

The Supreme Court's
Retreat from
Reconstruction

A Distortion of Constitutional Jurisprudence

Frank J. Scaturro

Supreme Courts Retreat From Reconstruction

Thomas J. Brown



Supreme Courts Retreat From Reconstruction:

Reconstructions Thomas J. Brown, 2006-11-09 The pivotal era of Reconstruction has inspired an outstanding historical literature In the half century after W E B DuBois published *Black Reconstruction in America* 1935 a host of thoughtful and energetic authors helped to dismantle racist stereotypes about the aftermath of emancipation and Union victory in the Civil War The resolution of long running interpretive debates shifted the issues at stake in Reconstruction scholarship but the topic has remained a vital venue for original exploration of the American past In *Reconstructions New Perspectives on the Postbellum United States* eight rising historians survey the latest generation of work and point to promising directions for future research They show that the field is opening out to address a wider range of adjustments to the experiences and effects of Civil War Increased interest in cultural history now enriches understandings traditionally centered on social and political history Attention to gender has joined a focus on labor as a powerful strategy for analyzing negotiations over private and public authority The contributors suggest that Reconstruction historiography might further thrive by strengthening connections to such subjects as western history legal history and diplomatic history and by redefining the chronological boundaries of the postwar period The essays provide more than a variety of attractive vantage points for fresh examination of a major phase of American history By identifying the most exciting recent approaches to a theme previously studied so ably the collection illuminates the creative process in scholarly historical literature

The History of the Supreme Court of the United States William M. Wiecek, 2006-01-23 The Birth of the Modern Constitution recounts the history of the United States Supreme Court in the momentous yet usually overlooked years between the constitutional revolution in the 1930s and Warren Court judicial activism in the 1950s 1941 1953 marked the emergence of legal liberalism in the divergent activist efforts of Hugo Black William O Douglas Frank Murphy and Wiley Rutledge The Stone Vinson Courts consolidated the revolutionary accomplishments of the New Deal and affirmed the repudiation of classical legal thought but proved unable to provide a substitute for that powerful legitimating explanatory paradigm of law Hence the period bracketed by the dramatic moments of 1937 and 1954 written off as a forgotten time of failure and futility was in reality the first phase of modern struggles to define the constitutional order that will dominate the twenty first century

The Will of the People Barry Friedman, 2025-09-23 In recent years the justices of the Supreme Court have ruled definitively on such issues as abortion school prayer and military tribunals in the war on terror They decided one of American history s most contested presidential elections Yet for all their power the justices never face election and hold their offices for life This combination of influence and apparent unaccountability has led many to complain that there is something illegitimate even undemocratic about judicial authority In *The Will of the People* Barry Friedman challenges that claim by showing that the Court has always been subject to a higher power the American public Judicial positions have been abolished the justices jurisdiction has been stripped the Court has been packed and unpopular decisions have been defied For at least the past sixty years the justices

have made sure that their decisions do not stray too far from public opinion Friedman's pathbreaking account of the relationship between popular opinion and the Supreme Court from the Declaration of Independence to the end of the Rehnquist court in 2005 details how the American people came to accept their most controversial institution and shaped the meaning of the Constitution

The Supreme Court's Retreat from Reconstruction Frank J. Scaturro, 2000-03-30 As the nation turned its back on Reconstruction the Supreme Court in turn narrowed Thirteenth Fourteenth and Fifteenth Amendment protections of former slaves thus straying from the understanding of the amendments framers Tracking a long line of cases that employed narrow constructions of these amendments and accompanying statutes this study compares the Court's propositions to the framers own interpretations The resulting portrait makes it clear that the Court contributed in a significant way to the nation's retreat from Reconstruction Before analyzing the relevant cases Scaturro provides a historical synopsis of the collapse of Reconstruction The final section demonstrates how the twentieth century Court handed down decisions that accommodated the demands of the Civil Rights Movement but did so with constitutional interpretations that preserved several misunderstandings about the Reconstruction Amendments especially the Fourteenth This study helps to resolve a contemporary dilemma regarding the consequences of the Court's narrowing of the Interstate Commerce Clause It also challenges long standing assumptions about the state action requirement of the Fourteenth and Fifteenth Amendments as well as the Fourteenth Amendment's Privileges and Immunities Clause Besides being valuable to Supreme Court historians the subject matter of this volume which covers both constitutional law and legal history will be of substantial interest to lawyers judges and political scientists particularly in view of recent developments on the high Court The lessons taught by this chapter of Supreme Court jurisprudence offer insight into constitutional interpretation in general and the conclusion develops this idea by looking at the problematic interaction between law and outside historical influences

The Madisonian Constitution George Thomas, 2008-08-01 Today we think of constitutional questions as being settled by the Supreme Court But that is not always the case nor is it what the framers intended in constructing the three branch federal government This volume examines four crucial moments in the United States political history the Civil War and Reconstruction the Progressive Era Franklin Delano Roosevelt's presidency and the New Deal and the Reagan revolution to illustrate the Madisonian view that the present rise of judicial supremacy actually runs counter to the Constitution as established at the nation's founding George Thomas opens by discussing how the Constitution encourages an antagonistic approach to settling disputes thereby preserving itself as the nation's fundamental law rather than ceding that role to the president Congress or Supreme Court In considering the four historical case studies he focuses on judicial interpretations and the political branches responses to them to demonstrate that competing conceptions of constitutional authority and meaning as well as intergovernmental disputes themselves rather than any specific outcome strengthen the nature of the nation's founding document as a political instrument Engagingly written and soundly argued this study clarifies and

highlights the political origins of the nation's foundational document and argues that American constitutionalism is primarily about countervailing power not legal limits enforced by courts

A Rift in the Clouds Brent J. Aucoin, 2007-08-01 *A Rift in the Clouds* chronicles the efforts of three white southern federal judges to protect the civil rights of African Americans at the beginning of the twentieth century when few in the American legal community were willing to do so Jacob Treiber of Arkansas Emory Speer of Georgia and Thomas Goode Jones of Alabama challenged the Supreme Court's reading of the Reconstruction amendments that were passed in an attempt to make disfranchised and exploited African Americans equal citizens of the United States These unpopular white southerners two of whom who had served in the Confederate Army and had themselves helped to bring Reconstruction to an end in their states asserted that the amendments not only established black equality but authorized the government to protect blacks Although their rulings won few immediate gains for blacks and were overturned by the Supreme Court their legal arguments would be resurrected and meet with greater success over half a century later during the civil rights movement

The Dark Past William M. Wiecek, 2024 *The Dark Past* offers a historical overview and interpretive guide to all the major cases decided by US Supreme Court that have affected the freedom and rights of Black Americans since 1800 It lends coherence to what could otherwise be a disjointed chronicle of cases and connects the events of the past to the current era of racial inequality

University of Chicago Law Review: Volume 78, Number 4 - Fall 2011 University of Chicago Law Review, 2012-04-11 A leading law review now offers a quality eBook edition The fourth and final issue of 2011 Volume 78 features articles and essays from internationally recognized legal scholars and governmental leaders including Cass Sunstein on empirically informed regulation Jonathan Bressler on jury nullification and Reconstruction Daniel Schwarcz on standardized insurance policies and Bertral Ross II writing against constitutional mainstreaming in statutory interpretation In addition the issue includes a review essay on the book *The Master Switch* as well as student Comments on such subjects as same sex divorce religious practices by prisoners falsely claiming Medal of Honor status and enhancement in federal sentencing The issue is presented in modern eBook formatting and features active Tables of Contents linked footnotes and URLs and legible graphs and tables

The Million-Dollar Man Who Helped Kill a President Christopher McIlwain, 2018-07-19 George Washington Gayle is not a name known to history But it soon will be Forget what you thought you knew about why Abraham Lincoln was assassinated by John Wilkes Booth No it was not mere sectional hatred Booth's desire to become famous Lincoln's advocacy of black suffrage or a plot masterminded by Jefferson Davis to win the war by crippling the Federal government Christopher Lyle McIlwain Sr's *Untried and Unpunished: George Washington Gayle and the Assassination of Abraham Lincoln* exposes the fallacies regarding each of those theories and reveals both the mastermind behind the plot and its true motivation The deadly scheme to kill Lincoln Vice President Andrew Johnson and Secretary of State William Seward was Gayle's brainchild The assassins were motivated by money Gayle raised Lots of money 20 000 000 in today's value Gayle a prominent South Carolina born Alabama lawyer had

been a Unionist and Jacksonian Democrat before walking the road of radicalization following the admission of California as a free state in 1850. Thereafter he became Alabama's most earnest secessionist though he would never hold any position within the Confederate government or serve in its military. After the slaying of the president, Gayle was arrested and taken to Washington DC in chains to be tried by a military tribunal for conspiracy in connection with the horrendous crimes. The Northern press was satisfied Gayle was behind the deed especially when it was discovered he had placed an advertisement in a newspaper the previous December soliciting donations to pay the assassins. There is little doubt that if Gayle had been tried he would have been convicted and executed. However he not only avoided trial but ultimately escaped punishment of any kind for reasons that will surprise readers. Rather than rehashing what scores of books have already alleged, *Untried and Unpunished* offers a completely fresh premise, meticulous analysis and stunning conclusions based upon years of firsthand research by an experienced attorney. This original thought provoking study will forever change the way you think of Lincoln's assassination.

Our Fragile Freedoms Eric Foner, 2025-09-02

From one of the most acclaimed and influential historians of the United States, an insightful guide to our history and why it matters. Eric Foner has done more to shape the public and professional understanding of American history than any other scholar. The preeminent historian of the Civil War era, Foner's keynote has been American freedom and the recurring battles over its meanings and boundaries. His award-winning works show that freedom has been a birthright for some and a struggle for others; that rights gained can also be lost and that they must always be tended with knowledge and vigilance. The present political moment makes the importance of these themes abundantly clear. This collection of Foner's recent reviews and commentaries demonstrates the range of his interests and expertise, running from slavery and antislavery through the disunion and remaking of the United States in the nineteenth century, Jim Crow and the civil rights movement, and into our current politics. Each piece shows a master at work, melding historical knowledge and balanced judgment with crystalline prose. Foner takes up towering figures from Washington to Lincoln, Douglass and Rosa Parks, pivotal events such as the Fugitive Slave Act and the Tulsa Race Massacre, and the fragility of constitutional guarantees to civil liberties, due process and birthright citizenship, whether in times of war or peace. He also explores recent controversies over how to commemorate and how to teach our history.

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