qualification, such person has conducted himself as a good, respectable, honest citizen, and that he is generally estimated such by his neighbors." Chapter 145, *Statue Laws of the State of Tennessee Passed Since the Compilation of the Statutes by Caruthers and Nicholson in 1836* (Nashville: James G. Shepard 1848), January 24, 1844, 17.

[28] Part II, Title I, Chapter 1, Sect. 1994, *The Code of Tennessee: Enacted by the General Assembly of 1857-'8*, 406.

V. THE EXPANSION OF SUFFRAGE PROTECTIONS IN TENNESSEE'S CONSTITUTION OF 1870 WAS A REACTION TO EFFORTS TO LIMIT VOTING DURING THE CIVIL WAR AND RECONSTRUCTION

Tennessee's initial tradition of relatively broad electoral participation came under attack in the 1860's by targeted efforts to limit the voting rights of supporters of the Confederacy during and after the Civil War through the imposition of loyalty oaths. The efforts to selectively limit the right of suffrage created significant resentment and motivated Tennesseans to enshrine greater protections of suffrage in the Constitution of 1870. To achieve this, delegates to the 1870 constitutional convention expanded the Free and Equal Elections Clause to require a conviction by a jury before a person otherwise entitled to vote could be denied suffrage on the basis of an infamous conviction. The requirement of conviction by a jury was grounded in a legal tradition that long understood citizenship to be rooted in community respect and understanding and that limitations on citizenship stemmed from community disapproval.

A. Limits Imposed on the Voting Rights of Supporters of the Confederacy During the Civil War and Reconstruction Generated Resentment and Fostered Support for Stronger Suffrage Protections

Between 1863 and 1867, Tennessee politics were dominated by Union supporters who sought to limit the political power of supporters of the Confederacy. Their key tactic was the imposition of loyalty oaths as a requirement for voting. The loyalty oath requirement produced significant resentment among the white men who had supported the Confederacy. They had to choose between disfranchisement and risking perjury by lying under oath.[29]

1. Increasingly Stringent Loyalty Oaths Enacted between 1863 and 1866 Generated Increasing Resentment Among Voters

Although Tennessee seceded from the United States at the outset of the Civil War, Confederate military losses led a significant part of Tennessee to come back under Union control before the war's end. As a result, Tennessee was one of the first states where the political rights of those who had joined the Confederacy had to be determined. In 1863, President Lincoln set out standards by which former Confederates would be accepted as voters in Tennessee and other recaptured territories.[30] To ensure that electoral politics was dominated by southerners who had supported the Union, President Lincoln required all voters to take an oath of loyalty.[31]

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[29] For a long discussion of the anger and opposition the loyalty oaths provoked among ex-Confederates see Clifton R. Hall, *Andrew Johnson: Military Governor of Tennessee* (Princeton: Princeton University Press, 1916), 111-130.

[30] Paul H. Bergeron, Stephen V. Ash, and Jeanette Keith, *Tennesseans and Their History* (Knoxville: University of Tennessee Press, 1999), 148-154.

[31] Jonathan M. Atkins, "The Failure of Restoration: Wartime Reconstruction in Tennessee, 1862–1865," in *Sister States, Enemy States: The Civil War in Kentucky and Tennessee* (Lexington: The University Press of Kentucky, 2011), 309-311; Laska, 15-17.

Tennessean Andrew Johnson, who President Lincoln had appointed military governor of the state, felt that this oath was not sufficiently strict, and ordered an even more stringent oath be taken.[32] For example, the new oath required all voters swear that they "sincerely rejoice in the triumph of the armies and navies of the United States" and "ardently desire suppression of the present insurrection."[33]

The loyalty oath depressed the turnout in the election of 1864 by limiting ex-Confederate electoral participation.[34] But the newly elected legislature passed new suffrage laws that limited the voting rights of ex-Confederates even more. In addition to denying the vote to anyone who had been part of the Confederate government or Confederate army, the legislature targeted those who aided the rebellion in, arguably, small ways, denying the vote to "persons who left their homes within the jurisdiction and protection of the United States or fled before the approach of the national forces and passed beyond the Federal military lines into the so called Confederate States for the purpose of aiding the rebellion…"[35]

In 1865, Tennessee Unionists held a convention in Nashville to move the state toward rejoining the Union. They recommended constitutional revisions that ended slavery and allowed the next legislature to amend the state's suffrage requirements.[36] At the election to ratify the constitutional amendments, voters had to take an even stronger loyalty oath as a requirement to vote. This time voters had to swear that they were an "enemy of the so-called Confederate States."[37] The voters approved the constitutional revisions.[38]

The legislature elected in 1865 placed even more restrictions on voting by former Confederates. In 1865, they required that former Confederates had to provide sworn statements attesting to their

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[32] Sam D. Elliott, "'You cannot get back . . . without some irregularity': The 1865 Constitutional Amendments and the Return of Civil Government in Tennessee," *Tennessee Bar Journal* 53:27 (December 2017), n.p.

[33]Elliott, "'You cannot get back,'"n.p.; Laska, 15-17.

[34] Elliott, "'You cannot get back,'" n.p.

[35] Chapter XVI, "An Act to Limit the Elective Franchise," *Acts of the State of Tennessee Passed at the General Assembly, 1865* (Nashville: S.C. Mercer, 1865), 32-36. This history is sketched out in *State v. Staten*, 46 Tenn. 233 (1869) and *Ridley v. Sherbrook*, 43 Tenn. 569 (1866).

[36] Eugene G. Feistman, "Radical Disfranchisement and the Restoration of Tennessee, 1865-1866," *Tennessee Historical Quarterly*, 12:2 (June 1953), 135; Sam D. Elliott, "'You cannot get back . . . without some irregularity,'" n.p.

[37] Sam Elliott, "The 1865 Constitutional Amendments and the Return of Civil Government in Tennessee," *Tennessee Bar Journal* 53:12 (December 2017), n.p.

[38] Feistman, 140-144.

loyalty by a current voter.[39] In 1866, they passed another election law that barred all voters who had any affiliation with the Confederacy.[40]

At the legislative session in 1867, the General Assembly removed the stipulation that all voters must be white, enfranchising Black Tennesseans.[41]

2. Many Tennesseans Expressed and Endorsed the Belief that Disfranchisement for Refusing to Take a Loyalty Oath Amounted to Conviction and Punishment for a Crime without a Jury of Their Peers

Loyalty oaths meant that individuals lost their voting rights without any fact finding or due process. This was particularly galling to many Tennesseans, who viewed the loss of rights without a trial and conviction by a jury of their peers as a violation of constitutional rights. In 1866, when legislation was filed to impose yet another set of loyalty oaths and shift election procedures to enforce the oaths even more stringently, newspaper coverage from across the state gave voice to those who believed these requirements to be unjust.

The Nashville *Daily Union* published a copy of the bill, followed by a letter signed by twenty legislators from across the state. The men wrote that the bill "punishes and deprives the citizens of his rights and liberties without presentment or indictment, and without his right of trial by jury."[42]

Both the Nashville *Union* and the Memphis *Daily Appeal* reprinted an article from the Washington *National Republican* critiquing the 1866 legislation for "inflicting" the punishment of disfranchisement on men for "crimes of which they are declared to be guilty, without trial by a jury of their peers….[violating constitutional provisions] which declare that a trial by jury shall remain inviolate." The article continued:

> The bill under consideration abrogates entirely the right of trial by jury, and the sacred right of criminals to be heard before a constitutional tribunal, and declares them guilty of a most infamous crime without presentment, indictment, or impeachment, without the evidence of two competent witnesses to the same overt act, and without conviction by twelve of their peers in the ordinary course of judicial proceedings; not only this but proceeds to inflict a punishment for this crime, amounting to the derivation of a privilege, right, and liberty…[43]

[39] Feistman, 140-144; Corlew, 331-335.

[40] William Edward Hardy, "'Fare well to all Radicals': Redeeming Tennessee, 1869-1870," PhD diss., University of Tennessee, 2013, 127.

[41] Thomas B. Alexander, *Political Reconstruction in Tennessee* (Nashville: Vanderbilt University Press, 1950), 122-140; Hardy, 10.

[42] The Nashville *Daily Union*, February 28, 1866, 1.

[43] The Nashville *Daily Union*, April 28, 1866, 2; *Memphis Daily Appeal*, May 3, 1866, 1.

An article in the Nashville *Republican Banner* quoted the above passage approvingly, adding, "This argument is not only logical and conclusive, but the most triumphant I have ever yet seen advanced. Who can deny its validity or counteract its conclusions?"[44]

A few days later, Cave Johnson, writing in the Nashville *Republican Banner*, protested that he had been denied a seat in the state Senate due to the new loyalty oath required for office holders. He protested that

> the oaths undertook an examination of my character and conduct as a citizen without specific charges against me, without [unreadable] or jury, and without any testimony [unreadable] it, declaring me guilty of some crime… these were palpable violations of our Constitution, which secures to me the right of trial by jury in open court, as well as the examination of witnesses face to face.[45]

The elections held under these suffrage rules were considered by many to be fraudulent due to the restrictions on voting by former Confederates.[46] Writing in the *Tennessee Bar Journal*, attorney and historian Sam Elliott called the 1860s the "Decade of Constitutional Irregularity" and explained that a desire to eliminate these restrictions on suffrage was a key motivation for the Constitutional Convention of 1870.[47]

B. The Constitution of 1870 Strengthened the Free and Equal Elections Clause

The 1870 Constitutional Convention has been called, "probably the most intellectual body of men that ever assembled in Tennessee for any purpose."[48] Legal scholar Lewis Laska explained, "Of the sixty-nine delegates present, forty were lawyers and eighteen had been to college. One member was a former governor of Tennessee, and four delegates later held that office. Two delegates later became Tennessee Supreme Court justices. Nine had served in Confederate armies, two in the Confederate Congress, and one in the Confederate Treasury Department."[49]

At the 1870 constitutional convention, delegates made important changes to guarantee the right to vote to men who met the age and residency requirements. They barred the political tests and oaths

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[44] Nashville *Daily Banner*, May 3, 1866, 1.

[45] Nashville *Republican Banner*, May 8, 1866, 1.

[46] Feistman, 135-51.

[47] "The only way to relatively quickly address this issue and restore the right of franchise to the former Rebels was to amend the Constitution of 1834 and with it the dubiously adopted 1865 amendments." Sam Elliott, "The Two 'Great Issues' of the Constitutional Convention of 1870," *Tennessee Bar Journal,* 51:5 (2015), n.p.

[48] Joshua W. Caldwell, *Studies in the Constitutional History of Tennessee,* second edition (Cincinnati: Robert Clarke, 1907), 298.

[49] Laska, 18.

that had been required in the previous decade.[50] They also strengthened Article I, Section 5, the "Free and Equal Elections Clause." While this section of the 1834 constitutions merely stipulated, "That elections shall be free and equal,"[51] the 1870 convention modified that clause to read:

> That elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.[52]

1. Motivations for Strengthening the Free and Equal Elections Clause

Delegates to the Constitutional Convention of 1870 had diverse reasons for strengthening the Free and Equal Elections Clause. Some wanted to end loyalty oaths and other obstacles to the voting rights of former Confederates.[53] Others supported constitutional protections for the voting rights of Black Tennesseans.[54] They found common ground in strengthening the Free and Equal Elections Clause, guaranteeing that no voters would face the loyalty oaths that had been imposed in the previous decade as a requirement for suffrage and ending racial qualifications for voting. Those skeptical of expanded Black political power succeeded, though, in allowing future legislatures to enact a poll tax which could have the impact of limiting the Black electorate.[55]

Many convention delegates connected protections for the voting rights of Black Tennesseans with protections for former Confederates. For example, Delegate John C. Thompson from Davidson County, who identified himself as a "States rights Democrat" explained that under the current law (which included the despised loyalty oaths) the "great mass of white people" were disfranchised. He supported expanding the Free and Equal Elections Clause so that "all men were free and equal before the law."[56] Delegate Thomas M. Jones of Giles County agreed, saying that he hoped the convention would "strike the chains from the limbs of the white man" and "restore back the ballot to the hands of men whose heads were silvered o'er with age, and who had been deprived of this right by arbitrary power."[57] Jones seems to have been referring to Confederate veterans who were denied suffrage by the loyalty oaths. Delegate Alfred O. P. Nicolson, who represented Williams,

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[50] Laska, 19; Tennessee Constitution (1870), Article 1, Sect. 4.

[51] Constitution of 1834 Article I, Sect. 5.

[52] Constitution of 1870, Article I, Sect. 5.

[53] Laska, 14.

[54] Robert E. Corlew, *Tennessee: A Short History* (Knoxville, Tenn.: University of Tennessee Press, 1983), 350.

[55] Hardy 211-212. Some who had opposed Black suffrage acceded to amending the constitution to end the racial requirement out of fear of federal intervention, as the Fifteenth Amendment was on the brink of ratification. Hardy, 212-217.

[56] Nashville *Republican Banner*, January 28, 1870, 1.

[57] Summaries of their remarks on the convention floor were printed in the Nashville *Republican Banner*. Nashville *Republican Banner*, January 28, 1870, 1.

Maury and Lewis Counties, described the situation in the state as one in which about 100,000 white men were deprived of the vote. It was now time, he said, to "make suffrage universal" through the expansion of the Free and Equal Elections Clause.[58]

Other delegates made comments that focused more directly on how the expanded Free and Equal Elections Clause would end the hated oaths. Delegate William Carter from Sullivan County observed that the proposed suffrage clause was intended to "prevent a recurrence of what has been done in our own state since the year 1865."[59] Delegate John Baxter from Knox County challenged the system that had been established to enforce the oaths – a system that empowered individual registrars to determine voter qualifications rather than any kind of due process:

> For several years past . . . the Legislature had gone on to prescribe certain qualifications for elections; but they have not allowed persons possessing such qualifications to vote, as that certain persons should not vote if their qualifications be objected to by the registrars. . . . The whole of this amendment was that parties in no cases should be deprive of the right of suffrage.[60]

Other delegates concurred, explaining that the modifications to the Free and Equal Elections Clause were intended to circumscribe any future legislature's ability to limit the right to vote. Delegate John Baxter from Knox County, who served on the Committee on the Bill of Rights which drafted this section, explained, "The object was to protect the citizen in the right of suffrage as against the act of the Legislature or any other action to withhold from him the right to vote…this amendment is calculated to secure to the citizen that right so long as the Constitution remains."[61]

While some delegates continued to oppose voting by Black Tennesseans and sought to rescind this right established by the legislature, some had changed their mind. Men who had previously opposed the voting rights of Black Tennesseans spoke at this convention of their acceptance of this new reality of Black voting and insisted that limitations on the voting rights of all men must be eliminated.[62] This was in part because Black Tennesseans had been voting for three years at this point and had begun to wield electoral power in the state.[63]

During the subsequent effort to secure ratification of the new constitution by Tennessee's voters, political leaders emphasized the importance of the new suffrage provisions to protecting the rights of all voters. Former governor Neill Brown told a crowd that if they rejected the constitution "they

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[58] Nashville *Republican Banner*, January 28, 1870, 1.

[59] Nashville *Union and American*, January 20, 1870, 1.

[60] Nashville *Union and American*, January 20, 1870, 1.

[61] Nashville *Republican Banner*, January 19, 1870, 1.

[62] Black Tennesseans gained the right to vote in 1867, making Tennessee the first southern state to enfranchise Black men after the Civil War. Alexander, 122-140; Hardy, 10.

[63] Franklin and Block, 38.

would have back again test oaths and certificates of registration and taxation without representation." But if the new constitution were ratified "All men would be set free."[64]

2. Motivations for Requiring Conviction by a Jury

The new language of the Free and Equal Elections Clause stating there must be a jury conviction before someone otherwise entitled to vote can be denied suffrage on the basis of a criminal conviction is traceable to two commonly held views of the historical moment. First, juries were viewed as protectors of due process. Second, public judgment had long been understood to play a role in the determination of one's citizenship rights.

i. Juries as Protectors of Due Process

The modification of the Tennessee Constitution to require a jury conviction and a "judgement there on by a court of competent jurisdiction" before an otherwise qualified voter could be denied suffrage on the basis of a criminal conviction was part of the larger package of reforms made in reaction to the experience of white Tennesseans with disfranchisement in the aftermath of the Civil War.[65] The requirement of taking an oath of loyalty in order to vote had meant that individuals could be labeled criminals and disfranchised without proper due process, a fact emphasized in the numerous newspaper articles quoted in the previous section.

The understanding that the 1870 constitution was written in reaction to the perceived excesses of the post-war years was expressed again several decades after its enactment. Writing in 1907, Joshua W. Caldwell – Knoxville's city attorney for eight years and Judge Advocate General of Tennessee during the administration of Governor Peter Turney – explained that the changes to Article I, Section 4, 5, and 6, "were intended to be preventive of the recurrence of recent conditions in the State."[66]

Members of the 1870 constitutional convention expressed their belief in the importance of juries to their understanding of democracy and liberty in diverse ways. Newspapers reported that in a debate over a proposal to revise Article I, Section 14 to limit grand juries and jury trials in some instances (a debate that occurred on the same day and shortly after the discussion of Section 5), delegate George W. Jones of Lincoln County said, "I would rather surrender the habeas corpus than the jury trial as now regulated, including the grand juries."[67] The measure failed by a vote of

[64] Nashville *Republican Banner*, quoted in Hardy, 225.

[65] Joshua William Caldwell, *Studies in the Constitutional History of Tennessee*, second edition (Cincinnati: The Robert Clarke Company, 1907), 296. On Caldwell see https://volopedia.lib.utk.edu/entries/joshua-william-caldwell/

[66] Caldwell, 302.

[67] Nashville *Republican Banner*, January 28, 1870, 1.

43-21.[68] Delegate William H. Stephens from Shelby County called the jury trial "one of those great barriers for the protection of the lives and liberties of citizens."[69]

The wartime and postwar experience in Tennessee produced a desire to protect voting rights that made the state's constitution different from other southern states for a range of reasons. This included taking different approach to the disfranchisement of convicted criminals than other southern states. No other southern state constitution in this era required conviction by a jury for the conviction to serve as a basis for disfranchisement.[70]

[68] Nashville *Republican Banner*, January 28, 1870, 1.

[69] Nashville *Republican Banner*, January 19, 1870, 1.

[70] Arkansas Constitution (1868), Article VIII, Section 5: "Those who shall have been convicted of treason embezzlement of public funds malfeasance in office crimes punishable by law with imprisonment in the penitentiary or bribery." Arkansas Constitution (1874) Article III, Section 2 added a free and equal elections clause: "Elections shall be free and equal. No power civil or military shall ever interfere to prevent the free exercise of the right of suffrage nor shall any law be enacted whereby the right to vote at any election shall be made to depend upon any previous registration of the elector's name or whereby such right shall be impaired or forfeited except for the commission of a felony at common law upon lawful conviction thereof."

- Georgia Constitution (1868), Article II Section 6: "Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery." Georgia Constitution (1877), Article II Section 2 added the requirement that the conviction be in "any court of competent jurisdiction" and added to the list of crimes.
- North Carolina Constitution (1868) Article VI, Section 5: "The following classes of persons shall be disqualified for office: first, all persons who shall deny the being of Almighty God; second, all persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption, or malpractice in office, unless such persons shall have been legally restored to the rights of citizenship." North Carolina Constitution (1899) Article VI, Section 2 barred from suffrage any individual who had been "convicted or who has confessed his guilt in open court" of a felony or infamous crime.
- South Carolina Constitution (1868) did not have a provision disfranchising for crime. It did bar anyone convicted of an infamous crime from holding certain public offices in Article II, Section 10.
- Virginia Constitution (1870) Article II, Section 2: "Persons convicted of bribery in any election, embezzlement of public funds, treason, or felony."

ii. Public Judgment and the Rights of Citizenship

The framers of the Tennessee's Constitution of 1870 understood citizenship to be a concept rooted in social relationships, an understanding with deep roots in southern legal culture, and this underscored the linkage of disfranchisement to jury convictions.[71]

Historically, individuals who were socially degraded could not vote, so an infamous punishment such as disfranchisement indicated social condemnation. This explains why white Tennesseans found the disfranchisement of those who refused to sign the loyalty oath so insulting. Disfranchisement was more than the inability to participate in politics. It was also a mark of social degradation. For those by whom rebellion had been seen as noble, denying the vote to these heroes was seen as a deep insult.

In Tennessee and other southern states, dating back to the early 19th century, the disfranchisement of convicts, enslaved people, and free Black Tennesseans was derived from and justified by their degraded standing in the community. "Bondage" – a term that described both enslaved people and people in prison – meant dependence on others for sustenance, lack of freedom, and subjection to physical punishment. Just as slaves, and Blacks as a whole, were seen by white southerners as broken by slavery, convicts were considered degraded due to their punishment and incarceration. Neither group was believed to have the independence and respect required for citizenship and suffrage.[72]

Public judgment of one's social status had long played an important role in determining one's civil rights. For example, public judgment offered guidance when parties disputed who fit into which racial categories. One of the clearest examples of this can be found in an 1835 South Carolina Supreme Court decision. In a case where a man's race was in dispute, the Court explained that a man's status "is not to be determined solely by the distinct and visible mixture of negro blood, but by reputation, by his reception in to society, and his having commonly exercised the privileges of

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[71] Holloway 17-32; Ariella J. Gross, *What Blood Won't Tell: A History of Race on Trial In America* (Cambridge, Mass.: Harvard University Press, 2008), 48-72.

[72] A number of scholars have suggested that the humiliation and degradation of being incarcerated derived from its similarity to slavery. Friedrich Nietzsche wrote, "Punishment first acquired its insulting and derisive character because certain penalties were associated with the sort of people (slaves, for example) whom one treated with contempt." The American sociologist and penologist Thorsten Sellin has argued that the treatment of criminal offenders, at least in the Western world, stemmed from the treatment of slaves. Nietzche and Sellin quoted in James Q. Whitman, *Harsh Justice: America's Solitary Place in the Liberal West* (New York: Oxford University Press, 2005), 31. Gustav Radbruch's study of German law found that "the criminal law bears the traits of its origin in slave punishments....to be punished means to be treated like a slave." According to Radbruch, being treated like a slave renders a convict socially and morally degraded. "The diminution of honor, which ineradicably inheres in punishment to this day, derives from slave punishments." Gustav Radbruch, quoted in Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass.: Harvard University Press, 1982), 128.

a white man...[A] man of worth, honesty, industry and respectability should have the rank of a white man."[73]

Tennessee's lawmakers also relied on public judgement to determine racial categories and, thus, civil rights. When the 1835 Tennessee convention delegates sought some means to determine who was Black under law and therefore disfranchised, they found guidance in the 1794 law restricting Black testimony in Tennessee courts. The law defined the color line for witness competency this way: All persons of mixed blood "to the third generation, inclusive, (though one ancestor of each generation may have been a white person)" were "incapable in law to be witnesses…except against each other."[74] The 1834 Constitution adopted this schema from 1794 for the purpose of disfranchisement: "no person shall be disqualified from voting in any election on account of color, who is now by the laws of this State, a competent witness in a court of Justice against a white man."[75]

Public judgment and social status played a similar role in the disfranchisement of infamous convicts. The 1834 constitutional convention allowed disfranchisement for people convicted of infamous crimes. This class had already been denied the right to testify in court by Tennessee's 1829 General Assembly, which barred the witnesses who had been convicted of infamous crimes from ever testifying in court again.[76] Being denied the right to testify in court degraded a man's status in the eyes of his peers. Thus, it made sense that the legislature could deny him the vote as well.[77]

In sum, public judgment and social status had long played a key role in determining fitness for citizenship and suffrage in this early period. And conversely, being denied these rights indicated social disapproval and degradation. A man who was white enough to testify in court – i.e. considered by his community to be white enough to function as a citizen –was respected and able to vote. On the other hand, individuals who were denied the right to testify in court were rejected by their community and thus, also, deprived the privilege of suffrage.

D. The 1870 Constitution Gave the Legislature the Option to Pass a Poll Tax, but the Legislature Did Not Immediately Exercise this Option

While the changes to the 1870 constitution largely operated to protect the right to vote, the convention did add a provision which allowed the legislature to impose a "poll tax" – a per capita

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[73] *State v. Cantey*, 50 S.C.L. 614 (S.C. Ct. App. 1835).

[74] "An Act to Amend an Act Establishing Courts of Law, and for regulating the proceedings therein," *Tennessee Acts of 1794*, Ch. 1, § 32. Quoted in Charles Sumner, "Exclusion of Witnesses on Account of Color," in *The Works of Charles Sumner*, vol. 8 (Norwood, Mass.: Lee and Shepard, 1900), 176–7.

[75] Tenn. Constitution (1834), Article 4, Sect. 1.

[76] *Acts Passed at the General Assembly of the State of Tennessee 1829*, 43.

[77] For a longer explanation of the history of infamy and the connections between slavery and incarceration see Holloway, 1-16.

tax that was required to vote.[78] This was controversial. Opponents of the provision saw it, correctly, as an effort to limit the voting rights of Black Tennesseans since they were disproportionately impoverished. Others opposed it as a form of discrimination against poor men of both races, which was also true. However, the poll tax had broad support from white conservative Democrats (who held a majority at the convention), many of whom opposed expanding the suffrage and political power of Black Tennesseans. Although the legislature did not exercise the option to impose a poll tax until 1890, including this provision indicated that many members of the 1870 convention were wary of universal male enfranchisement, especially the enfranchisement of Black Tennesseans and lower-class voters.[79]

In sum, the 1870 convention imposed relatively broad protections for male suffrage compared to other states. As a result, in the 1870s and well into the 1880s, Tennessee stood outside the South as a place where there was a relatively competitive political system and a relatively high level of Black voting and political power. [80] Nonetheless, the provision allowing for a poll tax made the voting rights of Black Tennesseans vulnerable.

VI. THE LATE 19TH CENTURY SHIFT TOWARDS INTENTIONALLY CONSTRAINING ACCESS TO SUFFRAGE AND LIMITING THE POLITICAL POWER OF BLACK TENNESSEANS

Tennessee reversed course from its relatively broad access to suffrage in the late 19th century, targeting Black Tennesseans with disfranchisement. However, since the Fifteenth Amendment to the US Constitution – which Tennessee had initially refused to ratify – meant that it was no longer permissible to explicitly limit suffrage based on race, Tennessee adopted a series of laws in 1889 and 1890 that, while race neutral on their face, were intentionally weaponized to limit the voting rights of Black Tennesseans.[81] With these new laws governing elections in the state, Tennessee went from a state with one of the highest rates of Black voting in the South to one of the lowest.

A. In Its First Decade the Constitution of 1870 Protected the Voting Rights of Black Tennesseans

While leaders of other southern states worked to restrict and even eliminate Black voting in the 1870s, Tennessee's political leaders were, relatively, less committed to this project. Although the constitution permitted a poll tax, legislators declined to immediately enact one. As a result, Tennessee's political system and elections were different from much of the South in this period. Black Tennesseans maintained a high level of suffrage, and the political system remained

[78] Tennessee Constitution (1870), Article IV, Sect. 1

[79] Laska, 19-20.

[80] J. Morgan Kousser, "Post-Reconstruction Suffrage Restrictions in Tennessee: A New Look at the V.O. Key Thesis," *Political Science Quarterly* 88:4 (1973), 658. (Hereafter Kousser, *PSQ.*)

[81] Tennessee later ratified the 15th Amendment in 1997, Linda T. Wynn, "60th Anniversary of the Voting Rights Act of 1965," Tennessee Historical Commission, https://www.tn.gov/historicalcommission/about-us/the-courier/winter-2025/60th-anniversary.html.

competitive even as the rest of the region came under near-total dominance by the Democratic party.[82]

Historians attribute Tennessee's experience of relative bipartisanship in the 1870s and 1880s to the significant geographic and economic diversity of the state. Partisan and ideological divisions among white men before the Civil War had made Tennessee the last to secede from the United States. In the three decades after the war, the state's atypical diversity and electoral patterns continued. East Tennessee had a large number of white Republicans, so the GOP remained stronger in Tennessee than other southern states in this period. Moreover, West Tennessee had a relatively large number of Black Democrats, and thus the Democratic party protected their access to the ballot.[83]

B. Four New Election Laws Succeed in Diminishing Voting by Black Tennesseans

In the last decades of the 19th century, newly empowered Democrats in the Tennessee General Assembly changed the state's course, passing a raft of laws that limited the ability of Black Tennesseans to access their right to suffrage. Some racially biased election officials enforced these laws to prohibit Black Tennesseans from voting, while others collaborated with political candidates and partisan operators to use the growing apparatus of election law to corrupt the vote through selective enforcement.

The shift began when Democrats made unprecedented gains in the state legislative elections in 1888. Historians have concluded that they won, in large part, by fraud – closing polls in Black precincts, rejecting votes from Black and Republican voters, and stuffing ballot boxes with Democratic votes.[84] Democrats moved to deny the vote to Black voters in order to weaken the Republican party because Black Tennesseans had traditionally voted for Republicans by large margins.[85] The election produced a slim Democratic majority in both houses of the Tennessee General Assembly.[86]

In 1889 and 1890, Democratic legislators passed four laws to govern elections – a significant expansion of the state's legal apparatus governing elections. Passed under the guise of "purifying" the elections by weeding out corruption,[87] the laws in fact did the opposite. Moreover, these laws severely limited Black electoral participation and political power.

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[82] Dewey Grantham, *The Life and Death of the Solid South: A Political History* (Lexington: University Press of Kentucky, 1988) 8, 13; Franklin and Block, 38-39.

[83] J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974), 104-105.

[84] Kousser, *Shaping of Southern Politics*, 107-109.

[85] Kousser, *Shaping of Southern Politics*, 106-107.

[86] Kousser, *Shaping of Southern Politics*, 107-109.

[87] On "purifying" elections see, for example, the statement of Senator James Crews of Shelby County, quoted in Memphis *Daily Avalanche*, March 29, 1889, 2.

This meant a dilution of Black voting power and an increase in the political power of whites, as demonstrated in Table 1[88] and Figure 1.[89]

Table 1. TURNOUT ESTIMATES (%) OF BLACK VOTERS FOR THE 1880, 1892, 1900, AND 1912 ELECTIONS IN SOUTHERN STATES (SHOWING EFECTS OF POLL TAX AND LITERACY TESTS)

State	1880	1892	1900	1912
Alabama	55	55	21	2
Arkansas	57	36	*12*	*3*
Florida	84	*14*	*7*	*2*
Georgia	*42*	*33*	*7*	*2*
Louisiana	44	30	*4*	*1*
Mississippi	45	*1*	*4*	*2*
N. Carolina	81	63	44	*1*
S. Carolina	77	17	*4*	*2*
Tennessee	79	*31*	*14*	*1*
Texas	59	53	32	*2*
Virginia	*59*	58	38	*2*

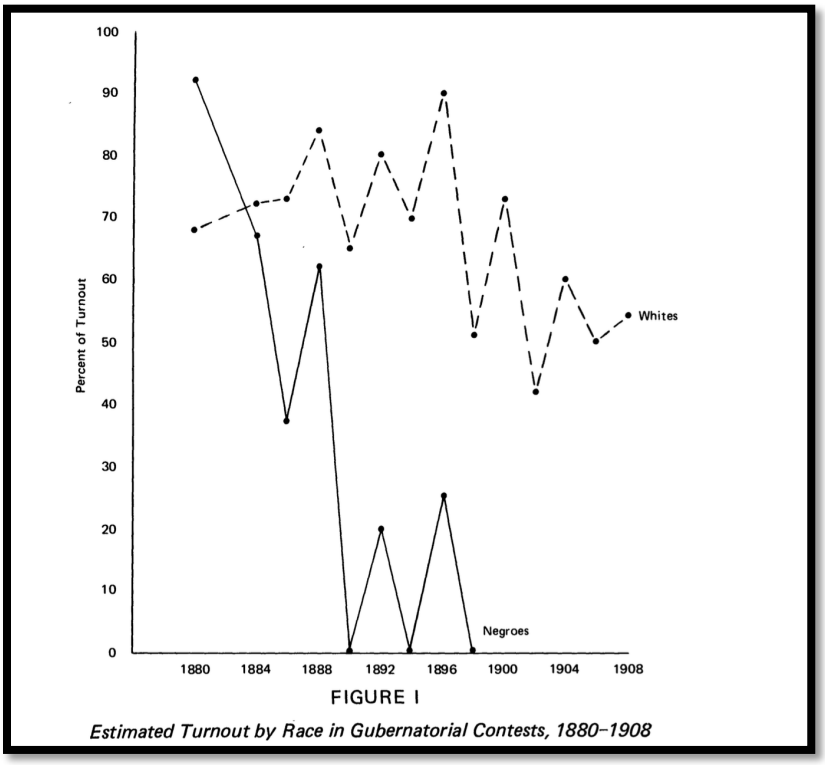

FIGURE I
Estimated Turnout by Race in Gubernatorial Contests, 1880–1908

[88] Kent Redding and David R. James, "Estimating Levels and Modeling Determinants of Black and White Voter Turnout in the South 1880-1912," *Historical Methods*, 34:4 (2001), 148.

[89] Kousser, *PSQ*, 680.

1. Myers Registration Law

The first new elections law, the Myers law, established a system for voter registration, but only in cities and towns. Voters in districts or towns which cast 500 or more votes in 1888 had to register at least 20 days before every election. Then, they had to present their registration card when they voted.[90]

The Myers law disproportionately targeted Black Tennesseans, who lived disproportionately in urban areas, in two main ways. First, the Myers law required an extra step for voting – an extra trip to the voter registrar three or more weeks in advance of an election. In an era in which people worked long hours and had limited access to transportation, this law lowered voter participation in these targeted areas. Second, the provision that voters had to present their registration certificates at the polls limited turnout because individuals were likely to lose or misplace their records.[91]

2. Lea Ballot Box Law

The Tennessee General Assembly also passed the Lea Ballot Box law, which split the process for federal and state elections to minimize federal oversight of elections. Under this law, voters cast ballots in one box for federal elections and one for state elections. This was passed largely due to pending federal legislation, known as the Lodge Elections bill, which would have allowed federal officials to supervise federal elections and thus protect Black voting rights. If the Lodge Bill had passed, Black voters would have been protected in federal elections. The Lea law would have removed ballots for the state election from federal oversight, thus enabling state officials to manipulate these votes without federal oversight. In short, the passage of the Lea Law was an effort to evade potential federal protections for Black voters. [92]

The General Assembly, however, repealed the Lea law a few years later when it became clear that such federal observers would not be put in place.[93] The Lodge Bill would have been a game-changer for southern elections because it would have protected Black voters across the region. In modern times it has been called "The first forgotten Voting Rights Act."[94] This effort to evade the Lodge Elections bill, before it even became law, is evidence of the state's commitment to denying democratic rights and political power to Black Tennesseans in this era.

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[90] Kousser, *PSQ*, 664.

[91] Kousser, *PSQ*, 664.

[92] Kousser, *Shaping of Southern Politics*, 110.

[93] Nashville *Daily American*, March 28, 1891, 1.

[94] Ed Burmilla, The Forgotten First Voting Rights Act How the Defeat of the 1890 Lodge bill Presaged Today's age of Ballot-driven backlash," *Forum Magazine*, October 17, 2022. See also Charles W. Calhoun, *Conceiving a New Republic: The Republican Party and the Southern Question, 1869-1900* (Lawrence: University Press of Kansas, 2006), 226-59.

3. Dortch Secret Ballot Law

The Dortch Secret Ballot law prevented assistance in marking a ballot. Supporters noted that this functioned as an "educational qualification" – what today we call a literacy test.[95] While whites might be illiterate too, the law was intended to disproportionately affected Black voters in several ways. First, in this era Black southerners had a higher rate of illiteracy so they would be disproportionately affected.[96] In addition, the law was written to target urban areas to control the votes of growing Black populations there. Like the Myers law, the Dortch law initially was restricted to four counties that included Memphis, Nashville, Chattanooga, and Knoxville, the locations with the largest, concentrated Black population.[97] Ten years later, the legislature amended the Dortch law so that it could be applied to any district with more than 2,500 voters – again a move intended to target Black voters who lived in smaller cities as well.[98]

Advocates of the Dortch bill expressed their belief that it was necessary to curb voting by Black Tennesseans, using this rationale to overcome opposition from those who feared its impact on illiterate white Tennesseans. The Memphis *Avalanche* proclaimed, "Ask anybody who is familiar with the politics of this county, and he will say give us the Dortch bill or we perish." The defeat of the bill would "turn Shelby county bound hand and foot to the venality and corruption of Negro rule."[99]

In another *Avalanche* article, the "Australian ballot" (another name for the secret ballot) was touted as a way to limit Black voting:

> The first thing to be done is to cut off the great mass of innate ignorance from its baleful influence in our elections, and then we will be able to see further what can be done upon a more permanent basis. It is certain that many years will elapse before the bulk of the Negroes will reawaken to an interest in elections, if relegated to their proper sphere, the corn and cotton fields, by some election law which will adopt the principle of the Australian ballot, thereby depriving crafty white men of all incentive to stir them up.[100]

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[95] Memphis *Daily Avalanche*, March 29, 1889, 2.

[96] In 1890, 56.8% of US the Black population over 14 years of age was illiterate. In contrast, 7.7% of the US white population was illiterate. Thomas D. Snyder, ed., *120 Years of American Education: A Statistical Portrait* (Washington, DC: National Center for Education Statistics, 1993), 21.

[97] Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888-1908* (Chapel Hill: University of North Carolina Press, 2001), 54.

[98] R. Volney Riser, *Defying Disfranchisement: Black Voting Rights Activism in the Jim Crow South, 1890-1908* (Baton Rouge: LSU Press, 2013), 177-78. Riser explains that the legislature re-organized districts, consolidating Black voters into larger districts where the Dortch law could be applied. He cites an example of this from Rhea County.

[99] Memphis *Avalanche*, quoted in Kousser, *Shaping of Southern Politics*, 113.

[100] Memphis *Avalanche*, March 27, 1889, 4.

4. Poll Tax

While the Tennessee Constitution of 1870 had allowed the General Assembly to implement a poll tax to fund schools, the legislature declined to do so at the time because it would disproportionately impact poor voters. However, in 1890, the General Assembly passed a statute which implemented the tax.[101]

C. Reactions to New Election Laws in the 1890s

Many observers and press editorials at the time underscored that these laws would limit the ability of Black Tennesseans to vote.

- Nashville: "It is the illiterate negro voter and not the illiterate white voter which the bill designs to disfranchise."[102]
- Union City: "Owing to the new registration law a very light vote was cast. The greater portion of the Negroes refrained from voting on account of the poll tax law." [103]
- Dyersburg: "The poll tax and registration laws have played havoc with the colored vote."[104]
- "From all over Middle and West Tennessee, reports show that the Negro was practically disfranchised by the law compelling every voter to show his poll tax receipt before voting."[105]
- One senator commented, "Put a negro inside that railing to vote, under this law, his eyes will be as big as dog-wood blossoms. There would not be one in ten who could vote."[106]
- Chattanooga: The bill would result in "The elimination of negro voters by the educational requirement."[107]

[101] Kousser, *Shaping of Southern Politics,* 114.

[102] Perman, 56.

[103] Kousser, *Shaping of Southern Politics,* 116.

[104] Kousser, *Shaping of Southern Politics,* 116.

[105] Kousser, *Shaping of Southern Politics*, 116.

[106] Nashville *Tennessean*, March 1, 1889, 2.

[107] Chattanooga *Republican*, April 7, 1889, 1.

D. Changing the Bar for Felony Larceny

In addition to these four new election laws, Tennessee's elected leaders also accomplished the manipulation of the electorate by making it easier to convict individuals of felony larceny, incarcerate them for longer periods of time, and deny them the right to vote.

Tennessee law had long differentiated between grand and petit larceny. Under the 1829 code, grand larceny was theft of an item worth more than ten dollars and was punishable by three to ten years in prison; petit larceny was theft of an item worth less than ten dollars and punishable by one to five years.[108] Ten dollars remained the line between grand and petit larceny in the 1857 code and the 1870 code. The punishment for grand larceny was imprisonment in the penitentiary for three to ten years. The punishment for petit larceny was imprisonment in the penitentiary for one to five years, but the code allowed the court to commute the sentence for petit larceny.[109]

Statutory changes made in 1875 raised the bar for grand larceny and decreased the punishment for minor thefts. The General Assembly changed the value of items needed to trigger grand larceny, increasing the value to thirty dollars. In addition, they declared petit larceny to be a misdemeanor punishable with imprisonment in the county jail or workhouse, for six months to three years. [110]

The General Assembly reversed course in 1877, repealing the 1875 Act. It was now, again, easier to convict Tennesseans for felony larceny and incarcerate them in prison for up to ten years.[111] The results were dramatic. Before the revision, the number of people incarcerated for felony larceny was low and dropping: In 1874, 519 individuals with larceny were incarcerated in the state penitentiary; in 1876, it dropped to 279; in 1878, just a year after the new law, the total had increased to 407.[112] By 1888, 580 individuals were incarcerated in the state prison for larceny.[113]

More broadly, across the region, including Tennessee, Black Americans represented a growing part of the state prison population. Before the Civil War, only a handful of individuals incarcerated in Tennessee were Black. But, after emancipation, the state saw a rapid increase in the percentage of Black Tennesseans in prison. For example, in 1866, "blacks accounted for 52 percent of state

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[108] Tennessee Laws of 1829, Chapter 23, Sect. 23-26.

[109] Part IV, Title 1, Chapter 3, Sect. 4, Article IV, Sect. 4677, *The Code of Tennessee: Enacted by the General Assembly of 1857*, 842; Part IV, Title 1, Chapter 3, Sect. IV, *A Compilation of the Statute Laws of the State of Tennessee*, vol III (St. Louis: W.J. Gilbert, 1872), 67-74.

[110] Chap LXXIV, sect. 1 and sect. 2, *Acts of 1875* (Nashville: Tavel, Eastman, and Howell, 1875), 121-122.

[111] Chap. LXV, *Acts of 1877* (Nashville: Tavel, Eastman, and Howell, 1877), 78-79.

[112] Karin A. Shapiro*, A New South Rebellion: The Battle Against Convict Labor in the Tennessee coalfields, 1871-1896* (Chapel Hill: University of North Carolina Press, 1998), Appendix 3, 253.

[113] Shapiro, 253.

prisoners; by 1891 the proportion of African American inmates had risen to approximately three in four." [114]

To understand the motivation for and impact of Tennessee's revision of its larceny statute, it is necessary to recognize that similar changes were being made across the region. Between 1874 and 1882, nearly every southern state lowered the bar for felony larceny, transforming crimes that had been misdemeanors into felonies punishable with a year or more in prison. Most southern states amended their constitutions and revised their laws to disfranchise for petty theft as part of a larger effort to disfranchise Black voters and to restore the Democratic Party to political dominance in the region.[115]

Different states took different paths to the same end in the 1870s. Four southern states—Mississippi, Alabama, Arkansas, and Georgia—significantly expanded the definition of felony to include property offenses previously defined as misdemeanors. Virginia changed its constitution in 1876 to denying the vote to individuals convicted of small property crimes. In other states, court decisions and opinions by Attorneys General determined that statutes disfranchising for larceny included all grades of larceny, both felony and misdemeanor.[116]

Tennessee's statutory change in 1877 that (re)expanded felony larceny to a wider range of crimes came just one year after Mississippi's 1876 "Pig Law." Tennessee's revised law resembled the Mississippi statute as well because ten dollars was again the standard for grand larceny. Previously, Mississippi had defined grand larceny (a felony) as the theft of anything valued at more than $25.[117] Mississippi's 1876 Pig Law reduced to $10 the value of stolen goods needed to trigger this felony-grade offense. In addition, the new Mississippi law defined the theft of certain livestock as grand larceny, even if the property was worth less than $10.[118] Disfranchisement was an important intent of this law, as grand larceny was a disfranchising crime in Mississippi. When the bill creating the Pig Law first passed the Mississippi legislature in 1876, Governor Adelbert Ames, a Republican, vetoed it. In his accompanying message he explained the reasons for his veto: "Should this bill become a law, persons convicted of stealing any animal therein mentioned, of not more than one or two dollars in value, may be sent to the Penitentiary, perhaps for a term of years. Even if sent for a short time, the person so sentenced is disfranchised."[119]

In many southern states, expanding convictions for felony larceny was motivated by a desire to disfranchise Black Americans because larceny was assumed to be a crime of Black southerners. This ideology was best, and most famously, expressed by the Mississippi Supreme Court in 1896

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[114] Shapiro, 56.

[115] Holloway, 54.

[116] Holloway, 57-59.

[117] Article XXIV, Sect. 2652, *The Revised Code of the Statute Laws of the State of Mississippi* (Jackson, Miss.: Alcorn & Fisher, 1871), 580.

[118] Chap. 57, *Laws of the State of Mississippi, 1876* (Jackson: Power and Barksdale, 1876), 51–52.

[119] Veto Message, in *Journal of the House of Representatives of the State of Mississippi*, *1876* (Jackson, Miss.: C. M. Price, State Printer, 1876), 358–359.

in the case of *Ratliff v. Beale*. According to the Mississippi court, state leaders chose to disfranchise criminal offenses that they believed to be characteristic of Black residents. The court explained, "Burglary, theft, arson, and obtaining money under false pretenses were declared to be disqualifications, while robbery and murder and other crimes in which violence was the principal ingredient were not."[120]

To be clear, blacks did not (and do not) commit larceny at higher levels, nor are whites naturally prone to violence. But biases at every level of the judicial process resulted in racially disproportionate arrests and convictions of Black Americans for crimes that denied them the vote.

In Tennessee, expanding the pool of individuals convicted of felony larceny was also motivated by a desire to intimidate and control the urban Black population, which had expanded after the Civil War. Urban Black communities in this period experienced a sharp increase in incarceration. Changing demographics of Tennessee cities made white social and political dominance seem under threat, and some white leaders hoped that increasing the arrest, incarceration, and disfranchisement of Black citizens would help protect white authority in these changing terrains.[121]

The racially disproportionate rates of arrests and convictions for larceny in Tennessee, and the focus on urban populations, aligned with the agenda of those seeking to limit the political and social power of Black Tennesseans. Racist ideas about Black criminality and inferiority laid the groundwork, across the region, for the expanded incarceration and disfranchisement of Black voters.

VII. THE LONG LEGACY OF LATE 19TH CENTURY ELECTION LAWS

The election regulations passed in the late 1880s and 1890s remained the law for decades to come, shaping Tennessee politics and undermining the freedom and fairness of elections. Limitations on political power of Black Tennesseans stemmed from both their disfranchisement and the manipulation of their vote. Successive legislatures refused to change these laws, maintaining a system whereby the voting rights of Black Tennesseans were undermined. In turn, these election regulations –which diluted the political power of Black Tennesseans – facilitated the passage of future election regulations that would serve to further target Black Tennesseans and limit their voting rights.

Tennessee's late 19th century election laws had broad and diverse impact on the political power of Black Tennesseans by corrupting the democratic process.[122] Robert Corlew's *Tennessee: A Short History*, summarized these laws this way: "By the 1890s, the poll tax, secret ballot, actions by

[120] *Ratliff v. Beale*, 74 Miss. 247 (1896); Holloway, 79–104.

[121] In Tennessee prisons in this era, "most inmates came from counties that contained the state's urban centers—Memphis, Nashville, Chattanooga, and Knoxville. Shelby and Davidson Counties, which encompassed Memphis and Nashville, were grossly overrepresented; 45 percent of all prisoners came from these two counties at a time when well over three-quarters of Tennessee's African American population remained in the countryside." Shapiro, 57.

[122] Franklin 40–41.

partisan registrars, social and economic intimidation, violence, and corruption of the entire voting process had not only discouraged blacks from seeking office but prevented them from even voting."[123] Political Scientist V.O. Key, whose study of southern politics in the 1940s is one of the most important studies ever conducted of the region, found that Tennessee stood out with the "most consistent and widespread habit of fraud" in the South.[124]

Even as the rest of the South began to change in the 1940s, responding to pressure from Black southerners and the federal government to restore Black voting rights, Tennessee lagged behind the region, as Table 2[125] indicates:

Estimates of the Number of Successful African American Voter Registrants in the Former Confederacy, 1940–1956

State	1940	1947	% Increase, 1940–47	1952	% Increase, 1947–52	1956	% Increase, 1952–56
Alabama	**2,000**	**6,000**	***200***	**25,596**	***326***	**53,366**	***108***
Arkansas	21,888	37,155	*69*	61,413	*65*	75,431	*23*
Florida	18,000	49,000	*172*	120,919	*147*	137,535	*14*
Georgia	20,000	125,000	*525*	144,835	*16*	163,389	*13*
Louisiana	2,000	10,000	*400*	120,000	*1,100*	152,378	*27*
Mississippi	2,000	5,000	*150*	20,000	*300*	20,000	*0*
North Carolina	35,000	75,000	*114*	100,000	*33*	135,000	*35*
South Carolina	3,000	50,000	*1,566*	80,000	*60*	99,890	*25*
Tennessee	20,000	80,000	*300*	85,000	*6*	90,000	*6*
Texas	30,000	100,000	*233*	181,916	*82*	214,000	*18*
Virginia	15,000	48,000	*228*	69,326	*44*	82,603	*19*

Source: Adapted from Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944–1969* (New York: Columbia University Press, 1976), p. 134.

A. Disfranchising Black Tennesseans with Poll Taxes

Many of Tennessee's white political leaders maintained their commitment to disfranchising Black Tennesseans with the help of these election laws, particularly the poll tax. Indeed, poll taxes were the primary means of denying Black voters suffrage in the state.[126] In the late 1930s, Ralph Bunche, who at the time served as chair of the Political Science department at Howard University but would

[123] Corlew, 364.

[124] Key, 443.

[125] Richard Valelley, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004), 171.

[126] Key, 578.

later achieve international fame as a Nobel prize winning diplomat, conducted a survey of Black Americans in southern politics. He reported that poll taxes were understood in many states, including in Tennessee, to be a means of preventing Black voting. He reported on interviews with two elected officials in Hamilton County:

> The clerk of the election commission of Hamilton County, Tennessee, was very emphatic in his explanation as to why it would never be possible to do away with the poll tax requirement for general elections in that county. In answer to a query as to why this would not be possible, he replied heatedly: Why? And have some big, black son-of-a-bitch sitting up in the courthouse sending white men to jail? That's what _ would happen if the niggers started voting heavy here….. They outnumber the whites around this town and if we didn't have the poll tax, they'd out-vote them.[127]

The mayor of Chattanooga expressed, similarly, and understanding that the poll tax was intended to disfranchise Black Tennesseans:

> Yea! What you want to do, repeal it and have the niggers in this town bond us to death? They'd have this town in the poorhouse in two years. They don't pay taxes, so they don't care how much you spend.[128]

Poll taxes often served to disfranchise Black voters, but poll taxes could also be used to manipulate votes and produce fraudulent results because the enforcement of the tax allowed for a kind of vote buying. Since voters proved that they had paid the tax by providing a receipt, politicians – most famously E. H. Crump in Memphis – bought large blocks of poll tax receipts and distributed them to voters with the agreement that they would vote as instructed.[129] As a result, although Black voting dwindled state-wide after the establishment of the poll tax, it continued in locations where candidates paid the taxes of Black voters who supported them.[130] One observer of Memphis elections noted, "The Crump machine, by buying up poll tax receipts wholesale, collecting registration receipts, herding Negroes to the polls, and paying for vote-casting at the lowest competitive retail prices—except for those votes which are cast gratis to avoid police brutality—is able to manipulate the Negro vote in the Democratic primary in Shelby County as it sees fit."[131]

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[127] Ralph Bunche, *The Political Status of the Negro in the Age of FDR*, edited and with an intro. by Dewey W. Grantham (Chicago: University of Chicago Press, 1973), xix, 350.

[128] Bunche, xix.

[129] Key, 589–591.

[130] In 1920s Memphis, for example, "although the poll tax provided an easy method for white political bosses to manipulate the black vote, the fact that blacks could vote still made them a power to be reckoned with." Michael Honey, *Southern labor and Black Civil Rights: Organizing Memphis Workers* (Champaign: University of Illinois Press, 1993), 45.

[131] Bunche, 497.

Tennessee counties did not have a system of voter registration until the 1940s, so voter registration occurred at each election at the time of poll tax payment. But, in some locations, the individuals charged with registering voters and collecting poll taxes were not even government officials. Political scientist V.O. Key wrote that, in Knoxville in 1949, "the tax trustee authorized church groups, unions, factory managers, and civic groups to accept payment and give temporary receipts. The tax could be paid on almost any street corner."[132] In other words, county registration officials could name deputies. These deputies might work candidates and/or local political machines, and they paid poll taxes for voters and issued receipts. "In some localities, the county trustee will accept a list of names and a sum adequate to cover their taxes from anybody who turns up at his office; he assumes that the taxpayer has sent the money by a messenger."[133]

Key's observations were confirmed in testimony before Congress by Tennessee Representative John Jennings in 1942:

> In my State of Tennessee, I speak from knowledge gained by observation and exhaustive investigation of the abuse of the poll tax requirement. The poll tax requirement is a pestilential source of corruption. It is the ready and powerful weapon of the boss and the mother of corrupt political machines. A band of political corruptionists pool their funds and pay the poll taxes of thousands of voters who are needy and who many times in this way are given a taste of corrupt influence. These poll taxes many times are paid in block by the thousands. In this way the outcome of a county and even a congressional or State wide election may be determined.[134]

The corrupt enforcement of poll tax laws also limited the enforcement of laws disfranchising for crime. Payment of the poll tax and registration for the next election was one point where infamous convicts might have been struck from voting rolls, but this did not always occur. Deputy registrars had incentive to register individuals, not turn them away. Furthermore, the registrars would have lacked access to lists of infamous criminals for whom voting was denied, so they could not have enforced the law even if they wanted to. With the process of registering and paying poll taxes so dispersed and informal, criminal disfranchisement provisions were not enforced in any kind of uniform way.

B. Manipulation of the Electorate Using the Secret Ballot

Political officials seeking to manipulate election outcomes also used the Secret Ballot law to control votes, particularly the votes of Black Tennesseans. Illiterate voters were given assistance in voting if they agreed to vote for a particular candidate. Bunche's account of elections in Hamilton County explains that the secret ballot was a "farce" and a smokescreen for rampant

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[132] Key 590.

[133] Key, 590. For similar accounts see Frederic D. Ogden, *The Poll Tax in the South* (Tuscaloosa: University of Alabama Press, 1958), 73–74.

[134] Quoted in "Hearings Before the Subcommittee on Election of the Committee on House Administration," House of Representatives, Eightieth Congress, First Session, July 14, 1947, 222.

electoral corruption. For example, Bunche spoke to a man who he saw submitting fistfuls of marked ballots for Black voters. The man told Bunche that all of those voters had "bad eyes."[135]

C. Manipulation of the Electorate through Disproportionate Convictions

Across the South, Democratic election officials enforced laws disfranchising for crime in corrupt ways, such as targeting Black voters when elections were close. For example, party leaders collaborated with local police and judges to increase arrests and convictions for disfranchising offenses. These laws could also be used as a form of intimidation. On Election Day partisan challengers accused Black voters of having criminal pasts, election officials upheld these accusations (whether or not they were actually true), and cooperative police arrested and jailed individuals who insisted on casting their ballots, charging them with "illegal voting." The value of such arrests extended beyond preventing that individual from voting, as the threat of arrest likely made some reluctant to even attempt to vote, particularly those unsure of the details of the law.[136]

With the clear racial and partisan implications, these disfranchisement penalties were often implemented right before an election. If a close election was coming up, prosecutors would step up efforts to charge would-be Black voters with theft. All-white juries or racially motivated magistrates would convict black men who were registered to vote of minor property crimes.[137]

Tennessee's criminal disfranchisement provisions did not distinguish between felony and misdemeanor larceny. Citizens could lose their voting rights for larceny of an object of any value. As was evidenced in other states, convictions for the small crime of misdemeanor larceny were easier obtain fraudulently. Agricultural crimes were particularly easy to fabricate, because farm products might disappear for a variety of reasons that do not involve theft by humans.[138]

In short, misdemeanor convictions that resulted in disfranchisement could be "readily obtained," a phrase used by a South Carolina Republican in the wake of the 1884 election: "Negroes are frequently arraigned before petty magistrates on the most trivial charges of larceny, and a conviction in these petty courts is sufficient to disfranchise them forever. This conviction is readily obtained, and the whole proceedings clearly indicate, in many cases, that the prosecution is merely a pretext to deprive the negro of his vote."[139]

False accusations of theft resulted in a kind of gallows humor at times. In Bullock County, Alabama, a Black man told of cautioning a farmer to move two turkeys that were sitting on a fence

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[135] Bunche,·139.

[136] Holloway, 54-78.

[137] See examples in *House Miscellaneous Documents*, 47 Cong., 1 Sess., No. 11: *Testimony in the Contested Election Case of Horatio Bisbee, Jr. vs. Jesse J. Finley, from the Second Congressional District of Florida* (Serial 2037, Washington, DC, 1881), 414–415.

[138] Holloway, 54-78.

[139] Green B. Raum, *The Existing Conflict between Republican Government and Southern Oligarchy* (New York: Charles M. Green, 1884), 449.

adjacent to a public road: "Jest by . . . telling 'em to drive them turkeys off that road, I saved two Republican votes." He understood that if the turkeys had been run over or eaten by predators, a Black man would have lost his right to vote.[140]

Tennessee's court records have many examples of individuals who became infamous and lost rights of citizenship for minor acts of larceny. One of the best known is George Teaster, whose case *Cambria Coal v. Teaster*, is an important part of the caselaw on infamy declarations.[141] Teaster was a poor white coal miner in Anderson County who was declared infamous after a larceny conviction for stealing eight chickens valued at $1 each.[142] His case was far from unusual. The same week that Teaster was convicted and disfranchised, two other Anderson County voters, Avril and James Woods, lost the right to vote for stealing 10 chickens, again valued at $1 per chicken.[143]

D. Manipulation of the Electorate through Irregular Purges of Disqualified Voters

Before the state enacted a permanent registration system in the 1940s, purging individuals convicted of disqualifying crimes required cross checking voter applications with criminal court records. Informal and inefficient enforcement of record keeping meant that many people with criminal convictions were allowed to vote, as long as they seemed likely to vote the right way.

By the 1940s, some of Tennessee/s most urban counties passed local laws allowing permanent registration systems.[144] Permanent registration could have helped regularize the enforcement of the disfranchisement provisions; lists of registered voters could be cross checked with data from the court system. Evidence suggests, though, that permanent registration did not immediately lead to fairer and more accurate enforcement. Rather, there were significant gaps and inefficiencies in this process that made it an unreliable way to keep infamous voters from voting. V.O. Key's survey of voter registration practices across the South looked at areas where permanent registration systems were in place, though he did not write about Tennessee specifically. He found locations with permanent registration lacked efficient systems for purging ineligible voters – including those with "disfranchising convictions."[145] Ralph Bunche's survey reached the same conclusion.[146]

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[140] Allen Johnston Going, *Bourbon Democracy in Alabama, 1874–1890* (Tuscaloosa: University of Alabama Press, 1951), 34–35.

[141] *Cambria Coal* Co. *v. Teaster*, 167 S.W.2d 343 (Tenn. 1943).

[142] Clinton *Courier-News*, October 1, 1936, p. 1; Anderson County Circuit Court, Criminal Minutes, volume 5.

[143] Anderson County Circuit Court, Criminal Minutes, volume 5.

[144] Key, 574.

[145] Key, 565, 575.

[146] Bunche, 48.

E. Manipulation of the Electorate Through Biased Restoration of Voting Rights

The restoration of voting rights was in the hands circuit court judges – all of whom were white until 1966, when Benjamin Hooks was appointed to the Shelby County Criminal Court.[147] Individuals seeking to regain their right to vote or testify had to petition the circuit court in the county where they were convicted. Petitioners often sought endorsement of their requests for pardons from local authorities and/or prominent citizens. These restoration processes were ripe for corruption. Evidence from across the South demonstrates that governors (and legislatures in states where the pardon power was delegated to legislatures) often exercised the pardon/restoration power with partisan bias and to achieve political ends.[148]

Restoration of rights in Tennessee and other states in this period was not based on the seriousness of the crime or any other factors. It was done at the discretion of the courts, which were not required to provide any rationale or follow any uniform processes. In some cases, individuals convicted of major crimes were pardoned and restored to citizenship while those who committed minor crimes experienced life-long disfranchisement. Compare, for example, two different cases in Knox County. H. T. Turner, a white man, was convicted of murder in 1872 and released from prison before his sentence was completed after a gubernatorial pardon. In 1907, he successfully petitioned the Knox County circuit court for the restoration of his rights of citizenship and the "removal of any disqualification he may be under to hold public office."[149] In comparison, Cornelius Curtis – a Black man known for his precedent setting appeal to the Tennessee Court of Civil Appeals in 1915 – served two years for larceny and was released early after a pardon by the governor. His appeal for restoration of his citizenship rights was denied by the Knox County court.[150]

VIII. VOTING RIGHTS IN TENNESSEE AT THE END OF THE 20TH CENTURY

In the decades after Reconstruction, Tennessee's political leaders constructed a complex and ingenious system to diminish the political power of Black Tennesseans. This system remained in place for much of the 20th century and persists today because Tennessee's current political framework is built upon the foundation of its historical political landscape.[151] When Black Tennesseans exercised their right to suffrage in late 19th and early 20th century, they did not achieve political power because the system had been designed to limit this power by corrupting democracy. While many legal barriers to electoral participation have been eliminated, Black Tennesseans remain politically marginalized with decreased levels of office holding and persistent public

[147] The Tennessee Courts, "Figures in History," https://www.tncourts.gov/black-history-month

[148] Holloway, 119-120, 125-127.

[149] Petition of H.T. Turner, January 6, 1908, roll 50, Knox County Circuit Court, Civil Minutes, East Tennessee Historical Society, Knoxville, Tenn.

[150] *In Re: Curtis*, 6 Tenn. Civ. App. (1915).

[151] Sekou M. Franklin and Ray Block Jr., *Losing Power African Americans and Racial Polarization in Tennessee* Politics, (Athens, Ga.: The University of Georgia Press, 2020).

policies that disproportionately – and increasingly – disadvantage Black Tennesseans.[152] Just as 19th century legislators targeted urban populations for voting restrictions in order to limit the political power of Black Tennesseans, so now does state preemption of local ordinances target Tenneessee's cities constrain the power of Black Tennessee voters and those who are allied with them. [153]

Today, although some historic methods of suppressing the vote of Black Tennesseans have been eliminated, others persist and have even been strengthened, reflecting the extent to which the political system was and remains built on Black political marginalization. Laws disfranchising individuals with criminal convictions are evidence that Tennessee's political system continues to marginalize Black political power. More Tennesseans are denied the vote as the result of a criminal conviction than any state except for Florida. Tennessee has the nation's highest rate of disfranchisement of Black voters, with 21% of Black Tennesseans being denied the vote because of a felony conviction. According to the Sentencing Project, "While Black people make up only 17% of Tennessee's population, they represent 43% of Tennesseans disenfranchised due to confinement in prisons, and 36% of Tennesseans disenfranchised due to felony probation and parole."[154] In the past two decades, requirements for the restoration of voting rights have become more stringent, making these laws a barrier to suffrage for a growing portion of the population and increasing the racial disparity of their impact.[155] As a result of this and other measures, Tennessee has one of the lowest rates of voter turnout in the country, with Black Tennesseans over-represented in the population of missing voters.[156]

x Shelby S Hallow Date: April 14, 2025

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[152] Franklin and Block, *Losing Power*. An example of decreased levels of office holding by Black Tennesseans is Fayette County, Tennessee, where no members of the county commission are Black Tennesseans, although the population is more than 25% Black. Memphis *Commercial Appeal*, March 24, 2025.

[153] Sekou Franklin, "Racial authoritarian preemption and the politics of Tennessee," *Social Sciences, 14*(1), 3 (2025)

[154] Kristen M. Budd, Emma Stammen and Whitney Threadcraft, "Tennessee Denies Voting Rights to Over 470,000 Citizens," The Sentencing Project, https://www.sentencingproject.org/app/uploads/2023/01/Tennessee-Voting-Rights-for-People-with-Felony-Convictions.pdf

[155] This includes the 2006 requirement of paying court costs, restitution, and child support obligations (Tenn. Code Ann. § 40-29-202(a)–(c)) and increased obstacles for restoration of rights for individuals convicted of crimes out of state (https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2020/op20-06.pdf).

[156] Demos and Organize Tennessee, "Tennessee's Missing Voters: A State and County Analysis," https://www.demos.org/sites/default/files/2024-09/Demos_Organize_Tennessee_Missing_Voter_Report_FA.pdf

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ACADEMIC POSITIONS

2023 – Present	Chair, Department of History, University of Richmond
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2020 – 2022	Douglas Southall Freeman Distinguished Professor of History, Univ. of Richmond
2009 – 2020	Professor, Department of History, Middle Tennessee State University
2004 – 2009	Associate Professor, Department of History, Middle Tennessee State University
1999 – 2004	Assistant Professor, Department of History, Middle Tennessee State University

EDUCATION

1999	Ph.D., History, Ohio State University
1994	M.A., History, University of North Carolina at Greensboro
1990	B.A., History, University of North Carolina at Chapel Hill

PUBLICATIONS: BOOKS

2013	*Living in Infamy: Felon Disfranchisement and the History of American Citizenship,* Oxford University Press
2008	*Other Souths: Diversity and Difference in the U.S. South, Reconstruction to Present,* University of Georgia Press (edited volume)
2006	*Sexuality, Politics, and Social Control in Virginia, 1920-1945*, University of North Carolina Press

EXTERNAL GRANTS AND HONORS

2024	A. Elizabeth Taylor Prize, Southern Association for Women Historians
2016 - present	Distinguished Lectureship Program, Organization of American Historians
2007 - 2008	Soros Justice Fellowship, Open Society Institute, US Justice Fund
2007	Willie Lee Rose Prize, Southern Association For Women Historians
2001 - 2002	Sexuality Research Postdoctoral Fellowship, Social Science Research Council

PUBLICATIONS: OTHER

2023	"Virginia Penny's 'State of Desperation': Anger, Insanity, and Struggles for Justice in 19th century Kentucky," *Ohio Valley History* (Winter 2023), 3-32.
2020	"The Challenge of Litigating Freedom," *Reviews in American History* 48 (2020) 42–47.
2019	"Felon Disfranchisement in Missouri: 1821-1970," *Missouri Law Review* 84:4 (Fall 2019), p. 975-998
2019	"Race and Law from the Bottom Up in the Nineteenth-Century South: A Review Essay," *Journal of Southern History,* 85(2):393-408.
2019	"Testimonial Incapacity and Criminal Defendants in the South." In *Crime and Punishment in the Jim Crow South*, edited by Natalie Ring and Amy Wood. University of Illinois Press, 107-129.
2019	"'They Are All She Had': Formerly Incarcerated Women and the Right to Vote." In *Caging Borders and Carceral States: Incarcerations, Immigration Detentions, and Resistance*, edited by Robert T. Chase. University of North Carolina Press. Justice, Power, and Politics series, 186-210.
2019	"A History of Stolen Citizenship," *Origins: Current Events in Historical Perspective* 12(9) June, 2019.
2018	"Locked Down," *Reviews in American History* 46 (2018) 413–419.
2018	"A Wholesale Disfranchising Machine": Criminal Conviction and Voting Rights in Florida," *The Docket* 1:4 (online publication of American Society for Legal History), December 2018.
2018	"Rural," in *The Routledge History of Queer America*, edited by Don Romesburg.
2016	"Manifesto for A Queer South," in *PMLA: The Journal of the Modern Language Association of America.*
2011	"Race and Partisanship in Criminal Disfranchisement Laws: Antecedents of the 2000 Election Controversy in Florida." In *Freedom Rights: New Perspectives on the Civil Rights Movement*, edited by Danielle McGuire and John Dittmer, p. 277-302. University Press of Kentucky.

2009	"'A Chicken Stealer Shall Lose his Vote': Disfranchisement for Larceny in the South, 1874-1890," *Journal of Southern History* 75:4 (November 2009), p. 932-962.
2003	"Regulation and the Nation: Comparative Perspectives on Prostitution and Public Policy," *Journal of Women's History* 15:1 (Spring 2003), p. 203-212.
Book Reviews	*Journal of American History, American Historical Review, Law and History Review, Reviews in American History, Journal of Southern History, Journal of the History of Sexuality, Gender and History, North Carolina Historical Review, Bulletin of the History of Medicine, Register of the Kentucky Historical Society.*

CURRENT PROJECTS

In progress	"Absolute and Indispensable Necessity": Judicial Interpretation of Race-based Competency Exclusions in the Slave Era
TBA/in progress	Book manuscript on the history of limitations on witness testimony

PROFESSIONAL PRESENTATIONS

2023	"Virginia Penny's 'State of Desperation': Anger, Insanity, and Struggles for Justice in 19th Century Kentucky." Re-Writing Southern History Conference, University of Florida
2022	*Stanford Law Review* Symposium, Safeguarding the Fundamental Right to Vote. Panel on "Race and Voting: A Historical and Contemporaneous Look."
2020	"Voting Rights: The Arc of History and Modern Challenges," American Bar Association Section of Litigation, Annual Conference
2019	Southern Historical Association Annual Meeting, Opening Plenary, "Felon Disenfranchisement: Past and Present"
2019	Vanderbilt University, Panel on "Struggles for Suffrage: Past, Present, Future"
2019	University of Missouri School of Law and the Kinder Institute on Constitutional Democracy at the University of Missouri, Symposium on Felon Disenfranchisement
2018	Freedoms Gained and Lost: Reinterpreting Reconstruction in the Atlantic

	World Conference (College of Charleston). Paper title, "Reconstruction and the Long History of Equal Access to Court Testimony."
2017	Soros Justice Fellows Annual Conference, "Felon Disfranchisement: Updates and Strategies." (With Dwayne Betts)
2016	University of Richmond Colloquium, "Reconstruction and the Arc of Racial (In)Justice." Paper title, "Testimonial Incapacity as a Collateral Consequence of Criminal Conviction in the 19th and 20th Century South."
2015	Re-visioning Justice Conference, Vanderbilt Divinity School Cal Turner Program for Moral Leadership in the Professions. Discussion panel, "Forever a Felon: Pitfalls of Re-Entry."
2015	Symposium on "Protecting the Vote: Dialogues on Citizenship, Elections and the Franchise." Hall Center for the Humanities, Kansas University.
2015	Stony Brook University Conference, "From the Color Line to the Carceral State: Prisons, Policing, and Surveillance." Paper title, "Testimonial Incapacity as a Collateral Consequence of Criminal Conviction in the 19th Century South."
2015	Southern Historical Association. Comment on panel "Contending with the Corporate South."
2015	Association for the Study of African American Life and History. Paper title: "'Subjected to Still Greater Punishment': Testimonial Incapacity as a Collateral Consequence of Criminal Conviction in the 19th Century South."
2014	The Society for the Study of Southern Literature. Plenary session: "Manifesto for a Queer South."
2014	Association for the Study of African American Life and History. Paper title, "African American Resistance to Felon Disfranchisement in the Early Twentieth Century."
2014	Southern Historical Association. Comment on panel "The Politics of Adornment: Rethinking Women's Activism Through an Examination of Dress."
2013	American Historical Association. Affiliated session, Committee on Lesbian, Gay, Bisexual, and Transgender History. Paper title, "New Directions in LGBT Southern History."
2012	Symposium on Sunbelt Prisons and the Carceral State, Southern Methodist

	University. Paper title, "'They Are All She Had': Formerly Incarcerated Women and the Right to Vote in the Early 20th Century."
2012	Southern Association of Women's Historians Conference, Texas Christian University. Plenary Session: "LGBT/Sexuality/Gender History: The State of the Field(s)."
2011	Sunbelt Prisons Conference, Center for the American West, University of Colorado. Paper title, "'They Are All She Had': Formerly Incarcerated Women and the Right to Vote, 1890-1945."
2011	Berkshire Conference on Women's History, University of Massachusetts at Amherst. Paper title, "'They Are All She Had': Formerly Incarcerated Women and the Right to Vote, 1890-1945."
2008	Race and Place Conference, University of Alabama. Paper title, "Crime, Punishment and Poultry: Disfranchisement for Chicken Theft in the South 1874-1904."
2006	Southern Historical Association Conference. Paper title, "Disqualification and Disfranchisement: Infamous Criminals and Petitions for Restoration of Citizenship in Tennessee, 1880-1950."
2003	Sexual Worlds, Political Cultures Conference. Paper title, "Political Power and the Construction of Sexual Danger in 1930s Virginia."
2002	Berkshire Conference on Women's History. Comment for panel, "Interpreting Erotica: Comparative Perspectives, Intercultural Contacts."
2002	Organization of American Historians. Paper title, "Political Power and the Construction of Sexual Danger in 1930s Virginia."
2001	American Historical Association. Affiliated Session, MARHO: The Radical Historians' Organization. Roundtable discussion, "Radical Historians and Transnational Activism."

INVITED SPEAKER

2024	The Robert H. Smith Center for the Constitution, “Consider the Constitution: History of Voting Rights with Dr. Pippa Holloway,” Podcast
2023	James Madison’s Montpelier, Constitution Day panel, “The U.S. Constitution: A Discussion of Rights and Citizenship”
2022	Marywood University, Constitution Day speaker, “Felon Disfranchisement

	in Pennsylvania, Past and Present"
2022	Louisiana State University, Zoom presentation on Felon Disfranchisement and the History of Women's Voting Rights for a history class
2021	"Felon Disenfranchisement and the History of Women's Voting Rights," Suffrage Centennial Lecture Series, University of Rhode Island
2021	"Reconstruction and the Long History of Equal Access to Court Testimony," UC-Davis AOKI Center/History Department Colloquium on Free People of Color: Race, Law and Freedom in the 19th and 20th Century U.S.
2021	"Beyond 1920: Beyond 1920: Women and Voting Rights After the 19th Amendment," Kiwanis Club of Richmond, Virginia
2021	Felon Disfranchisement in the US and Tennessee: Past, Present, and Future, Rutherford County, TN, League of Women Voters
2020	Panel discussion, Reginald F. Lewis Museum of Maryland African-American History & Culture co-sponsored by ACLU Maryland. (Premier screening of the *Free the Vote* documentary film in which I appeared.)
2019	"Felon Disfranchisement in Louisiana, Past and Present," Louisiana State University, History Department
2019	MTSU Honors Lecture Series
2019	League of Women Voters, Oak Ridge, TN
2019	Keynote speaker, Admission to Teacher Education Induction Ceremony, Fall 2019, MTSU
2019	Commencement Speaker, MTSU, August 2019 graduation
2019	Phi Alpha Theta Conference, Texas State University
2018	Nashville Alumnae Chapter Delta Sigma Theta Sorority Winter Workshop, "Felon Disfranchisement: Past, Present, and Future."
2018	University of Florida, "Felon Disfranchisement in Florida in Historical Perspective"
2017	Macalester College, Speaker for AMST 301-01: Critical Prison Studies, Professor Karin Aguilar-San Juan

2017	Equity Alliance Nashville, Panel Discussion on "The Great White Hoax"
2017	University of Iowa, "Infamy and Voting Rights in Iowa and the United States"
2017	League of Women Voters of Nashville, "A Historical Perspective on Felon Disfranchisement."
2017	Davidson County (TN) Democratic Party, "Felon Disfranchisement: Past, Present, and Future."
2017	Equity Alliance Nashville, "Felon Disfranchisement: Past, Present, and Future."
2017	Tennessee State University, Samuel Shannon Distinguished Lecture Series.
2016	Macalester College, Speaker for AMST 301-01: Critical Prison Studies, Professor Karin Aguilar-San Juan
2016	University of Richmond, Jepson School of Leadership Studies, "A Conversation on Police-Community Relations."
2016	North Dakota State University, Department of History. "Felon Disfranchisement and the History of American Citizenship."
2016	Indiana Department of Corrections, Rockville Correctional Facility for Women (via Skype). Invitation from Alex Lichtenstein, Indiana University Department of History.
2016	Arkansas State University, Department of History. "Felon Disfranchisement and the History of American Citizenship."
2015	University of California at Berkeley, US Political History Seminar Series, Institute for Governmental Studies. "Felon Disfranchisement and the History of American Citizenship."
2015	Kansas University, Langston Hughes Center and Department of African and African American Studies
2015	Harry Adams Inns of Court, University Club of Nashville. "50th Anniversary of the Voting Rights Act."
2015	Ohio State University History Department, "Felon Disfranchisement and the History of American Citizenship."

2013	Middle Tennessee State University, Lambda Student Association. "Everything you Need to Know about LGBT History."
2012	Sweet Briar College. "Gender, Race, and the History of Felony Disfranchisement in America."
2011	Mount Holyoke College. "Felon Disfranchisement and Citizenship in American History."
2008	Valdosta State University, Women's and Gender Studies Lecture Series. "Venereal Disease and the Politics of Social Control in Virginia 1920-1940."
2007	Library of Virginia, Richmond, Virginia. "Sexuality, Politics, and Social Control in Virginia, 1920–1945."
1996	Valentine Museum, Richmond, Virginia. Moderator and comment for panel, "Illegitimate Unions: The History of Sexuality in the South."

HISTORICAL CONSULTANT FOR COURT CASES

States United Democracy Center (2022)
Protect Democracy (Eastern District of Va.; Tenn. 16th judicial district) (both ongoing)

AMICUS BRIEFS

Husted v. A. Philip Randolph Institute, 138 S. Ct. 1833 (2018). Co-signer to Brief of Amicus Curiae of American History Professors

NOTABLE LEGAL CITATIONS

Brief in support of petitioner-appellant, NAACP Legal Defense and Educational Fund, Griffin v. Pate (Supreme Court of Iowa, 2016)
Complaint, Thompson v. Alabama (U.S. District Court for the Middle District of Alabama, 2016)
Majority Opinion, Griffin v. Pate (Supreme Court of Iowa 2016)
Complaint, Hand v. Scott (Florida Northern District Court, 2017)
Brief of Amici Curiae, by NAACP Legal Defense and Educational Fund, Inc., The Sentencing Project, and Southern Poverty Law Center, Voice of the Ex-Offender v. State of Louisiana (Louisiana Court of Appeals, First Circuit, 2017)
Brief of Amici Curiae, Cato Institute, Community Success Initiative, et al. v. Moore (Wake County, North Carolina Superior Court, 2020)
Brief of Amici Curiae, North Carolina Justice Center and Down Home NC, Community Success Initiative, et al. v. Moore (Wake County, North Carolina Superior Court, 2020)
Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit, Harness v. Watson (United States Court of Appeals for the Fifth Circuit, 2022).

Brief of Amici Curiae, NAACP Legal Defense and Educational Fund, Inc. and American Civil Liberties Union, in Support of Petitioners, On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit, Harness v. Watson (United States Court of Appeals for the Fifth Circuit, 2022)

Dissent of Justice Natalie Hudson, Schroeder v. Simon (Minnesota Supreme Court, 2023)

Brief of Amici Curiae Gregory P. Downs and Kate Masur in Support of Plaintiffs and in Opposition to Defendants' Motion to Dismiss the Complaint, King v. Youngkin (Eastern District of Virginia, 2023)

ARTICLE REVIEWER

The Public Historian
Journal of Southern History
Journal of Women's History
Virginia Magazine of History and Biography
Journal of the History of Sexuality
Yale Law Journal
Crime, Law and Social Change

BOOK MANUSCRIPT REVIEWER

University of North Carolina Press
University of Georgia Press
University of Arkansas Press
University of Kentucky Press
Louisiana State University Press
Oxford University Press
University of Virginia Press
University of West Virginia Press

SELECTED DEPARTMENTAL AND UNIVERSITY SERVICE

2018 - 2019	President, MTSU Faculty Senate
2010 - 2016	Director of Graduate Studies, History Department.
2014	Chair, Visiting Instructor Search Committee (hired 5 positions)
2008	Chair, Liaison Committee
2006	Chair, African American History Search Committee
2005, 2007	Chair, Peer Advisory Committee
2004 - 2006	Chair, Strickland Visiting Scholar Committee

OTHER PROFESSIONAL SERVICE, AWARDS, AND GRANTS

2024	Member, Spruill Prize Committee, Southern Associations of Women's Historians
2023-present	President, University of Richmond AAUP chapter

2023-present	Member, AAUP Virginia State Conference Executive Board
2021	Chair, Willie Lee Rose Prize Committee, Southern Association of Women's Historians
2021	Southern Historical Association Nominating Committee member
2020	Chair, Southern Historical Association, Charles S. Sydnor Award Committee
2020	Member, AAUP COVID-19 Governance Investigation committee and co-author of the *Special Report: COVID-19 and Academic Governance*
2019-2020	President, Tennessee University Faculty Senates
2018-present	Member, AAUP, Committee on College and University Governance
2018	Site visit, AAUP, to Stillman College to report on conditions for academic freedom and tenure
2018	Chair, OAH John D'Emilio LGBTQ History Dissertation Award committee
2018	Membership Chair, Tennessee State Conference, AAUP
2016-present	Editorial Board, *Journal of Southern History*
2016-2017	President, MTSU Chapter, AAUP
2016	MTSU Faculty Senate, College of Liberal Arts Representative
2016	External Program Reviewer, Arkansas State University, History Department
2015	College of Liberal Arts Faculty Research Award
2015	Program Committee for 2016 Southern Historical Association annual conference
2015	External Program Reviewer, University of Central Arkansas History Department
2010	Non-instructional Assignment Award, Middle Tennessee State University
2008	Program Committee for 2009 Southern Historical Association annual

	conference
2007	Faculty Summer Research Grant, Middle Tennessee State University
2006-2012	Secretary-Treasurer, Tennessee State Conference, American Association of University Professors
2005	Faculty Summer Research Grant, Middle Tennessee State University
2003	Co-Organizer, Sexual Worlds, Political Cultures Conference, October 2003. Funded in part by the Social Science Research Council.
2003	Faculty Summer Research Grant, Middle Tennessee State University
2001	Faculty Summer Research Grant, Middle Tennessee State University

TEACHING FIELDS

19th and 20th Century U.S., Legal and Political History, Southern History, LGBT History

DISSERTATIONS DIRECTED

2011	Angela Smith, "John Beecher: An Activist Poet Chronicles an American Century."
2016	Elizabeth Catte, "No Deed But Memory: The Public History of American Race Riots."

DISSERTATIONS ADVISED AS A COMMITTEE MEMBER

2020	Katherine Crawford-Lackey, “Public Protest as a Claim to Citizenship: Twentieth-Century Occupations of Washington, DC and their Role in Public Memory.”
2016	Joshua Howard, “Talking. Back with Post-it Notes: Informal Data Collection and Museum Visitors.”
2016	Cyrana Wyker, "Queering Collective Memory: Public History and the Future of the Queer Past."

COURSES TAUGHT

At University of Richmond:

Hist 213 Lawrence v. Texas
Hist 212 US Social Movements
Hist 199 The Women's Suffrage Movement
Hist 299 Supreme Court Cases of the 20th Century

At Middle Tennessee State University:

History 2020, US History Since 1877
History 4060, US History 1914-1945
History 4730, American Social History
History 4760, Race, Class, and Gender in Modern America
History 6104 Topics in American History: LGBT History
History 6240, Seminar in African American History
History 6104 Topics in American History: The Modern South
History 6014 Topics in Southern History: Capitalism and Incarceration
History 6170, Graduate Seminar in US History, 1914-1945
History 6020, Historical Research Methods