

Voter Disenfranchisement in the United States: A Political-Economic History

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Book Proposal

In the aftermath of the Civil War, the United States attempted a new experiment in democratic representation. Led by Republicans in Congress, who sought a “new birth of freedom,” all eleven states of the vanquished Confederacy were re-integrated into the Union by 1870, with former slaves (“freedmen”) elevated to national citizenship and provided with suffrage rights.¹ While significant gains were made during Reconstruction, they did not last. By 1877, Democrats controlled all eleven ex-Confederate states, routinely using terror and intimidation against the freedmen and their White Republican allies. By 1890, Southern Democrats sought to entrench their political control formally, using statutes and constitutional revisions to disenfranchise the freedmen. Chief among these were poll taxes and literacy tests. By 1908, all eleven Southern states had adopted some mix of disenfranchising provisions, which reduced Black voting in the ex-Confederacy to near zero.²

¹ See Valelly (2004) and Jenkins and Heersink (2020) for good political histories of the Reconstruction Era.

² For those looking for a primer on the 1890-1908 era, Key (1949) is an authoritative and comprehensive starting point. Kousser (1974) and Perman (2001) are important updates.

By the 1960s, liberal national Democrats – both fortified and pressured by leaders of the civil rights movement – helped sweep those disenfranchising provisions away. The 24th Amendment (1964), the Civil Rights Act of 1964, and the Voting Rights Act of 1965 did away with the poll tax, literacy tests, and other disenfranchising laws in federal elections. And by 1970, Congress and the Supreme Court had extended those bans to all elections nationwide. Much of this history is well known.³

What is *not* well known, however, is how much those disenfranchising laws mattered. Specifically, how much did the enactment of poll taxes or literacy tests affect turnout in federal and state elections? And how much did these disenfranchising provisions dampen vote totals for Republican candidates in the South? While some work examines the initial period when the disenfranchising laws were adopted (Kousser 1974; Rusk 1974; Rusk and Stucker 1978), as well as the later period when disenfranchising laws were eliminated (Filer, Kenny, and Morton 1991; Besley and Case 2003; Springer 2014), no studies examine the *entire* period. And without a focus on the complete time in which the disenfranchising laws were in place, a precise estimate of how impactful they were cannot be obtained.

We perform such an analysis in this book. After providing a general history of disenfranchisement in the United States, including the antebellum era when alien voting laws and felon voting laws were first adopted, we conduct an in-depth analysis of the period from 1870 (when all ex-Confederate states were back in the Union) to 1970 (when literacy tests, the last of the Jim Crow-era disenfranchising provisions, were finally eliminated). Moreover, we look not just at the eleven Southern states, but at all 50 states over that timespan. This allows us to examine factors that affected turnout and voting across the entire nation. This is important, as

³ See, for example, Graham (1990).

some disenfranchising laws – like literacy tests and ex-felon voting prohibitions – extended beyond the South. In sum, we compile a dataset of statewide executive elections – presidential, gubernatorial, and senatorial (after the adoption of direct election) – in all 50 states over 101 years, which allows us to capture the full range of disenfranchising provisions and conduct a difference-in-difference analysis (thus tracking when key laws turned “on” or “off”) to provide the first systematic, causal analysis of the “disenfranchisement era” in U.S. elections.⁴

We find that the poll tax – used exclusively in the ex-Confederate states – was the main driver of disenfranchisement. The poll tax could prevent nearly a quarter of the electorate from voting by increasing the cost of doing so. As these voters were far more likely to favor the Republicans, their exclusion dealt a crushing blow to the GOP’s hopes of winning in the South. We also find that ex-felon disenfranchisement was strongly associated with reduced turnout and Republican weakness – with the relationship strongest in places with large Black populations. We also find some – but less clear – evidence for the impact of literacy tests. Overall, literacy tests, unlike poll taxes and ex-felon disenfranchisement laws, may have primarily excluded uneducated Whites from voting, largely because the former two institutions were so devastating to the Black electorate.

We then explore why the South was different in terms of disenfranchisement. For example, we examine why literacy tests, which existed also outside of the South, seem to have had minimal impact on voting elsewhere, but a meaningful effect in the South. We consider a variety of possible explanations, including the cultural dominance of white supremacy, racial demographics within Southern states, the politically precarious position of the formerly dominant

⁴ We designate it the “disenfranchisement era” for an easy reference to the specific period we study. We note, though, that almost all African Americans, Native Americans, and women were disenfranchised prior to the period we analyze.

Democratic Party, and the desire to eliminate uncertainty in elections. Finally, we explore why the Border states – Kentucky, Maryland, Missouri, Delaware, and West Virginia – did not exhibit the same level of political aggression. These states allowed slavery prior to the Civil War, and were party to Jim Crow excesses (laws were adopted to segregate and diminish the flourishing of African Americans) into the mid-20th century. Yet it was only in the eleven ex-Confederate States that we observe the enactment of disenfranchising laws.

We then drill down into three disenfranchisement devices: the Australian ballot, literacy tests, and felon laws. The Australian ballot took on various forms (Engstrom and Roberts 2020). Candidates could be listed by office (the “office bloc”) or separated by party (the “party column”). And the ballot itself could come with a box to check that would allow one to vote for the entire party’s slate. The movement between these various devices was strategic and could make the form of the Australian ballot more or less of a de facto “literacy test.” Formal literacy tests were used across the United States, and they also took different forms: they could involve a reading test, a writing test, or both. And there were exceptions to the laws that would allow one to skip the test altogether (“grandfather clauses”) or simply respond verbally to instructions by an election administrator (“understanding clauses”). How a state implemented the literacy test, and whether it allowed an exception, mattered in terms of disenfranchisement. Finally, felon voting laws, which are as old as the country itself (Brooks 2005), also took on various forms. The strictest was permanent disenfranchisement of ex-felons. But, short of that, states also adopted laws to prevent those who had not fully served their sentence from voting. This might include those currently in prison, those on parole, and/or those on probation. How a state chose to view a felony conviction would matter for an individual’s voting rights going forward.

Finally, we look at the post-1970 era. During much of this more-than-half century, many states eliminated their ex-felon laws. In addition, numerous states made it easier to vote, by allowing for early voting periods and voting by mail, and the federal government made it easier to register (the “Motor Voter” law). However, many states recently have adopted provisions that would make voting harder, like the enactment of voter ID laws, the reduction in early voting periods, and greater restrictions on absentee voting. We examine the push and pull of these various state laws, explore their motivations, and assess the magnitude of their effects. In doing so, we compare and contrast this post-1970 era to the “disenfranchisement era” during Jim Crow and evaluate where we are as a nation now in the third decade of the 21st century.

We conclude by stepping back and evaluating disenfranchisement in the United States over its entire history, identifying commonalities in state decision-making and assessing the “exceptional” nature of the South in suffrage deprivation. We also discuss public perceptions in recent years on voter ID laws and early voting periods, and how citizens’ reactions break down by ideology and party. Finally, we look ahead and consider how disenfranchisement may or may not affect future elections, and the ways in which those who support more restrictions on voting rights might change their tactics.

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Chapter Outline

Chapter 1: Introduction

We lay out the logic of strategic disenfranchisement, briefly review the various techniques and institutions used to disenfranchise voters in pre- and post-Civil War America, and preview the research design, methods, results, and essential takeaways of the book.

Chapter 2: The History of Post-Civil War Disenfranchisement

We discuss the political situation in the South upon the readmission of those states into the Union. We briefly review the successes and failures of Reconstruction on an electoral level and then discuss the process by which Southern states began to engage in mass disenfranchisement. Here, we lay out the key methods of disenfranchisement – poll taxes, literacy tests, felon disenfranchisement, and white primaries. We describe the history of each, with specific focus on how they were deployed in the post-Civil War South. We analyze telling illustrative examples, such as a disenfranchising referendum in North Carolina in 1900. In this, we show the variations in how these methods were used across states and time. Finally, we will consider the implications of two potentially related developments – the move to the Australian Ballot and the enfranchisement of women – might have affected turnout and voting.

Chapter 3: The Effects of Voter Disenfranchisement on Turnout and Republican Party Success in the Jim Crow Era, 1870-1970

We expand on an article that measures the effects of voter disenfranchisement mechanisms on (a) turnout and (b) Republican Party vote share in elections at the presidential, gubernatorial, and senate level from 1870 to 1970. We utilize regression models with state- and year-fixed effects to isolate the change in turnout and GOP vote share owed to different mechanisms and changes in voting institutions. This will include all of those discussed in Chapter 2, on a macro level (for

example, treating all types of literacy tests as equivalent). We advance existing research by looking at these disenfranchising institutions collectively, rather than as single institutions in isolation, and attempt to determine the marginal impact of each. Additionally, we look not only at their adoption, but also at their removal, to obtain a general estimate for the effect of each type of disenfranchisement tool.

Chapter 4: Why was the South Different?

We answer a question raised by extant research as well as our own Chapter 3: “Why was the South different?” It is common in American Politics models that a simple dummy variable, “South,” yields a statistically significant result. We find the same in our Chapter 3 models. Yet simply being called “South” does not causally lead to different outcomes in voting (or a range of other political, cultural, economic, and medical outcomes). We attempt to understand why, for example, literacy tests (which also existed outside of the South) had little impact on voting elsewhere, but a meaningful effect in the South. We explore a variety of possible explanations, including the cultural dominance of white supremacy, racial demographics within Southern states, the politically precarious position of the formerly dominant Democratic Party, and the desire to eliminate uncertainty in elections. In a subsection of this chapter, tentatively titled “The Dog that Did Not Bark: The Border South,” we review why Border states did not exhibit the same level of political aggression. These states raise a specific example of the broader phenomenon: that in late 19th and early 20th century America, anti-Black racism was widespread, as were efforts to segregate and diminish the flourishing of African Americans. Yet, it was only in the ex-Confederate states that we observe the sustained effort to institutionalize disenfranchisement. States such as Maryland, with a history of slavery, racism, and segregation, ultimately declined to follow the example set by states just to their south.

Chapter 5: The Australian Ballot

We review the history and analyze the outcomes of the Australian Ballot. Ostensibly a progressive change to remove partisan electoral control, the Australian Ballot also distinctly increased the difficulty of voting. We discuss why this was so: by eliminating the color-coded and simplified ballots of the partisan-control years, the Australian Ballot effectively functioned as a weak literacy test. There is evidence that Southern leaders were aware of this (Kousser 1974) and employed the Australian Ballot accordingly – alongside the usual disenfranchising laws. The Australian Ballot came in different varieties, some more and others less demanding of voters and protective of parties. These varieties capture the essential tension: all the efforts to make the ballot less convenient for parties asked more of the voter to be able to read and understand the names and offices on the ballot. We explore the impact of the Australian Ballot, investigate its potential strategic use as a disenfranchising tool, and evaluate the differing impacts of its widely used variants.

Chapter 6: Literacy Tests

We survey the history of literacy tests and analyze their impacts in post-Civil War America. Literacy tests were – after ex-felon laws – perhaps the most widely used disenfranchising tools in the United States. Their adoption in some states predated the Jim Crow era entirely and they remained on the books of some non-Southern states until 1970. We also review the many varieties of literacy tests – some about reading, some about writing, some combining the two. They ranged in their difficulty and the number of ways to avoid them. We analyze the effects of these variations on turnout and explore infamous manipulations, such as the Grandfather Clause. The Grandfather Clause highlights a feature of literacy tests: they were very blunt tools for disenfranchising African Americans, as they also disenfranchised many uneducated White

voters. We explore the politics of implementing disenfranchising methods that targeted poor Whites and Blacks at the same time. We also explore how regional differences in partisan power meant that the party that gained through literacy tests in one region (such as the Republican Party in the North, where literacy tests excluded poorer whites who were opposed to the business-friendly GOP) could lose from them in another (the Republican Party in the South, which received votes from African Americans as well as some poorer Whites, who were both targeted by literacy tests). We also show that the effects of literacy tests were not meaningfully associated with actual literacy rates, indicating that the test was a vehicle for disenfranchisement at the whim of election officials rather than a genuinely enforced assessment.

Chapter 7: Felon Disenfranchisement Laws

We analyze the country's oldest and also most current disenfranchisement mechanism, felon disenfranchisement laws. We review the history and rise to near universality of felon disenfranchisement in the United States, and focus on the rise of ex-felon disenfranchisement laws as sources of meaningful variation. States vary in when, if at all, felons would recover their right to vote. Some states returned it after the end of a prison term, other after the end of all penalties (including supervised release periods), others only after the payment of all fines and fees, and other states never returned the right to vote for convicted felons. We analyze the different turnout effects of these variations and explore the development and near universal use of this disenfranchising tool.

Chapter 8: Disenfranchisement after 1970

We analyze how disenfranchisement developed after the close of the Jim Crow era. One institution survived the Civil Rights Movement and the ending of Jim Crow: felon

disenfranchisement. We analyze the development of felon and ex-felon disenfranchisement laws into the 21st century and show their continued impact on turnout. We review the much more developed literature on contemporary efforts to shape – and diminish – electorates, such as voter ID laws and restrictions on early voting periods. We look for commonalities and differences in the motivations and magnitudes of effects between Jim Crow-era disenfranchisement policies and the efforts observed today.

Chapter 9: Conclusion

We summarize the research presented in the book, highlight its contributions to various academic literatures, and present the key things we believe we have learned from the research. We also review some of the weaknesses of our approach – and how different approaches might refine our answers – and identify questions that remain unanswered or that have been raised by our work.

We conclude by discussing where we are now as a nation, in part by analyzing public perceptions (polling) in recent years on voter ID laws and early voting periods, and how citizens' reactions break down by ideology and party. Finally, we look ahead and consider how disenfranchisement may or may not affect future elections, and the ways in which those who support more restrictions on voting rights might change their tactics.