

# TriCorner News

from *The Lakeville Journal*,  
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## Will Civil War reconstruction never be finished?

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By Charles R. Church

Part 1 of 2

A series of brilliant lectures by Yale historian David W. Blight titled “The Civil War and Reconstruction” has me thinking. Many claim that Reconstruction ended almost 150 years ago. But I believe it has not; the work is still in progress. (Deep thanks are due to Prof. Blight for the facts and insights relating to Reconstruction that I have drawn from his lectures. The lectures are available at [www.yale.edu](http://www.yale.edu) <sup>[3]</sup>.)

In important ways, America has never recovered from one of its two Original Sins — importing Africans to toil as slaves in this land. (The other, of course, is our near-destruction of the native population.) Even as the Civil War was being won, the people on the winning side felt deeply divided about African-Americans. In the 1864 election, 45 percent voted against Lincoln and permanent emancipation of blacks. And after Lee’s surrender at Appomattox, the Second Founding of our nation, in which white supremacy would struggle with black equality, would begin in earnest.

The 13th Amendment abolished slavery in 1865. The Civil Rights Act of 1866 took a stab at granting full citizenship to blacks, then after an epic battle (and without input by representatives from the southern states) the 14th Amendment became law, with its guarantees of birthright citizenship and “the equal protection of the laws.” The amendment “federalized” the Bill of Rights for the first time, by granting to Americans the protections from state intrusion that the first 10 amendments had secured with regard to the national government.

In 1870, the 15th Amendment declared that the right to vote shall not be denied or abridged on account of “race, color, or previous condition of servitude.” But its wording left room for machinations in the states over qualifications to vote, and we are still paying for that.

But like all revolutions, the Reconstruction sparked a counter-revolution, and this one came with astonishing speed. In 1865, a Special Referendum in our own Connecticut overwhelmingly had

voted down the right of black men to vote. Southern states enacted “Black Codes,” of which Mississippi’s was particularly stringent. Not employed or “unlawfully” assembled free Negroes and mulattoes were deemed vagrants, subject to fines that, if not paid, exposed the offenders to arrest and involuntarily being put to plantation labor for whoever would pay the fine. For all periods of employment longer than one month blacks were required to enter into written contracts. If they left the job without “good cause” before completion of the term of service, if apprehended they would forfeit all wages earned and be carried back to the employer. Slavery, in modified form, was alive and well for freedmen.

The Ku Klux Klan by 1868 had become a terrible force in the battle to take back control of the South. The Klan sweepingly sought to intimidate blacks from voting. And it had burned dozens of black schools by the mid-1870s. Essentially, the White South wanted to keep blacks landless, dependent and stationary as agricultural workers.

Some hold that the Reconstruction ended on Easter Sunday, April 13, 1873, with the Colfax Massacre — the largest mass murder in our history, until the 9/11 attacks. Freedmen trying to prevent the forcible takeover of Louisiana’s state government by white Democrats were overpowered and indiscriminately slaughtered. All told, 80 to 150 black men were killed, mostly execution style, shot in the back of the head and several more times. Many had their bodies mutilated; dogs and turkey vultures ate their corpses.

Two years later, in “United States v. Cruikshank,” the U.S. Supreme Court voted 9-0 to dismiss indictments charging a criminal conspiracy to deprive the Colfax victims of their civil rights secured by the Constitution or federal laws. The rights of blacks to life and liberty were natural rights properly protected by the states, not the federal government! Blacks would now be at the mercy of hostile states.

Next week, the unfulfilled promise of Reconstruction: achieving racial equality, and the harsh reality that racism remains strong in America.

Charles R. Church is an attorney practicing in Salisbury who focuses primarily on Guantanamo Bay, detention, torture, habeas corpus and related issues.

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Field Notes From A Battleground

By Charles R. Church

### Part 2 of 2

Last week, we saw how Reconstruction sparked a counter-revolution in which the White South struggled — successfully — to keep African-Americans landless, dependent and stationary as agricultural workers. Progress lay ahead, and we now will look at just how far we have come. And how much farther we have to go.

I take Reconstruction's promise to be nothing less than racial equality. Seen that way, Reconstruction did not end in failure in 1873. Rather, at that point the project had just begun. Blacks had emerged from slavery with their freedom, but mostly in theory only. Basically, they owned only their bodies. They had no land, no tools and no money. They lacked education. While some had skills, most did not. So they became tenant farmers — sharecroppers — getting credit for seed, tools, living quarters and food, while working the land for an agreed share of the crop, less charges.

A mountain remained to be scaled. The Supreme Court was headed for the exits and so was the rest of the federal government. Terror was given a green light anywhere that state governments were unwilling to enforce the law. "Jim Crow" laws segregated blacks from whites in nearly every aspect of life, including education, public transportation, health care, housing and the use of public facilities. All through the south the Klan was winning the fight against Reconstruction through terror and political intimidation. Yet, with the thousands of blacks it murdered and the thousands it tortured, only 55 members were prosecuted!

What some call a national reconciliation — forged out of northern prejudice and exhaustion and southern hate — ensued. Once again, we can look to the Supreme Court for a bad example. In 1896, the Court handed down "Plessy v. Ferguson," its fallacious "separate but equal" ruling. It was not until 1954 that the justices corrected that folly in "Brown v. Board of Education" by recognizing that "separate educational facilities are inherently unequal," but even then they felt

obliged merely to direct that integration take place with “all deliberate speed.”

Yale University’s Prof. David W. Blight refers to the Civil Rights Movement as “the Second Reconstruction,” and surely it reinvigorated the struggle for black equality. But great hostility to that equality persisted, especially in the south. After he engineered passage of the Voting Rights Act of 1965 to outlaw literacy tests and poll taxes, President Johnson presciently remarked to staffer Bill Moyers: “Well, Bill, we done lost the South for a generation.”

Fast-forward with me to March 18, 2008, when Obama gave his stirring “Race Speech.” He had to do it, because he was being tarred incessantly by the Right with some incendiary remarks by his former pastor, the Rev. Jeremiah Wright. He met the challenge head-on, recalling our Constitution’s fundamental flaws in regard to slavery and race, depicting how wondrous it was that the son of a black Kenyan man and a white American woman could be seeking his nation’s highest office, then adding tellingly: “The fact is that the ... issues that have surfaced over the past few weeks reflect the complexities of race in this country that we’ve never really worked through....”

Now look at what has been said as he seeks a second term. Obama’s race gets raised, not directly and openly, as before, but by innuendo, with raised eyebrows and snickers. Or behind closed doors. Perhaps it’s because he’s now our president, and people dare not launch overtly racist attacks at our commander-in-chief in this time of war. But the cartoon that is “The Donald” Trump knew the score when he thumped the “birther” tub so often. Racism is alive and well in the USA. Mitt Romney jumped on that tawdriest of bandwagons on Aug. 24 when he crowed: “No one’s ever asked to see my birth certificate....” Not long before, a conservative website trumpeted that Obama had eaten dog meat while living in Indonesia as a young boy — and Romney’s team embraced the story. (True, they may have reached for a riposte to Gail Collins’s running joke about Romney’s road trip to Canada with his sick and defecating dog strapped to his car roof, but does anyone really think that was the only point?)

Want to claim all this is just blather? According to a recent study by the Brennan Center for Justice at New York University School of Law, 41 states (so far) have introduced restrictive voting legislation since the beginning of 2011. Five of the 10 states with the highest black turnouts in 2008 have passed restrictive voting laws, and 7 of the 12 states with the biggest growth in Latino population over the last decade have done so. Among the proposals are bills to require photo IDs to register or vote, or proof of citizenship. Others would make voter registration harder (for example, by restricting registration drives), and reduce absentee voting opportunities. Think these are only meant to protect against voting fraud? “The New Yorker” on Sept. 3 reported that Romney has “found little support among Latinos, blacks, and the young.” Those measures are focused on making voting harder for racially defined opponents of the Republican nominee.

Let this bad business end. At long last, let it end.

*Charles R. Church is an attorney practicing in Salisbury who focuses primarily on Guantanamo Bay, detention, torture, habeas corpus and related issues.*

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