

## Research Article

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# “100,000 Unarmed Men in Washington”: Public Opinion and the 1876 Election Compromise

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### Abstract

This article examines how public opinion—notably political activism and protest, as well as threats of violence, and violence itself—shaped the eventual resolution of the 1876 election. While not discounting the bargaining or machinations of party elites in forging an ultimate compromise, the standard explanation in the scholarly literature, the emphasis here adds important texture and nuance to the conversation, and strongly suggests that public opinion (broadly construed) played a significant, if not exclusive, role in pressuring party leaders to compromise on the eventual Electoral Commission Act that resolved the crisis. In particular, a series of January 1877 demonstrations held across several key states, coupled with the threat of “menace” at the heart of the Southern rifle clubs that were prominent in the campaign and its aftermath, provided strong incentives to partisan leaders and especially members of Congress to seek compromise to resolve the electoral crisis. The article also addresses the contested nature of mass meetings and protests in this era—and in general—and how partisans seek to define terms and behaviors to suit their political positions.

This article addresses the 1876 election from a unique perspective: how political activism and protest—as well as threats of violence and violence itself—shaped the eventual outcome. Relying principally on historical newspapers, as well as the congressional debates over the Electoral Commission Act, I examine the combination of these forces under the broad heading of *public opinion*. Although a novel point of emphasis, the research presented here speaks directly to a prominent research tradition on the 1876 election. This tradition was inaugurated by C. Vann Woodward’s seminal *Reunion and Reaction*, which spawned an extensive literature on the “Compromise” that resolved the 1876 election.<sup>1</sup> While not discounting the bargaining or machinations of party elites in forging an ultimate compromise, the emphasis on public opinion here adds important texture and

<sup>1</sup> C. Vann Woodward, *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction* (New York: Oxford University Press, 1966). The literature on the 1876 election is vast and includes at least three main research emphases. First, many studies focus less on the actual election itself and instead examine the policy outcomes of the election, namely, what it meant for Reconstruction and, especially, how it was detrimental to the voting rights of African American Southerners for decades thereafter. See, among others, Keith Ian Polakoff, *The Politics of Inertia: The Election of 1876 and the End of Reconstruction* (Baton Rouge: Louisiana State University Press, 1973); Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988); William Gillette, *Retreat From Reconstruction, 1869–1879* (Baton Rouge: Louisiana State University Press, 1979). Second, scholars have focused on the hours, days, and weeks after the election, examining the counting of ballots in the disputed states and the machinations of the party leaders as each party sought to win the state battles. Studies of this type are many and this is just a small sampling: Ronald F. King, “Counting the Votes: South Carolina’s Stolen Election of 1876,” *The Journal of Interdisciplinary History* 32, no. 2 (Autumn, 2001), 169–91; Jerrell H. Shofner, “Fraud and Intimidation in the Florida Election of 1876,” *The Florida Historical Quarterly* 42, no. 4 (April, 1964): 321–30; Philip W. Kennedy, “Oregon and the Disputed Election of 1876,” *The Pacific Northwest Quarterly* 60, no. 3 (July, 1969): 135–44; T. B. Tunnell Jr., “The Negro, the Republican Party, and the Election of 1876 in Louisiana,” *The Journal of the Louisiana Historical Association* 7, no. 2 (Spring, 1966): 101–16. And, third, there has been seemingly endless debate on the “Compromise” that led to Hayes’s eventual election, an ostensible backroom deal between Republicans and Southern Democrats wherein the latter agreed to Hayes’s election in exchange, depending on the scholar, for various prizes, such as the end of Reconstruction and thus the support of “home rule” in the Southern states, the promise of political appointments in the Hayes administration, and/or economic benefits to the Southern states, among other goods. As part of this debate, a number of scholars question that there was anything truly approaching a backroom deal or compromise at all, no matter the supposed prizes. The most important work here is Woodward’s *Reunion and Reaction*. Not only would this book essentially provide the scholarly narrative of the 1876 election and its aftermath for a generation of scholars, but it would motivate many works responding to and criticizing its main tenets. For instance, see Michael Les Benedict, “Southern Democrats in the Crisis of 1876–1877: A Reconsideration of Reunion and Reaction,” *The Journal of Southern History* 46, no. 4 (November, 1980): 489–524; Allan Paskin, “Was There a Compromise of 1877?” *The Journal of American History* 60, no. 1 (June, 1973): 63–75. The so-called compromise figures prominently in most of the recent studies of the election as well, such as Roy Morris, Jr., *Fraud of the Century: Rutherford B. Hayes, Samuel Tilden, and the Stolen Election of 1876* (New York: Simon & Schuster, 2003); Michael F. Holt, *By One Vote: The Disputed Presidential Election of 1876* (Lawrence: University Press of Kansas, 2008).

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nuance to the scholarly conversation, and strongly suggests that public opinion (broadly construed) played a significant, perhaps even critical, role in pressuring party leaders to compromise on the eventual Electoral Commission Act that resolved the crisis. In particular, a series of January 1877 demonstrations, coupled with the threat of “menace” at the heart of the Southern rifle clubs that were prominent in the campaign and its aftermath, profoundly shaped the political context and provided strong incentives to partisan leaders, and especially members of Congress, to seek compromise to settle the electoral crisis.

Although modern opinion polling was yet years away from development in 1876, public opinion was expressed in a number of ways. In fact, a leading text on public opinion research—the seminal *Public Opinion* by Glynn, Herbst, O’Keefe, and Shapiro,<sup>2</sup> now in its third edition—places substantial emphasis on public opinion before the advent of modern polling and strongly recommends researching public opinion in the pre-polling era. And rather than discouraging the use of the term *public opinion* because it is a multifarious and “contested concept,” Glynn et al. suggest its use for precisely this reason, and also because it can be a “gateway for understanding the challenges of democratic theory and practice.”<sup>3</sup>

Glynn et al. identify two pre-polling expressions of public opinion that are at the heart of the 1876 election. First, a key category of public opinion expression comes through “media and elite opinion.”<sup>4</sup> During the 1876 election, newspapers were the media of the day. “Newspapers both reflect and direct public opinion, so the place of this medium in the political process is crucial.”<sup>5</sup> Not only did nineteenth-century newspapers express opinion through editorials, but they also reflected the sentiments, values, and ideologies of their readers—especially as this was an era wherein the newspapers were highly partisan. Moreover, another of the central tasks of newspapers was to publish elite political actors’ opinions, notably those in positions of local, state, and federal government, in order to both connect with and shape the views of the mass public.

Second, Glynn et al. identify public opinion as to be “found in the clash of group interests.” Public opinion is “not so much a function of what individuals think” but, rather, is the “result of public debate among groups.”<sup>6</sup> And these “groups” in the nineteenth century were less the “interest groups” that proliferate today and more local, state, and federal *party* groups, as well as regional and, particularly, racial groups. And while clashes of group interests often take the form of bargaining and negotiating, whether at the electoral or governing stages, especially between the political parties, public opinion expression can also come through less regular channels, such as mass demonstrations and protests, even riots. The techniques of “petition” and “public rally” emerged in the

seventeenth and eighteenth centuries and were used typically for “focusing legislators’ attentions on topics of importance to common folk.”<sup>7</sup> Though often peaceable, these rallies could also become riotous and violent at times. And, yet, Glynn et al. strongly advocate for the classification of these riotous group expressions as *public opinion*, for “rioting is one of the most obviously *public* of public opinion technologies.”<sup>8</sup>

Accordingly, this article identifies four distinct types of *public opinion* expression: (1) *speeches and publications*, especially as expressed through the medium of newspapers; (2) *peaceful and nonthreatening mass meetings*; (3) *peaceful-but-threatening mass meetings*; and (4) *violent or riotous behavior*. All four of these manifestations of public opinion are well-represented during the time period under consideration here. That these expressions of public opinion have been less studied, if not entirely ignored, in the conventional literature on the 1876 election is unfortunate, as they helped to shape the election and its aftermath profoundly. Furthermore, the role of public opinion in that election is indeed a gateway for considering the fundamental challenges for democratic theory and governance brought especially by mass meetings, demonstrations, and protests, as is discussed in Sect. 6, “Conclusion.”

Of necessity, this article begins with a prologue outlining the standard narrative account of the 1876 election. After establishing this baseline, the article proper begins by examining the influence of public opinion on the 1876 election(s)<sup>9</sup> in a largely chronological manner. I first address *peaceful-but-threatening mass meetings* that proliferated in the South, paying particular attention to the “rifle clubs” that became fixtures of the post-Civil War South and staples of election campaigns in the mid-1870s. Though prominent in the other contested states of Louisiana and Florida in 1876—and part of the emergent Southern political “counterrevolution” of the 1870s<sup>10</sup>—South Carolina’s rifle clubs will be our case study here.<sup>11</sup> Rifle clubs were often present at political rallies and parades, and they surely constituted a *threat* of violence, but outright violence was rare, considering the prevalent nature of these organizations and of guns in the hands of private individuals in the postwar South. Nevertheless, this section also addresses several riots in South Carolina, the balance of them at least partially attributable to the rifle clubs, and thus also examines *violent or riotous behavior* as an expression of public opinion. These riots would prompt state and federal

<sup>7</sup> *Ibid.*, 57.

<sup>8</sup> *Ibid.*, 58.

<sup>9</sup> Although I will often use the singular term “election,” as I am ultimately focused on the presidential election between Samuel Tilden and Rutherford B. Hayes, it is important to keep in mind that the *state* elections as well as *federal congressional* elections were occurring simultaneously and were often interconnected and overlapping with the presidential election.

<sup>10</sup> The term “counterrevolution” is from George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (Athens: The University of Georgia Press), 1984.

<sup>11</sup> Highlighting South Carolina is predominantly in the interest of time. The rifle clubs of these three states were similar in their operations, actions, and influence, though Florida’s rifle clubs were the least organized and influential of the three (see Rable, *But There Was No Peace*, 180). Moreover, the rifle clubs of South Carolina—because of the substantial tumult before and after the election down there—probably got the most attention nationally and thus were influential in shaping public opinion beyond the state’s borders.

<sup>2</sup> The first edition, cited in this article, is Carroll J. Glynn, Susan Herbst, Garrett J. O’Keefe, and Robert Shapiro, *Public Opinion* (Boulder, CO: Westview Press, 1999).

<sup>3</sup> Glynn et al., *Public Opinion*, 28.

<sup>4</sup> *Ibid.*, 20–22.

<sup>5</sup> *Ibid.*, 46, emphasis in the original.

<sup>6</sup> *Ibid.*, 19.

responses, especially a proclamation by President Grant disbanding the rifle clubs in South Carolina. The actions of these rifle clubs in South Carolina and throughout the South would cast a long shadow over the 1876 election, with many critics seeing their influence on, or even likeness in, a series of Democratic mass meetings held in January 1877.

Second, I examine a representative sample of statements and declarations by political leaders and especially partisan newspapers, offered in the aftermath of the election. These expressions of opinion through *speeches and publications* run the gamut from decidedly moderate, even bland, opinions, to those that advocate for the taking up of arms to assure the appropriate outcome. These opinions of political leaders and newspaper editors—and the newspapers in general—played a critical role in the eventual outcome of the election, especially the heated exchanges between partisans that escalated political tensions and fueled significant public anxiety. Arguably, among the most important of the leaders was Tilden himself, who discouraged violence (and, initially, even protests) in his name, preached moderation and restraint, and preferred a legalistic opposition strategy. Though these expressions of opinion were predominantly those of elites, they frequently reflected mass-based opinion even as they sought to shape it, especially in that the newspapers of the day were fundamentally political, as well as regionally dispersed, and thus highly dependent on their partisan supporters.

The third section addresses the many *peaceful and non-threatening mass meetings* or demonstrations that were organized around the country beginning in December 1876 and crested in meetings across several states—Ohio, Illinois, and Indiana, as well as in Washington, DC—on January 8, 1877. Organized by Democrats, these meetings were nonviolent and even in rhetoric were typically moderate and reserved, though Congressman Henry Watterson's call for "100,000 unarmed men" to come to Washington on February 14 to oversee the counting of the electoral vote was a cause for concern in some quarters. Moreover, each meeting passed resolutions, calling for, among other things, a congressional solution to what had by then become an impasse regarding how to count the electoral votes from the contested states. The February 14th meeting was never held because a congressional solution did come in the form of the Electoral Commission Act, passed in late January.

The fourth section examines the congressional debates on the Electoral Commission Act as well as the newspaper and public reception of the act during debate and upon passage, thus highlighting another round of opinion expression through *speeches and publications*. While nearly all scholars who have written on the 1876 election have diminished the role of the January protests in the Electoral Commission Act compromise, the analysis reveals that numerous members of Congress—especially on the Republican side of the aisle—were fixated on the protests and especially Watterson's speech. These were not brief and isolated references, but substantial and significant arguments made by multiple members of Congress, senators and representatives alike. Not only this, but analysis of newspaper commentary from the time reinforces the role the protests played in the

eventual congressional compromise. These debates, and the newspaper coverage of them, exhibit clear signs that the mass protests—and mass-based public opinion in general—helped to move elites in Washington toward an electoral compromise.

The article ends with a short section summarizing the role of public opinion—especially political protest and even threats of violence—in forging the ultimate outcome of the 1876 election. Here the relationship is considered between peaceful assembly and violent action, as specifically applied to the 1876 election but also more generally. Further examined are the ways by which partisans seek to define terms and behaviors—especially "bulldozing," "insurrection," and "rebellion"—based upon their political interests and objectives.

### I. "A Shadowy Cabal of White Politicians Cynically Selling Out the Futures of Four Million Black Southerners"

Before embarking on our analysis, a very brief rundown of the key developments and controversies of the 1876 election is in order. The election pitted Republican Rutherford B. Hayes, from Ohio, against Democrat Samuel J. Tilden, from New York. Due to scandals in the second term of incumbent president, Republican Ulysses S. Grant, as well as the growing power of the Democratic party in the Southern states, the contest was closely fought. On election night, Tuesday, November 7, 1876, and into the next day, most of the commentary on the election assumed that Tilden had prevailed. As the returns were coming in on that Tuesday night, it was clear that Tilden had likely received 184 electoral votes, one electoral vote shy of the required 185. And with the three Southern states of Florida, Louisiana, and South Carolina, which were yet to report, likely to also support Tilden, it was understandable for newspapers and commentators, on both sides of the aisle, to pronounce Tilden as the victor. And, yet, by the next day, due particularly to the hard work of Republican operatives,<sup>12</sup> both in Washington, DC, and on the ground in the three Southern states, Tilden's "victory" would be called into question. Both Hayes's and Tilden's supporters would flood the states thereafter in an attempt to shape the votes toward their candidate, and thus would ensue bitter political battles in the three states and in Washington, DC, that would stretch well into 1877.<sup>13</sup>

One of the complexities of the 1876 election is that concurrent to the presidential election there were state gubernatorial and legislative races, and in all three of the Southern states with a contest or controversy over the presidential race, there were also contests over gubernatorial and legislative races. In fact, in both Louisiana and South Carolina, there would be competing governors and state legislatures, with neither state resolving which governor and legislature

<sup>12</sup> These operatives included the *New York Times*, then a Republican-supporting newspaper that played a large part in the early shaping of the post-election narrative to favor Hayes's winning the three contested Southern states.

<sup>13</sup> There was also a sideshow in Oregon, where the status of one of the Republican electors was called into question. For an extended discussion of this aspect of the election, see Harold C. Dippie, "Corruption and the Disputed Election Vote of Oregon in the 1876," *Oregon Historical Quarterly* 67, no. 3 (September, 1966): 257–72.

were legitimate until 1877 (in both cases it would be the Democratic governors and legislatures that would prevail).<sup>14</sup> The political battles over the counting of votes in Florida, Louisiana, and South Carolina wore on through November and into December, with the Republican-controlled “returning boards” in each of these states, over Democratic objections, eventually awarding each state’s popular—and thus electoral—vote to Republican Hayes. Not surprisingly, when the electoral college members met in their respective states on December 6 to cast their votes, each of these three states put forth two competing slates of electors, setting the stage for a showdown in Congress with the counting of the electoral votes. This counting of electoral votes was to be held on February 14, 1877, in a joint session of Congress, and after the December 6th vote, this joint session of Congress became the focus of the political battle, with each side—Democrat and Republican—making predictably partisan arguments to sustain their positions.

Democrats appealed to the “Twenty-second Joint Rule,” which they believed would permit the Democratic House to reject the Republican electors from the three questionable Southern states and thereby swing the election to Tilden. This rule had been adopted by the House and Senate in 1865 (during the last session of the Thirty-Eighth Congress), and it “permitted either the Senate or the House to throw out any electoral votes it considered invalid, something that had been done five separate times in the presidential elections of 1864 and 1872.”<sup>15</sup> If the Democratic House on February 14, 1877, rejected the Republican electoral votes from the three Southern states, neither candidate would have a majority in the electoral college, and pursuant to the Constitution, the House would then vote by state delegation to decide the presidency. Since Democrats not only had a majority of House members but also controlled a majority of the state delegations, they would elect Tilden as president.

Republicans, however, argued for two interrelated positions. The first was that the Twenty-second Joint Rule was no longer in effect given that the Republican-controlled Senate had repealed the rule during the current (Forty-Fourth) Congress, precisely because Republicans were worried that the Democratic House would do the very thing that it was now planning to do.<sup>16</sup> Far more controversially, though, Republicans promoted another position, namely, that the president of the Senate had the power to count—and, by implication, reject—ballots, according to his sole discretion.<sup>17</sup> In this case, the president of the Senate was Republican Thomas Ferry, who was elected president *pro tempore* of the Senate since Vice President Henry Wilson had died in

1875.<sup>18</sup> For many Republicans, Ferry was to be the agent for Hayes’s election to the presidency. If Ferry decided to count the Republican electors from Florida, Louisiana, and South Carolina and rejected the Democratic electors, Hayes would be elected president and a House vote would be avoided.

The prospect of the president of the Senate deciding the election was enraging to Democrats, sparked much opposition among their political leaders and newspaper editors, and fueled the mass meetings that were held in January 1877, which comprise a major part of this article. Ultimately, members of Congress compromised in support of the Electoral Commission Act, which was approved in late January and would thereby prevent an expected showdown in Congress on February 14. While there would be rumblings around the country and in Congress regarding the ultimate decisions of the commission, all of which went in Hayes’s favor, these would be mostly marginal, and the inauguration of Hayes would proceed without incident on March 5, 1877.<sup>19</sup>

With the major events and guideposts of the 1876 election established, here is a summary of the conventional account of this election. Many studies, not surprisingly, justifiably place great emphasis on the events and goings-on in the three contested states. In each of these states, there were legal and political battles over the counting of the ballots, with the aforementioned “returning boards” being at the center of the counts at the state level. This political maneuvering would include each house of Congress empaneling a committee to investigate the vote counts in the three states. Yet, these committees would, like the returning boards in the states, come to predictably partisan conclusions, with the Republican Senate committee finding for Hayes and the Democratic House committee finding for Tilden. Moreover, the standard account has seemingly inexhaustible interest in reliving the creation, investigations, and decisions of the Electoral Commission. Finally, probably the most attention has been paid to the machinations of Republican party leaders in trying to negotiate deals between the Southern leaders and prospective President Hayes, such that “a popular legend has developed of a shadowy cabal of white politicians cynically selling out the futures of four million black southerners in return for Rutherford B. Hayes’ ascension to the White House.”<sup>20</sup>

As mentioned at the outset, this article seeks to direct our attention to a remarkably understudied aspect of the 1876 election: the role of *public opinion*, especially mass meetings, protests, and even riotous and violent behavior. It is true that some of the best studies of the election do address

<sup>14</sup> Florida would resolve its controversy over the state elections more smoothly than South Carolina and Louisiana, inaugurating Democratic governor George F. Drew in early January 1877. For more on the Florida saga, see Jerrell H. Shofner, “Florida Courts and the Disputed Election of 1876,” *The Florida Historical Quarterly* 48, no. 1 (July, 1969): 26–46.

<sup>15</sup> Morris, *Fraud of the Century*, 201.

<sup>16</sup> Holt, *By One Vote*, 206.

<sup>17</sup> The Constitution states, in Article II, Section 1 (this language is repeated in the Twelfth Amendment) that “The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted.”

<sup>18</sup> Article I, Section 3, of the Constitution declares that “The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.” Ferry was thus often referred to as “Acting Vice President,” though this title came through his position as President *Pro Tempore* not through an actual appointment as Vice President.

<sup>19</sup> Hayes was actually inaugurated in a private ceremony on March 3, 1877, since Grant’s term ended on Sunday, March 4, and Hayes was not to be publicly inaugurated until the March 5. As Morris puts it, this was to “forestall any doubts about who was really president during the unavoidable one-day interregnum—who knew what Samuel Tilden might decide to do?” Morris, *Fraud of the Century*, 240.

<sup>20</sup> Morris, *Fraud of the Century*, 234.

these matters,<sup>21</sup> but even then, it is usually only in passing and certainly not in a systematic and comprehensive manner. And although it is common for conventional accounts to discuss the violence and threats of violence in the South prior to, and even after, the election, these are rarely linked to public opinion or expressions of popular sentiment. It is to these threats of violence, and acts of violence, that I turn to first, profiling the “rifle and saber clubs” that proliferated in South Carolina during the election season.

## 2. “No Proclamation Can Prevent Men from Carrying Arms and Associating Themselves Together for Social and Religious Purposes”

To many modern-day observers, the very idea of a “rifle” or “gun” club may be a cause for alarm, calling to mind, perhaps, criminal or paramilitary activity and even revolutionary or insurrectionist action. Or more pointedly, those familiar with the history of organizations tasked with intimidating and terrorizing black voters in the South might be quick to draw comparisons to those such organizations, notably, the notorious Ku Klux Klan. And in some times and in some places in America, particularly in the post-Civil War South, these clubs could be causes for alarm, and their presence in public (and private) spaces unquestionably led to violence and death. What is more, this violence was often linked to political and/or racial differences and discrimination. And even if the rifle clubs would bring no violence with them at any given time, the implication was often, if not always, that violence was just a trigger-pull away.

Nevertheless, this view of the rifle clubs profoundly misunderstands their omnipresence in nineteenth-century post-Civil War America. And this ubiquity makes assessing the role of rifle clubs as vehicles for expressing public opinion complicated. Far from being exclusive agents of racist Southerners trying to regain political power through the intimidation and disenfranchisement of Republican voters both black and white (but especially the former), these gun clubs were widespread throughout the United States. One of the challenges of this research was wading through an overwhelming amount of news stories focusing merely on rifle clubs and their shooting matches throughout the country. Here are some of the many titles interspersed with stories about rifle clubs threatening the peace in the South: “Visiting Rifle Teams: The Exhibition Rifle Shooting Near Washington, D.C.,”<sup>22</sup> “The Centennial Rifle Matches: Practice By the American and Australian Rifle Teams,”<sup>23</sup> “The Inter-State Rifle Match: Teams From Eight Different States Competing at Long Range,”<sup>24</sup> “A New Rifle Range Opened: First Matches of the Hudson River Rifle Association,”<sup>25</sup> and “The Rifle Contest: First Day’s Shooting at the San Bruno Range.”<sup>26</sup>

What is evident here is not only the popularity of rifle shooting but also its popularity in Northern and Western states such as New York and California, in addition to the South. And it was not even just *American* rifle clubs that received attention in the press, as can be seen from the headline above discussing American and *Australian* teams competing. Indeed, the *Baltimore Sun* profiles an international competition between rifle teams from the United States, England, Canada, Ireland, and Scotland, that was held in the United States in September 1876 in Creedmoor, North Carolina.<sup>27</sup> Unquestionably, rifle sport shooting was widely popular in the post-Civil War period in America. Still, rifle clubs often had a far more sinister side to them, especially in the South, and it is their more menacing and threatening expressions of opinion that I now examine.

Although it is tempting to root the South Carolina rifle clubs in the tradition of the Ku Klux Klan and similar organizations that terrorized black citizens in the South in the years after the Civil War, it is to the “White League” of Louisiana, which began in 1874, that these rifle clubs are most similar. As George Rable has put it, “unlike the Knights of the White Camellia or the Ku Klux Klan, the White League operated openly with extensive press coverage of its activities. Few persons tried to conceal their membership in the organization,” and the league worked closely with the Democratic party. In fact, “the White League was the military arm of the Democratic party.”<sup>28</sup> These tactics would spread to other states and achieve archetypal status in Mississippi with the 1875 state elections, with other states thereafter copying the so-called Mississippi Plan. Rable also has captured well the tactics employed in Mississippi. “The Democrats conducted a brilliant campaign to mobilize their supporters and demoralize their enemies by holding mass meetings during the day and large torchlight parades at night. ... [T]he conservative organizations not only aroused the enthusiasm of their own followers but gave blacks a powerful visual demonstration of white power and determination.” What is more, “some leaders candidly admitted that the large bonfires, the fiery oratory, the frequent rebel yells, and the discharge of firearms were designed to make Negroes stand in fear.”<sup>29</sup>

By the time of the 1876 election, with these tactics refined and their practitioners emboldened, white Southerners sought to take back control of—or “redeem”—the state governments that remained in Republican hands, particularly in South Carolina. Rather than just organizing their own rallies and parades, beginning in September 1876, the South Carolinian Democratic rifle clubs would show up at Republican political rallies and demand equal time to address the crowd. According to an account by a U.S. marshal included in the House of Representatives Report on the “Recent Election in South Carolina,” issued in February 1877, the “republicans did not relish this kind of ‘peaceful political discussion,’ but the request was backed up by one hundred

<sup>21</sup> For instance, Woodward, *Reunion and Reaction*; Holt, *By One Vote*; Morris, *Fraud of the Century*.

<sup>22</sup> *Baltimore Sun*, September 29, 1876.

<sup>23</sup> *New York Times*, August 24, 1876.

<sup>24</sup> *New York Times*, October 13, 1876.

<sup>25</sup> *New York Times*, August 2, 1876.

<sup>26</sup> *San Francisco Chronicle*, October 24, 1876.

<sup>27</sup> “The International Rifle Match: Five Nations Contesting,” *Baltimore Sun*, September 15, 1876.

<sup>28</sup> Rable, *But There Was No Peace*, 132. See also, Michael Perman, *The Road to Redemption: Southern Politics, 1869–1879* (Chapel Hill: The University of North Carolina Press, 1984), 158–60.

<sup>29</sup> Rable, *But There Was No Peace*, 158.

and fifty Winchester repeating-rifles in the hands of men who knew how to use them, and they consented to a 'division of time.' Other meetings followed this with a similar display of arms" by the South Carolinian rifle clubs. In fact, according to the U.S. marshal, it was these tactics, and the tensions that they created, that led to the infamous Cainhoy riot, discussed below.<sup>30</sup>

In addition to the Mississippi Plan, a number of terms would be used to describe these tactics: the "Winchester policy," the "shot-gun policy," "overawing," and, especially, "bulldozing."<sup>31</sup> Indeed, the term "bulldozing" would occupy a central place in the rhetoric of the 1876 election and thus deserves fuller development here. Though each party would accuse the other of engaging in bulldozing, the etymology of the term is relatively straightforward. It refers to physically assaulting a person with a bull whip to coerce them to either engage in—or desist from—a particular behavior. But, as the *New Orleans Times* put it, the term explicitly references a strong or vicious whipping, "a bull's dose of several hundred lashes on the bare back." "When dealing with those who were hard to convert, active members would call out 'give me the whip, and let me give him a bull-dose.'"<sup>32</sup> While the *New Orleans Times* would argue that it was Republicans who started the practice and were the purveyors of it—to keep blacks from voting for Democrats—and though there was some evidence from South Carolina of "Republican threats of violence in dealing with so-called colored Democrats[,] ... Republican attempts at intimidation were far less effective than those of the whites."<sup>33</sup> Thus, the term would more commonly be used to describe the tactics of Democrats and their rifle clubs to coerce the voting behavior of black Southerners.<sup>34</sup> However, before long, the term would be hurled by partisans on both sides of aisle to describe behavior that was rather far removed from the violence of the "bull's dose."

With this context established, I now turn to the rifle clubs of South Carolina and their influence in the 1876 election season. Even as one may bristle at such a characterization, like the White League before them in Louisiana, the South Carolina rifle clubs can be accurately portrayed as a popular movement. As Perman has put it, describing the Democratic election campaigns across Alabama, Mississippi, and South Carolina in 1876, the "rifle clubs and White Leagues were the instrumentalities for stirring up and organizing the voters at the grass roots." In fact, the success of these campaigns "can be explained by their ability to arouse and mobilize the party's electoral resources" through explicit appeal to "old party loyalties and racial identities."<sup>35</sup> Though they did at times resort to violence, and intimidation was their

stock-in-trade, not only did they rally the support of many South Carolinian whites, but also the rifle clubs themselves were representative of white males across South Carolina. As Simkins has shown, there were "14,350 men duly enrolled [in the rifle clubs]. We are safe in assuming that the number actually under arms included a majority of the white male population able to ride."<sup>36</sup>

The South Carolinian rifle clubs likely would not have achieved such widespread support had it not been for the so-called Hamburg Massacre in the summer of 1876 and, especially, Republican Governor Daniel Chamberlain's reaction to it. Rod Andrew, Jr., provides a concise summary of the "riot-turned-massacre":

The sordid affair began with a hostile verbal exchange on July 4 between two young white men attempting to drive their buggy through a Hamburg street and the local black militia company that was drilling and blocking the way. Led by Calbraith Butler, [General Wade] Hampton's old comrade, local whites demanded that the black company surrender its weapons and apologize to the white men. Black militia officers, of course, refused to meet these outrageous demands. On the eighth [of July], Butler led several white rifle clubs from all over Aiken County as they besieged the black company fortified inside its arsenal. A nineteen-year-old white youth was killed early in the shootout. Before the day ended, however, the whites had acquired a cannon from Augusta, shelled and then stormed the arsenal, killed two black officers, and captured twenty-nine black prisoners. A detail of white men then shot some of the prisoners in cold blood while marching them to the county jail.<sup>37</sup>

It may be fair to see the riot more as "a mutual explosion of long-festered local grievances" than the outright political and racial attack as it was portrayed by Governor Chamberlain (who requested federal intervention from the Grant administration based on the riot) and the Republican presses of the day.<sup>38</sup> Even so, many Democratic newspapers and politicians decried the actions of the whites involved in the riot.<sup>39</sup> What is important for the purposes of this article is that the massacre would fuel the rise of (even more) rifle clubs in South Carolina, as well as lead to the nomination of Wade Hampton as the Democratic candidate for governor.

As Morris has put it, "Chamberlain's blatant politicizing of the Hamburg incident was a huge personal miscalculation." Republican Chamberlain had been popular enough with Democrats in South Carolina such that they declined to nominate an opposition candidate for the 1876 gubernatorial election. "In the wake of his appeal for federal intervention, however, outraged Democrats reconvened in August and swiftly nominated Wade Hampton for governor. ... Overnight, hundreds of pro-Hampton 'rifle clubs' sprang up across the state, their members sporting bright red shirts to mock the Republicans' wearisome bloody-shirt appeals. Many were former Confederate soldiers, and they quickly organized themselves into a formidable paramilitary force."<sup>40</sup> Hampton's campaign for governor would be accompanied by these rifle

<sup>30</sup> H. R. No. 175, Part 2, 44th Congress, 2nd Sess., 241–42. Though this is the minority Republicans' section of the House report, the extensive collection of eyewitness and other accounts is revealing and persuasive regarding the coercive behavior of the rifle clubs.

<sup>31</sup> See, for instance, "The Shot-Gun Democracy," *New York Times*, August 18, 1876; and "Political Miscellany: The Mississippi Plan," *New York Times*, September 8, 1876.

<sup>32</sup> "Bulldoze," *The Nashville Tennessean*, November 18, 1876. The *Tennessean* republished the story from the *New Orleans Times*.

<sup>33</sup> Francis B. Simkins, "The Election of 1876 in South Carolina," *The South Atlantic Quarterly* 21, no. 4 (October, 1922): 342, emphasis in the original.

<sup>34</sup> See Rable, *But There Was No Peace*, 178.

<sup>35</sup> Perman, *The Road to Redemption*, 170.

<sup>36</sup> Simkins, "The Election of 1876 in South Carolina," 337.

<sup>37</sup> Rod Andrew Jr., *Wade Hampton: Confederate Warrior to Southern Redeemer* (Chapel Hill: University of North Carolina Press, 2008), 371–72.

<sup>38</sup> Morris, *Fraud of the Century*, 130.

<sup>39</sup> See, for instance, "The Hamburg Affair," *Detroit Free Press*, July 26, 1876.

<sup>40</sup> Morris, *Fraud of the Century*, 130–31.

clubs throughout the state, setting the stage for further tensions and conflicts between blacks and whites, Republicans and Democrats, and federal and state power.

Though President Grant would initially decline Governor Chamberlain's request for federal assistance directly after Hamburg, there would be several more violent and deadly riots in September (the Charleston and Ellenton riots) and October (particularly the so-called Cainhoy riot). While the Charleston and Cainhoy riots were by most accounts at least partly precipitated by the actions of black men, in the Ellenton riots over several days, "whites were generally the aggressors and inflicted much heavier casualties."<sup>41</sup> Even before the Ellenton riots, in mid-September, Governor Chamberlain had issued a proclamation applying to the city of Charleston in the wake of the riot in early September, ordering that "I discountenance and forbid the presence upon the streets of bodies of men, whether organized or not, armed with deadly weapons, or weapons or clubs of any kind ... for the protection of all citizens in their political rights."<sup>42</sup> Then, in early October, Chamberlain issued a proclamation banning rifle clubs in the state as a whole, ordering their dissolution within three days.<sup>43</sup> However, as Chamberlain's orders had limited impact on quelling the escalating political and racial tensions, President Grant would finally agree to provide federal support in mid-October.

On October 17, 1876, President Grant issued the following proclamation:

Whereas it has been satisfactorily shown to me that insurrection and domestic violence exist in several counties of the State of South Carolina, and that certain combinations of men against law exist in many counties of said State known as "rifle clubs," who ride up and down by day and night in arms, murdering some peaceable citizens and intimidating others, which combinations, though forbidden by the laws of the State, can not be controlled or suppressed by the ordinary course of justice; and

Whereas it is provided in the Constitution of the United States that the United States shall protect every State in this Union, on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence; and

Whereas by laws in pursuance of the above it is provided (in the laws of the United States) that in all cases of insurrection in any State or of obstruction to the laws thereof it shall be lawful for the President of the United States, on application of the legislature of such State, or of the executive (when the legislature can not be convened), to call forth the militia of any other State or States, or to employ such part of the land and naval forces as shall be judged necessary, for the purpose of suppressing such insurrection or causing the laws to be duly executed; and ...

Whereas it is required that whenever it may be necessary, in the judgment of the President, to use the military force for the purpose aforesaid, he shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective homes within a limited time:

<sup>41</sup> Andrew, *Wade Hampton*, 386. For more detail on each of these riots, see also 386–88.

<sup>42</sup> "The Charleston Troubles," *Detroit Free Press*, September 12, 1876.

<sup>43</sup> "First Gun from South Carolina," *Baltimore Sun*, October 9, 1876. See also Andrew, *Wade Hampton*, 388.

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby make proclamation and command all persons engaged in said unlawful and insurrectionary proceedings to disperse and retire peaceably to their respective abodes within three days from this date, and hereafter abandon said combinations and submit themselves to the laws and constituted authorities of said State.<sup>44</sup>

Not surprisingly, the proclamation would be greeted very differently by Republicans and Democrats. In fact, the exchanges in the partisan presses of the day are worth a closer look, as they highlight the complexity of the issues surrounding the rifle clubs in South Carolina, as well as other states, whether Southern or otherwise.

For Republican-supporting presses like the *New York Times* and the *San Francisco Chronicle*, the proclamation and Grant's simultaneous commitment of troops to South Carolina could not come too soon. According to the *New York Times*, the Democratic electoral strategy in South Carolina, as well as the whole South, was built upon "beating, killing, and so frightening the blacks that they will stay away from the polls on election day." Moreover, it has been "proved again and again, they [Democrats] have been solely responsible for every conflict of the races, every election riot which has occurred in the South since reconstruction."<sup>45</sup> The *Times*, in particular, worked diligently to characterize the events in South Carolina as part of the Mississippi Plan, or the "Winchester" or "shotgun" policy, and contributed in no small way to popularizing the use of these terms.<sup>46</sup>

The *San Francisco Chronicle* took a similar view, describing the South Carolina rifle clubs as "treasonable," seeing their actions as among the "worst forms of guerilla warfare upon the colored people" and intended "to nullify the amendments to the Constitution and the laws of Congress. ... The only fault to be found with it [Grant's proclamation] is that the action taken on Tuesday was not taken a month ago, and that it does not embrace Alabama, Mississippi, Louisiana, and Florida, as well as South Carolina." Interestingly, the article also highlighted one of the central dilemmas of Grant's proclamation: "The right of peaceable citizens to keep and carry arms is not at all in question. The real question is whether, when the authorities of a State are unable to put down an organized and armed body of insurgents against the law, the Federal Government may ... intervene with military force."<sup>47</sup>

<sup>44</sup> Ulysses S. Grant, Proclamation 232—Law and Order in the State of South Carolina, Gerhard Peters and John T. Woolley, The American Presidency Project, accessed September 2, 2023, boldface added, <https://www.presidency.ucsb.edu/node/203526>. For the full text of the proclamation, see "Washington: A Demand for Troops for South Carolina," *Detroit Free Press*, October 18, 1876.

<sup>45</sup> "Troops in the South," *New York Times*, October 30, 1876.

<sup>46</sup> As the *Times* put it in July 1876, not long after the Hamburg Massacre, quoting a Mississippi newspaper's statement of the policy from earlier in the year: "First, purchase of 'Winchester rifles and peacemakers;' second, 'apply ... intimidation;' third, a determination 'to turn the State into a grave-yard' before the Republicans should rule; fourth, carry the determination into execution." This policy was widely credited with returning control of the Mississippi government to the Democratic party and ending Reconstruction in that state. See "A Warning from the South," *New York Times*, July 17, 1876.

<sup>47</sup> "South Carolina's Troubles," *San Francisco Chronicle*, October 19, 1876.

To many of the Southern as well as Northern Democratic newspaper editors,<sup>48</sup> the right to “keep and carry arms” was, indeed, in jeopardy due to President Grant’s proclamation. For instance, the *Nashville Tennessean* saw Grant’s “order to the rifle clubs [as] in plain violation of the constitutional guaranty of the right of every citizen to bear arms.”<sup>49</sup> The *Cincinnati Enquirer* likewise saw the rifle clubs as not only legal under existing state law in South Carolina, “under the act of the Republican Legislature in 1874,” but also as “acting in the assertion of their right of the people, to keep and bear arms, guaranteed against infringement in the second article of the amendments to the Constitution of the United States.”<sup>50</sup> The *Baltimore Sun* protested that while the “whites have all yielded submission to the command to disband their rifle clubs, ... no steps have been taken to disarm the negroes, who still parade with arms furnished by the State.” What is more, the *Sun* profiled the Richland Rifle Club, an ostensibly innocuous shooting club, to illustrate the peaceable and mainstream nature of these organizations. Governor Chamberlain himself had “partaken of the hospitalities of the club, distributed prizes at target-shootings and suggested the formation of a rifle team from its members to compete at the centennial. He marched in procession with it at the Fort Moultrie centennial, and in a short address before it alluded with pride to the citizen-soldiers of the State.”<sup>51</sup>

Naturally, many of these Southern newspapers and Democratic-allied Northern newspapers also brushed aside the claims from Chamberlain and Grant that there was disorder, violence, or insurrection afoot in South Carolina. In fact, if there was disorder or violence, it was almost always to be blamed on blacks and Republicans. The *Louisville Courier-Journal* complained that “thousands of improved rifles, ten thousand or more, are in the hands of the colored militiamen; not in the armories, but in houses and cabins all over the State,” and thus were the rifle clubs necessary, as “whites must be expected to hold themselves in readiness to repel attack, and this can not be effectually done without organization and concert of action.”<sup>52</sup> The *Detroit Free Press* went even further, claiming not only that Grant’s proclamation was “made for no true cause, ... ordering the dispersion of an insurrection which does not exist,” but also what was actually happening was that “the President of the United States had been led to abet Governor Chamberlain in an attempt to create a riot in South Carolina for the purpose of coercing the people to reelect him.”<sup>53</sup>

<sup>48</sup> Note that the sample of newspapers used in this study does have more representation from Southern and Northern Democratic newspapers. This was due to the availability in my university’s collection, but it is also fortunate in that the Southern and Northern Democratic views are not only “on the ground” and as up-close to the events as possible, but these views have been downplayed historically, as the post-Civil War political narrative has been shaped by the Republican, pro-Northern perspective. This is not to say that that perspective is inherently wrong or questionable, only that it does not reflect a full and diverse picture of the goings-on in the South in 1876–1877.

<sup>49</sup> “The South Carolina Outrage,” *Nashville Tennessean*, October 27, 1876.

<sup>50</sup> “Contradicting Chamberlain,” *Cincinnati Enquirer*, October 14, 1876.

<sup>51</sup> “Affairs in South Carolina,” *Baltimore Sun*, October 25, 1876.

<sup>52</sup> “South Carolina: Chamberlain’s Petty Trick,” *Louisville Courier-Journal*, October 14, 1876.

<sup>53</sup> “The President’s Proclamation,” *Detroit Free Press*, October 23, 1876.

It was this latter belief—that the proclamation and subsequent introduction of troops into South Carolina were intended to provoke a reaction from South Carolinians and especially the rifle clubs themselves—that led to nearly universal calls among Democrats, particularly in South Carolina, for the rifle clubs to submit to Grant’s order. Wade Hampton himself was among the strongest voices for disbanding the rifle clubs, though this did not go over that well with “some of the younger men” in the clubs.<sup>54</sup> Indeed, even before Grant’s proclamation, Hampton had “urged local leaders to comply” with Governor Chamberlain’s proclamation, though at that time he was “hoping to avoid giving the governor more evidence of the need for federal troops.”<sup>55</sup> It is worth noting, however, that most of the rifle clubs did not actually disband, although that fact was widely announced. Rather, the clubs “reorganized” around different activities. As the *New York Times* grumbled, “nearly every rifle and saber club in South Carolina has been reorganized as a ‘Benevolent Association,’ ‘Riding Club,’ or ‘Social Circle.’” While they still carried arms and performed all of the same functions as before, they now had names such as “‘The Tilden Mounted Base Ball Club,’ ‘The Indiana Social Union,’ and ‘The Band of Civilization.’ It is under such titles as these that the rifle clubs have disguised themselves.” As the *Times* also noted, a South Carolina Democratic newspaper had urged these changes-in-name-only, as “no proclamation can prevent men from carrying arms and associating themselves together for social and religious purposes.”<sup>56</sup>

Still, with federal troops in South Carolina in advance of the election, incidences of violence and disorder decreased substantially, although there were some examples, and Election Day passed without significant disruption or disorder. Unfortunately, the contested nature of the election results—at both the federal and state levels—would mean that South Carolina would continue to see tensions between Democrats and Republicans, state and federal power, and the white rifle clubs and federal troops. Indeed, many of the same issues and themes surrounding the rifle clubs would re-emerge and be debated throughout subsequent weeks and months, as will be shown next.

The rifle clubs illustrate the manifold complexity of public assembly, demonstration, and protest, especially in the United States with its history of First and Second Amendment protections. Though many today would likely view the rifle clubs with reservation, if not alarm, these organizations were widespread in nineteenth-century America and not just localized to the South. And while it is true that the right to “keep and bear arms” in American history is complicated—for instance, as Cornell and others have pointed out,<sup>57</sup> in the

<sup>54</sup> Andrew, *Wade Hampton*, 388, as reported by one of Hampton’s confidantes, James Conner.

<sup>55</sup> Andrew, *Wade Hampton*, 388.

<sup>56</sup> “Troops in the South.”

<sup>57</sup> See, among others, Saul Cornell, “Early American Gun Regulation and the Second Amendment: A Closer Look at the Evidence,” *Law and History Review* 25, no. 1 (Spring, 2007): 197–204; Michael A. Bellesiles, “Gun Laws in Early America: The Regulation of Firearms Ownership, 1607–1794,” *Law and History Review* 16, no. 3 (Autumn, 1998): 567–89. For the opposing view, see Robert H. Churchill, “Gun Regulation, the Police Power, and the Right to Keep Arms in Early America: The Legal Context of the Second Amendment,” *Law and History Review* 25, no. 1



seventeenth and eighteenth centuries, colonial and state authorities with some frequency restricted gun ownership and usage—by 1876, an individual rights interpretation of the Second Amendment had become dominant in American political life. Accordingly, in the face of this conflict over the rifle clubs, Democrats and Republicans alike affirmed the guarantees of the Second Amendment for Americans “to keep and bear arms.” As quoted above, even the most bitter Republican opponents of the Southern rifle clubs agreed that the “right of peaceable citizens to keep and carry arms is not at all in question.”<sup>58</sup> If there had been widespread acceptance of gun restrictions at the state level—or federal for that matter—no doubt the Republican newspapers would have highlighted these contemporary examples and precedents.

The solution to the existence of the rifle clubs could never be simple and straightforward, then, given these Second Amendment protections as well as the First Amendment’s protection of peaceable assembly. Governor Chamberlain’s proclamations against the rifle clubs in September and October were overly broad—the September Charleston proclamation prohibited the “presence upon the streets of bodies of men, whether organized or not, armed with deadly weapons, or weapons or clubs of any kind”<sup>59</sup>—and thus did they jeopardize First and Second Amendment rights. Grant’s proclamation disbanding the rifle clubs—in that it upheld the laws and authority of Governor Chamberlain—was similarly questionable and, perhaps unsurprisingly, these clubs continued to operate under different names with supposedly different aims and motivations. Grant no doubt understood the need to craft his proclamation carefully, as it targeted “persons engaged in said *unlawful* and *insurrectionary* proceedings,” though the “punishment” of the proclamation was merely that these persons “disperse and retire peaceably to their respective abodes within three days from this date, and hereafter abandon said combinations and submit themselves to the laws and constituted authorities of said State.”<sup>60</sup> Some Republican newspapers similarly worked overtime to designate and name these clubs as “insurrectionist” and “seditious,” so as to circumvent First and Second Amendment protections.

For the purposes of this article, the rifle clubs of South Carolina—again, in this analysis standing in as the embodiment of rifle clubs throughout the South—illustrate that public assemblies and protests were frequently accompanied by the hint, or even outright threat, of violence, at least in post-Civil War America. And this threat of armed protest would not be confined to the South, though it certainly would be more prevalent there. As discussed below, Congressman Henry Watterson was playing upon this trope, namely, armed protests or gatherings, when he called for “100,000 unarmed

men in Washington” for the counting of the electoral vote on February 14, 1877.<sup>61</sup> Undeniably, he stressed that they would be *unarmed*, but to even mention that they would be unarmed would be to call to mind the *armed* rifle clubs and their protests in the South. Not only would Watterson’s critics doubt that the men would show up unarmed—indeed, it was their constitutional right to be armed and to peaceably assemble—but they would also raise questions about unarmed masses of men turning violent, and thus did they hurl accusations of possible “domestic violence” and “insurrection” were the Watterson protests to occur.

Some Republican critics would go so far as to label practically *any* assembly of citizens protesting the 1876 election—well, at least assemblies of Democratic citizens—as sowing the seeds of anarchy, domestic violence, insurrection, and rebellion. Although hyperbolic in many respects for the purposes of partisan gain, these critics were not entirely off the mark. Undoubtedly, even in a democracy, some types of groups and organizations can and should be prohibited and banned. For example, the United States currently prohibits and bans numerous foreign terrorist organizations,<sup>62</sup> and very few Americans would disagree with these prohibitions. However, what some Republicans in 1876 were advocating was akin to designating the rifle clubs—and, indeed, among more zealous Republicans, Democratic Party organizations all across the country—as prohibited and illegitimate organizations, akin to these modern-day foreign terrorist organizations.

While Republicans would be largely unsuccessful in tarring Democrats and their rifle clubs with the labels of insurrection, sedition, and the like, it was not unreasonable to see family resemblances between the *peaceful-but-threatening* protests of the rifle clubs in the South and the *peaceful and nonthreatening* protests and assemblies that would occur particularly in January 1877. And so did these rifle clubs cast a long shadow over the election and its aftermath. Though I will further address both the rifle clubs and the limits of legitimate expression of group public opinion below, I next turn to an analysis of political rhetoric by political leaders and especially newspapers in the wake of the election. These largely elite expressions of opinion, heated as they were on both sides of the partisan divide, were responsive to—as they also shaped—the political debate and further fueled concerns about riots, domestic violence, and insurrection.

### 3. “The Democratic Party Is To-day As Full of the Spirit of Rebellion As It Was in 1861”

Most observers on election night, November 8, 1876, thought that Tilden had won the election. For instance, the *New York Sun* averred that it was “impossible to over-estimate the beneficial results which are to follow from the election of Gov. Tilden.”<sup>63</sup> The *New York Herald* “regret[ted] the defeat of

(Spring, 2007): 139–75. In addition to the restrictions that Cornell and Bellesiles note in the eighteenth and nineteenth centuries, it should be noted that even today, an era that has seen the triumph of the individual-right interpretation of the Second Amendment, the carrying of weapons is prohibited in numerous locations across most states, including government buildings, courts of law, and even sports arenas and stadiums.

<sup>58</sup> “South Carolina’s Troubles.”

<sup>59</sup> “The Charleston Troubles.”

<sup>60</sup> Grant, Proclamation 232, emphasis added.

<sup>61</sup> Though not a verbatim rendering of Watterson’s words, this became a more popular manifestation of what he had said. See “Washington: The Great Democratic Powwow,” *San Francisco Chronicle*, January 9, 1877.

<sup>62</sup> See “Foreign Terrorist Organizations,” *United States Department of State*, accessed September 1, 2023, <https://www.state.gov/foreign-terrorist-organizations/>.

<sup>63</sup> Quoted in “Comments of the Press,” *Baltimore Sun*, November 9, 1876.

the great party which carried the country through the war” but nonetheless congratulated Tilden on the result. And the *Chicago Journal* was even more blunt, saying that the “defeat of Hayes and Wheeler and the election of Tilden and Hendricks must be accepted as a fact, however unpalatable and even abhorrent.”<sup>64</sup>

Nevertheless, due to the hard work of Republican operatives, with a strong assist from the *New York Times*—which, just as today, held substantial sway in the newspaper and political worlds—the election would be called into doubt by the following morning.<sup>65</sup> The *Baltimore Sun*’s description of scenes in the city of Baltimore two days after the election is striking and deserves quoting at length:

The one electoral vote claimed by the republicans to be necessary to the election of Tilden and Hendricks, and the conflicting reports from the Southern States, as published by the morning papers, increased the political excitement in Baltimore yesterday beyond anything known here for many years. Men of all conditions frantically besieged the news centres, positively gasping for information. Immense crowds on the streets in the neighborhoods of the newspaper offices surged from one bulletin-board to another as the cheers were given for the posted returns.

During the whole of the morning the look of things was alarmingly exciting, and the crowds so great that business was choked, thousands abandoning their employment, devoting the day to gathering the scraps and opinions coming over the wires. While nothing definite or thoroughly reliable was known or given out until 5 ½ o’clock, when an extra of *The Sun* was issued, the burden of the dispatches were favorable to the republicans, and their sudden recovery from previous depression found expression in the wildest cheers for Hayes and Wheeler, which elicited opposing cheers for Tilden and Hendricks.<sup>66</sup>

No doubt these scenes replayed themselves in New York and other big cities in America for that whole week following the election. And as it increasingly appeared that there would be no easy resolution to the election, the rhetoric started heating up among politicians and especially in the partisan presses.

While it was not uncommon for Democratic newspapers to imply, and even outright claim, that they would resort to fighting, war, or the like, if Tilden were not eventually inaugurated, there was an interesting difference in tone between the Northern and Southern Democratic newspapers. For the most part, it was the Northern papers that made the more reckless claims, with the Southern papers, and Southerners in general, making appeals to moderation and counseling patience and even acceptance of defeat if it came. The *Nashville Tennessean* put it this way: “We take it for granted from the tone of the papers everywhere in the North and from private citizens returning from the North, that the feeling there is intense and might easily take the

form of a riot. In the South the people taught restraint are deeply moved, but incapable of outbreak. ... They have been to [sic] well schooled to indulge in the idle foolery of rioting.”<sup>67</sup> And many of the papers would give expression to these intense feelings in the North. The *New York World* declared that the “proposed usurpation [of Tilden’s victory] cannot be forced through upon this country,” while the *Terre Haute Journal* claimed that the “Tilden men of the north and south will not be cheated or counted out. ... The majority will fight if there are no other means to save this country.” The *St. Louis Times* concurred: “The democratic house of representatives can be depended on to protect the rights of the people, who have fairly elected Samuel J. Tilden. If it is necessary to employ force to maintain their action, there are a half million men who will volunteer to go to Washington at twelve hours’ notice.”<sup>68</sup>

But it was not just the Democratic newspapers that engaged in hyperbolic and charged language. The Republican newspapers were quick to hurl accusations of “treason” and “rebellion” at those protesting the unfolding events in the three Southern states. The *San Francisco Chronicle* was perhaps the most egregious on this front, doing little to deescalate tensions. Just days after the election, the editors said of Southern Democrats that a “pack of ravenous wolves in a Russian steppe in the dead of Winter would not devour a lone traveler more greedily than these conspirators the treasury, finances and credit of the United States had they but succeeded in securing that one lacking vote.”<sup>69</sup> And a few days later, the gloves were well and truly off. In a piece entitled “The Old Spirit of Treason,” the *Chronicle* summed up the whole campaign in the South, not to mention the current tensions following the unsettled election, as treasonous activity on the part of Southerners: “The argument from all of this is that the government, enlightened by the recent past, should use all available lawful means to suppress the incipient rebellion before it gains head and compact force; and that we are in need of a better [i.e., more expansive] definition of treason than the Constitution gives.”<sup>70</sup> President Grant’s very own party organ, the *Washington Republican*, inflamed passions by likening Grant to historical leaders such as Caesar and Napoleon, and writing that in the North “men are organizing for an armed resistance to the national will.”<sup>71</sup>

And both the *San Francisco Chronicle* and the *New York Times*, as well as other papers, appear to have coordinated a salacious story, originating with the *Times*, about a “new rebellion” in the South in late November 1876. As the *Times* breathlessly reported: “It is no exaggeration to say that the Southern portion of the Democratic Party is to-day as full of the spirit of rebellion as it was in 1861.” What is more, the “sale of arms and cannon to the rebel rifle clubs, which is described below, has been going on ever since the commencement of the canvass,” and, according to the *Times*, Samuel Tilden seemed somehow to be involved; hence the

<sup>64</sup> *New York Herald* and *Chicago Journal* quoted in “Opinions of the Press,” *San Francisco Chronicle*, November 9, 1876.

<sup>65</sup> For an extended discussion of the *New York Times*’ role, see Mark D. Harmon, “The *New York Times* and the Theft of the 1876 Presidential Election,” *Journal of American Culture* 10, no. 2 (Summer, 1987): 35–41. For a shorter treatment, see Holt, *By One Vote*, 172–74.

<sup>66</sup> “Presidential Election News: A Day of Excitements in Baltimore,” *Baltimore Sun*, November 10, 1876.

<sup>67</sup> “The Feeling in the North,” *Nashville Tennessean*, November 15, 1876.

<sup>68</sup> The preceding three newspaper citations are from “Current Comment: Views of Leading Newspapers,” *Atlanta Constitution*, November 21, 1876.

<sup>69</sup> “The Old Rebel Yell,” *San Francisco Chronicle*, November 11, 1876.

<sup>70</sup> “The Old Spirit of Treason,” *San Francisco Chronicle*, November 14, 1876.

<sup>71</sup> As quoted in “Ridiculous Comparisons,” *Baltimore Sun*, November 29, 1876.

sensational article subtitle, “Tilden Selling State Cannon to Rebel Rifle Clubs.”<sup>72</sup> But the *Boston Globe*—an independent newspaper—was having none of the “reckless talk” by the *Times*, stating that “the facts do not warrant the alarming statement that is made, and the intimation that the South has been armed by the leaders of one of the great parties, to prepare for revolt in case of defeat. No doubt arms have been bought by and shipped to the Southern rifle clubs, and large numbers of them. ... But as to the systematic arming of the South for revolution, for a new rebellion, cool-headed citizens will not believe it.”<sup>73</sup>

It was not just Republican newspapers that were escalating tensions. Republican leaders and activists got in on the act, too, probably none with more incendiary rhetoric than Robert Ingersoll, a lawyer and orator, and “right-hand man” to Republican Senator James Blaine. On December 8, in Peoria, Illinois, Ingersoll said of Tilden that he “can never be inaugurated. I had rather see another war. ... The Republican party will never turn this government over to Democrats. If Hayes don’t go in, nobody will. Grant will stay.” What is more, he ended the speech expressing his desire “in favor of trying these white-liners; these bulldozers” from the South. And if “anything like murder can be proved against them, I am in favor of shooting them on the spot.”<sup>74</sup> A much-discussed event in Cincinnati, Ohio, in mid-December also deserves brief attention. A meeting of Democratic “ex-Union soldiers, and others, to protest against the corrupt action of the Republican party,” was disrupted and “bulldozed” by a group of Republican soldiers, “Post-office clerks and employees, gaugers, store-keepers, and other revenue rats.”<sup>75</sup> The meeting would eventually be adjourned and rescheduled. The *Cincinnati Enquirer* framed it this way: “It was well known who were invited to the soldiers’ meeting. Uninvited men—a mob—took possession of it.” Of the rescheduled meeting to come, the *Enquirer* was firm: “If the Whisky-Gaugers and Store-keepers and Post-office employes [sic] propose to disturb this meeting we advise them to be on the spot early, and well reinforced.” And if they do show again, “the Republican party will be responsible for the consequences.”<sup>76</sup> Aside from illustrating the tensions that were bubbling up in some parts of the country, this event also highlights the emerging strategy of the Democratic party that will form the heart of the next section, namely, mass public meetings.

Despite the *Globe’s* wise take on the *New York Times’* gambit to cast Democrats as rebels and insurrectionists based

upon flimsy evidence, and the fact that there was no “systematic arming of the South for revolution,” there truly were rumblings of violence and rebellion throughout the nation, though mainly coming from Northern, not Southern, Democrats. Although likely more “blatant brag and bluster” than anything, the *St. Louis Times* reported that the “drift of argument among Democrats is, that, if violence must come to assert the will of the people, wisdom and policy will dictate that the initiative steps be taken outside of the Southern States, and in that view it is felt that national reform may have to commence in Missouri.”<sup>77</sup> In New York, it was reported that “between 19,000 and 20,000 men have been enrolled in New York city since the 15th of November for Tilden or war.”<sup>78</sup> And even if the calls for taking up arms were coming mostly from the North and especially the Northern Democratic presses—the “wild ravings of mendacious partisan correspondents ... which threatens [sic] danger to Washington”<sup>79</sup>—the “young men who composed the Rifle Clubs of Mississippi and South Carolina” were eager for the fight.<sup>80</sup> The *Chicago Tribune* reported on a “Democratic war meeting” in Chicago in early December 1876, where “one faction was brandishing its tomahawks” and one of its key leaders was “breathing sulphurous blasts from his nostrils, ... besmeared with war-paint, shouting the war-whoop, and demanding victims, and bodies, and gore.”<sup>81</sup> And, of course, concomitant to all of this, in the three contested Southern states there were threats of violence and the ostensible amassing of troops, but in these cases with respect more to what was going on in the individual states than some type of national rebellion. For instance, in early December of the Louisiana rifle clubs organizing: “Drilling is had nightly and a general apprehension of trouble is felt upon the announcement of the verdict by the Returning Board.”<sup>82</sup> Similarly, in early December a newspaper from South Carolina reported that the “streets are again full of riflemen, who do not hesitate in saying that if Chamberlain is inaugurated, he will certainly be assassinated. The editor of a Democratic paper says that 700 armed men are on guard outside of the city.”<sup>83</sup>

The *Chicago Tribune* was no doubt correct that there was “a set of mischievous newspapers, which, for purposes of sensation and in order to sell more copies, bellow for war. They belong to both parties, and pretend to believe that their own side is right beyond all question. ... [T]heir course is inspired simply by the desire to magnify themselves and sell extra papers.” What is more, the “great mass of the people ... have no sympathy” with them, or others calling for war.<sup>84</sup> Still, it was important that many leaders, both Northern and Southern, appealed for calm and moderation.

<sup>72</sup> “The New Rebellion: Tilden Selling State Cannon to Rebel Rifle Clubs,” *New York Times*, November 22, 1876. See also “The New Rebellion: Tilden Selling State Cannon to Rebel Rifle Clubs,” *San Francisco Chronicle*, December 2, 1876. A more small-scale version of this gambit would come via a Cincinnati gun manufacturer publishing a shot-gun order from Alabama as evidence of the threat of rebellion from the “shot-gun democracy” in the South. See “The Shot-Gun Democracy,” *Louisville Courier-Journal*, November 24, 1876.

<sup>73</sup> “The Mischief of Reckless Talk: The New Rebellion,” *Boston Daily Globe*, November 23, 1876.

<sup>74</sup> “A Second Civil War,” *Nashville Tennessean*, December 14, 1876.

<sup>75</sup> “Rule or Ruin: Bull-Dozing at the Burnet,” *Cincinnati Enquirer*, December 19, 1876.

<sup>76</sup> William McKee, “Can Citizens Meet?” *Cincinnati Enquirer*, December 20, 1876. See also, among others, “The Bull-Dozers: The Right of Peaceful Assembly Denied,” *Detroit Free Press*, December 19, 1876.

<sup>77</sup> Quoted in “Will Missouri Rebel!” *Chicago Daily Tribune*, November 20, 1876.

<sup>78</sup> “Washington: Another Rebel Wail from Don Piatt,” *San Francisco Chronicle*, December 18, 1876.

<sup>79</sup> “The Sentiment in the South,” *Baltimore Sun*, November 23, 1876.

<sup>80</sup> “Who Will Do the Fighting?” *Chicago Tribune*, December 10, 1876.

<sup>81</sup> “The Democratic War Meeting,” *Chicago Tribune*, December 13, 1876.

<sup>82</sup> “The Muddle: Appearance on the Political Horizon,” *San Francisco Chronicle*, December 4, 1876.

<sup>83</sup> “The Muddle: Threatened Assassination of Gov. Chamberlain,” *San Francisco Chronicle*, December 5, 1876.

<sup>84</sup> “The Democratic War Meeting.”

Indeed, “even Ben Hill [a Democratic House member from Georgia], who has been regarded as one of the most ultra and unrepentant of the ex-Rebels, is reported as advising that the present dissension can have no result that will justify a resort to arms, and that if the representatives of the people at Washington cannot settle it amicably it is their duty to return home and let their constituents send wiser men in their places.”<sup>85</sup> Wade Hampton rankled many in his own party, both within South Carolina and outside of it, with his conciliatory rhetoric and gestures,<sup>86</sup> the most notorious being that “near the end of the year, Hampton wrote letters to Hayes and Samuel J. Tilden defending his position as the rightfully elected governor.” Many Democrats criticized this move, as they feared “it gave legitimacy to Hayes’s claims at a time when the question of whether he had defeated Tilden was still unresolved.”<sup>87</sup>

But perhaps most important of all were the actions of Samuel J. Tilden himself. It is well established in the scholarly literature that Tilden was from the beginning moderate in his approach to the election’s aftermath, preferring to be patient rather than impetuous.<sup>88</sup> For example, Tilden resisted Democratic National Committee Chair Abram Hewitt’s advice that he encourage popular demonstrations around the country in the days after the election.<sup>89</sup> And in the face of appeals from numerous Democrats that he take stronger action to assure his election, he counseled reserve: “Be satisfied with the reflection that the people are too patriotic, too intelligent, too self-poised to allow anything perilous to be done that may disturb or destroy our peculiar form of government. Don’t be alarmed.”<sup>90</sup> Tilden did eventually support the idea of organized protests by Democrats across the country, even as he “counselled no decisive action until the reports from the Southern communities were in.”<sup>91</sup> And right before the main protests were to begin on January 8, 1877, there was a “perceptible cooling down of late in the tone of the Democratic revolutionists in Ohio,” with the speculation that the “cue has been given from the Tilden head-quarters that violent expressions will not do.”<sup>92</sup> Though only conjecture, it would certainly not have been out of character for Tilden to recommend patience and moderation. And, yet, as described in the next section, Tilden did read, edit, and approve Watterson’s notorious speech at the Washington, DC, meeting, even if he was not the mastermind of the January 8th mass meetings, as some partisans suggested.

<sup>85</sup> “Who Will Do the Fighting?”

<sup>86</sup> See, for instance, “South Carolina: Wade Hampton and Others Send a Protest to the President,” *San Francisco Chronicle*, November 28, 1876; “Gen. Wade Hampton,” *Nashville Tennessean*, December 2, 1876; “Hampton at the Helm,” *Atlanta Constitution*, December 17, 1876.

<sup>87</sup> Andrew, *Wade Hampton*, 410.

<sup>88</sup> See, for instance, Allan Nevins, *Abram S. Hewitt, With Some Account of Peter Cooper* (New York: Octagon Books, 1967), 332–34, 358–59; and Morris, *Fraud of the Century*, 169–71, 206.

<sup>89</sup> Morris, *Fraud of the Century*, 170.

<sup>90</sup> Quoted in *ibid.*, 172.

<sup>91</sup> “The National Capital: The Democratic Policy on the Presidency Settled,” *Boston Globe*, December 12, 1876.

<sup>92</sup> “The Democracy of Ohio,” *New York Times*, January 7, 1877.

#### 4. “Tilden’s Patent Thunder Exploded By Order on the 8th of January”

If the role of public opinion construed broadly has been less studied with respect to the 1876 election, the most neglected expression of public opinion would surely be the Democratic demonstrations that occurred in December 1876 and especially January 1877. The main demonstrations were held on January 8, in Ohio, Indiana, Illinois, and Washington, DC, (Virginia was also reported to have held a convention on January 8<sup>93</sup>), though many other demonstrations were held, both prior to the January 8th meetings (often at the county level in anticipation of the January 8th meetings) and later in the month, particularly those in Kentucky on January 18. Those who attended most of these meetings also passed resolutions and made recommendations for future meetings. In fact, one of the most significant developments coming out of the January 8th meetings was a tentative plan to meet again on February 14, the date for counting the electoral vote in Congress, but this time with all of the delegates and participants coming to Washington, DC.

Plans for the January meetings got underway in mid-December 1876, and there were also preliminary mass meetings, especially at the county level, in December as well. Unsurprisingly, politicians and the newspapers had very different interpretations of the meetings depending on their partisan affiliation. To the *Baltimore Sun*, a Democratic newspaper, the mass meetings would bring “popular influence to bear in securing an equitable adjustment of the differences now existing,” and especially the January 8th meetings would “embody public sentiment on the subject.”<sup>94</sup> Speaking of a mid-December meeting at the Pike Opera House in Cincinnati, the *Cincinnati Enquirer* noted that the people met to “protest against the arbitrary and unjust disenfranchisement of legal voters in any of the States,” and that the meeting was “peaceful, but it was firm.” Additionally, they estimated that 10,000 people went to the opera house and offered that “so many men do not so assemble without a reason.”<sup>95</sup> County-level meetings were widespread in Ohio in late December, and nearly all of them passed resolutions. Among them was this one from Franklin County, fully embodying the ostensibly virtuous nature of what the delegates were doing: “The first resolution as reported by the Committee sets forth the right of the people to publicly assemble and express their will, necessities and grievances.”<sup>96</sup> And Governor Thomas Hendricks, the Democratic vice presidential candidate, characterized the meetings in this fashion: “the call for the convention of the 8th of January, [is] not for the purpose, as I suppose, of making any threats or of organizing any resistance to authority, but for the purpose of making a public expression against the threatened invasions of popular rights.” Indeed, Hendricks continued, the January 8th convention’s “only reliance to

<sup>93</sup> See “Washington: Vigorous Progress,” *Louisville Courier-Journal*, January 10, 1877.

<sup>94</sup> “The Political Outlook,” *Baltimore Sun*, December 18, 1876.

<sup>95</sup> “The Citizens’ Meeting,” *Cincinnati Enquirer*, December 21, 1876.

<sup>96</sup> “An Uprising: The People of Ohio Speak,” *Cincinnati Enquirer*, December 31, 1876.

secure the results of the Presidential election, will be upon the force and power of public opinion.”<sup>97</sup>

The *San Francisco Chronicle*, naturally, would be scandalized by the burgeoning Democratic mass meetings, which it deemed “revolutionary.” What is more, it described the organizers of the mass meetings as “miserable demagogues who are engaged in some of the States apparently in organizing insurrection. ... Why organize popular forces at all?”<sup>98</sup> On the coming January 8th meeting in Washington, DC, the *Chronicle* was unsparing: “The utter indecency and insulting arrogance of this attempt to forestall public opinion and anticipate the legal, constitutional and peaceful decision of pending issues by Congress is one of the greatest outrages ever recorded in our history.”<sup>99</sup> According to the *New York Tribune*, another Republican paper, the mass meetings would be “intimidation on a huge scale.” These were to be “great popular demonstrations of a threatening and semi-military character at important points throughout the North, the apparent purpose being to show the power of the Democracy and their purpose to resort to force if necessary to establish Mr. Tilden’s claims.”<sup>100</sup> About a week later, the *Tribune* upped the ante, saying that unless the legal authorities are respected over the “mobs and mass meetings, fiery resolutions, incendiary speeches, and the communistic hatred of law and order,” one ought to “migrate to Mexico in search of peace, law, and prosperity.”<sup>101</sup> The *Chicago Tribune* concurred: “Nothing more criminal could have been contrived than this programme for bulldozing the nation by massing of material for, and inflaming the sentiment that would lead to, civil war.”<sup>102</sup> The accusation of “bulldozing” would become a mantra on the part of Republicans, particularly in their critique of the January mass meetings.

The demonstrations clearly struck a nerve with the Republicans, who tried to have it both ways. On the one hand, like in the passages cited directly above, they criticized the meetings for their criminal and potentially insurrectionist character. On the other hand, they downplayed the meetings, especially in the aftermath of January 8. But even before the meetings, the tone could be sarcastic and skeptical. The *Chicago Tribune* predicted the Illinois meetings “will have about as much effect upon public sentiment in the State as would the publication of last year’s almanac, or one of Gov. Palmer’s old messages. We have no idea that in Congress a single member will be in the slightest degree influenced by Tilden’s patent thunder exploded on the 8th of January.”<sup>103</sup> After the meetings, the *New York Times* assessed their influence this way: “After all the efforts made, ... Democrats admit the meetings have done them no good, and Republicans are satisfied they have done the Democratic cause actual harm. As for the gathering of 50,000 or any other large force of

Democrats in Washington to witness the count and bulldoze the Republicans, the project is regarded as perfectly absurd.”<sup>104</sup>

Having set the stage for these meetings, I now discuss a small sample of some of the key speeches delivered and resolutions passed, particularly from those meetings held on January 8. I start with the resolutions, as these were ultimately the best expressions of the intentions of each of the meetings. At the Ohio Democrats’ mass meeting, the resolutions highlight several key themes, among them that the meetings themselves were entirely legitimate as well as peaceful in nature: “That the impudent and unfounded charge that those who protest against the exercise of illegal and arbitrary power desire to foment strife and incite civil war is made by conspirators to withdraw the public mind from their own evil designs to frustrate the sovereign will of the people.” As was common with many meetings, there was also a denunciation of President Grant, who was “following the example of the military chieftains of Mexico in interfering by armed force in the elections of the people ... and massing troops at Washington with the apparent purpose of preventing the free action of Congress respecting the Presidential election.” But most important to this and nearly every January 8th meeting was the issue of Congress’s role in deciding the election. One side of this was a blistering critique of the prospect of the president of the Senate unilaterally declaring Hayes to be elected, which “will be an act of usurpation that will be resisted by the people to the last extremity, even should that extremity be an appeal to arms.” And, yet, the other side was expressed immediately prior in a resolution that declared “any decision made by the Senate and the House of Representatives [jointly] will be cheerfully acquiesced in by the whole people.”<sup>105</sup>

Conventions in other states would adopt similar resolutions. The Democrats who met in Indianapolis, Indiana, for instance, issued resolutions that “call upon Congress to provide a plan for counting the electoral vote; that the two houses alone have the power to count and not the President of the Senate; and if the Senate shall claim such power for its presiding officer, the House is called upon to exert all its constitutional power to defeat such action.” They also tasked a committee “to consider the propriety of calling a national convention of the Democratic party” on February 14.<sup>106</sup> In a fiery convention in Kentucky, held ten days later on January 18, Democrats adopted a resolution that acknowledged that “an appeal to arms is the last desperate remedy of a free people in danger of being enslaved, but may become a necessary remedy in resistance to destructive usurpations and military despotism. We urge upon our senators and representatives the exhaustion of all peaceful means consistent with honor and with the Constitution for averting the perils with which our institutions are threatened.”<sup>107</sup>

<sup>97</sup> “Public Opinion: Its Force the Democrats Rely Upon to Sustain Their Cause,” *Detroit Free Press*, December 21, 1876.

<sup>98</sup> “Mischievous Agitation,” *San Francisco Chronicle*, December 23, 1876.

<sup>99</sup> “The Great Bugaboo Demonstration,” *San Francisco Chronicle*, January 8, 1877.

<sup>100</sup> “Politics Out of Congress: A New Move By Democrats,” *New York Tribune*, December 13, 1876.

<sup>101</sup> “What Business Demands,” *New York Tribune*, December 18, 1876.

<sup>102</sup> “The Mob Violence Programme,” *Chicago Tribune*, December 24, 1876.

<sup>103</sup> “Tilden’s Patent Thunder,” *Chicago Tribune*, January 5, 1876.

<sup>104</sup> “The Late Democratic Meetings,” *New York Times*, January 10, 1877.

<sup>105</sup> “Ohio: The Democracy Will Acquiesce in the Decision of Congress,” *Detroit Free Press*, January 10, 1877.

<sup>106</sup> “Democratic Fervency,” *New York Tribune*, January 9, 1877.

<sup>107</sup> “No Surrender! The Protest of the Kentucky Democracy to the Federal Government,” *Louisville Courier-Journal*, January 19, 1877.

And the various speeches at the mass meetings hammered home similar points. A former member of Congress from Indiana, George Washington Julian, for instance, ended his speech before the Indiana mass meeting warning that “millions of men will be found ready to offer their lives as hostages to the sacredness of the ballot as the palladium of our liberty.” General Thomas Ewing, Jr., addressed the Ohio mass meeting with this question: “If permitted to usurp the Presidency now, why may they [Republicans] not seize control of the next House of Representatives ... and if the people acquiesce in that, why need the conspirators ever surrender power?”<sup>108</sup> And at the Kentucky convention, lawyer and former congressman Boyd Winchester noted that “when danger threatens, the people, the source of all power and the only sovereigns, should come together, take counsel, and speak out. Conspirators are powerless when the public eye is vigilant.” What is more, the conspirators—Republicans—should keep in mind “that the army did not save Louis XVI or the bigoted James II. They should know that nothing can withstand the onset of a mighty popular movement.” He did end, however, with an optimistic wish that “the serious and critical issue that is upon us may be peacefully settled.”<sup>109</sup>

But it was the speech by Congressman Henry Watterson of Kentucky, also editor of the *Louisville Courier-Journal*, before the January 8th Washington, DC, gathering of Democrats that elicited the most attention, as well as alarm. While Tilden did not publicly avow the speech, Watterson was a key ally and Tilden had read, revised, and approved the speech.<sup>110</sup> Describing the Republican attempts to elect Hayes as “justify[ing] the ascription of conspiracy laid at their door,” Watterson declared that “civil liberty cannot be wrested from the American people at all, either with or without a fight.” Though the people are “patient and law-abiding ... [and] will exhaust the peaceful agencies placed by God, nature and the Constitution of their country in their hands,” they will not “submit to usurpation.” Though he was confident that another Andrew Jackson (the date for the mass meetings—January 8—was a Jacksonian holiday and chosen accordingly) would come along, if needed, to “take his life in his hand and make their cause his own,” he hoped that “no such emergency will arise.” And the way to prevent such a crisis was “conservatism” to be found “in the Senate to defeat the schemes of extreme men.”

Directly following this line, Watterson dropped his infamous exhortation: “I expect to see here on the day the vote is to be counted 100,000 unarmed citizens exercising in their persons the freeman’s right of petition,<sup>111</sup> and giving the honest Republicans of both houses of Congress two guarantees, one that the people want only what is right, the other that they will accept nothing that is wrong.” And if

there was to be any doubt what he meant by this, he noted that “the Presidential vote shall be counted precisely as it always has been, and not by the President of the Senate, who has no power whatever except to open the certificates.”<sup>112</sup> To be fair, although largely neglected in the ensuing coverage, Watterson did also entreat the “representatives ... here in Washington” to give to the people “a settlement of the pending dispute.”<sup>113</sup>

Not surprisingly, the Republican presses were troubled by Watterson’s speech. The *San Francisco Chronicle* took Watterson seriously and worried that if Watterson’s men do come to Washington, “the Presidential question will result in the election of Tilden, ... if the President [Grant] does not increase the military force now here, which still numbers but seven or eight hundred.” The *Chronicle* also put “unarmed” in quotation marks, suggesting that they did not expect these men to be so.<sup>114</sup> The *New York Tribune* offered an insightful discussion of the limits of the “right of petition,” suggesting that “an attempt to overawe or otherwise unduly influence Congress in the performance of one of its quasi-judicial functions is not an exercise of the right of petition; and if an assemblage while pretending to present a petition becomes dangerous to the public peace or interferes with the free action of Congress, the Executive may properly disperse it.” While they were dubious of such a likelihood, they were confident that “Gen. Grant is no doubt prepared to act promptly in case of need.” They continued that “petitioning the Government in person is always dangerous when political excitement runs high. ... The tendency of all such gatherings is to degenerate into mobs.”<sup>115</sup> Notably, Watterson’s *Courier-Journal* would run a piece challenging this line of Republican attack, entitled, “The Radical Scare: Protest of the Conspirators Against the People’s Right to Peaceful Petition,” *Louisville Courier-Journal*, January 18, 1877. As the *Courier-Journal* put it: “If these gentlemen are startled by so innocent and inoffensive an expression as that of Mr. Watterson, it will be well for them to brace their nervous systems for the thunder that will be heard when their evil designs come to be fairly appreciated by an outraged people.”<sup>116</sup>

The *New York Times* was of two minds on Watterson’s speech. Their initial report characterized the DC meeting as a “motley throng of unemployed laborers and others, headed by a fair sprinkling of gamblers and other disreputable characters.” Moreover, Watterson’s “concluding remarks may be regarded as a huge joke.”<sup>117</sup> Nevertheless, about a week later, in an article ironically titled “Empty Threats,” the *Times* fretted aloud that Watterson had called for “concentrating in the

<sup>108</sup> Both of these speeches are quoted in “Democratic Fervency.”

<sup>109</sup> “No Surrender!”

<sup>110</sup> Though widely suspected at the time, given Watterson’s close relationship with the Tilden camp, Watterson himself later recounted planning the speech with Tilden. See Henry Watterson, “The Hayes-Tilden Contest for the Presidency: Inside History of a Great Political Crisis,” *Century Magazine* 86 (May 1913): 17.

<sup>111</sup> As noted earlier, Watterson’s famous quote in the title of this article is not verbatim what he said in the speech. However, the formulation “100,000 unarmed men in Washington” became the popular manifestation of his words. See, for instance, “Washington: The Great Democratic Powwow.”

<sup>112</sup> “Voice of the People: What the Conventions Did on Jan. 8,” *Nashville Tennessean*, January 12, 1877.

<sup>113</sup> “NO SURRENDER: Speech of Hon. Henry Watterson at the Great Democratic Mass Meeting at Washinton Monday,” *Louisville Courier-Journal*, January 12, 1877. The *Courier-Journal*, perhaps not surprisingly, published a longer and more exhaustive account of Watterson’s speech than most of the other newspapers.

<sup>114</sup> “Washington: Henry Jackson Watterson’s 100,000 Unarmed Men,” *San Francisco Chronicle*, January 10, 1877.

<sup>115</sup> “Mr. Watterson’s Hundred Thousand,” *New York Tribune*, January 11, 1877.

<sup>116</sup> “The Radical Scare.”

<sup>117</sup> “Democratic Blustering,” *New York Times*, January 9, 1877.

neighborhood of the Capitol a hundred thousand *armed* partisans, with the avowed purpose of influencing the action of Congress on the 14th of February. ... [T]he evident intention is to overawe the Government by demonstrations that would render the preservation of order all but impossible." And they strongly supported Grant's stationing of more troops in Washington, for these ostensibly "empty threats." And, still, the *Times* incongruously declared that the "prospect does not frighten any one. ... [U]nless Mr. Tilden reopen his purse and scatter greenbacks freely, how are they to get there?"<sup>118</sup> And President Grant would oblige. Being worried enough about the possibility of disorder and violence in the coming weeks, he would send more troops to the nation's capital.<sup>119</sup>

The *New York Tribune* evidently did not doubt Watterson's ability to organize such an assembly of men, either, even if they were ultimately skeptical of Watterson's plan coming off: "[Mr. Watterson] has only to drop into *The Louisville Courier Journal* a special dispatch ... and his convention is called without further notice. It is idle to say that the Democracy cannot convene a hundred thousand men in Washington upon occasion." Still, according to the *Tribune*, "the 'Bulldozers' might as well not convene. Mr. Tilden is not so much in favor ... and even Mr. Watterson, although he understands the means by which the party can be allured to the capital, is not at all clear as to how they can be dispersed after they get there."<sup>120</sup>

Assessing the impact of these mass meetings is not an easy task, particularly when they have been summarily discounted, when not completely ignored, by most scholars. A notable exception is C. Vann Woodward in his seminal *Reunion and Reaction*. Though Woodward famously spent the bulk of the work advancing his theory that economic factors drove the eventual bargain that put Hayes in the office, he did at least treat the January protests seriously, if not extensively. Woodward noted that there was "an intensification of the threat of violence as a solution to the election dispute that reached a climax in the first two weeks of the new year." This "spirit of violent resistance had its strongest Southern exponent in Henry Watterson's *Louisville Courier-Journal*," as well as Watterson himself with his "call for the presence of 100,000 citizens in Washington 'exercising in their persons the freeman's right of petition.'" Moreover, Woodward acknowledged, for instance, that "in spite of a violent snowstorm, the attendance at 'The People's Indignation Convention' [in Columbus, Ohio] was good."<sup>121</sup> Nevertheless, he downplayed significantly the role of the protests and threats of violence in facilitating a bargain between Republicans and Democrats in favor of his influential theory that the actors on both sides were driven primarily by economic objectives.

<sup>118</sup> "Empty Threats," *New York Times*, January 18, 1877, emphasis added.

<sup>119</sup> On Grant's placement of troops in DC, see Morris, *Fraud of the Century*, 173–74; as well as "Empty Threats," where the *Times* notes that "Democrats in the House are indignant that the President, in the exercise of discretionary authority with which he is invested, has stationed a handful of troops at Washington."

<sup>120</sup> "The Bulldozers' Reunion," *New York Tribune*, January 17, 1877. The story is an interesting one. It is rife with sarcasm and seeming skepticism about Watterson's 100,000 and yet, at the same time, takes the threat seriously.

<sup>121</sup> Woodward, *Reunion and Reaction*, 110–12.

Other prominent scholars would be even less generous to the protests as a force that shaped the eventual compromise. Allan Nevins's work on Abram Stevens Hewitt, Democratic congressman, Democratic National Committee chair, and confidant of Samuel Tilden, is dismissive of the protests and especially Henry Watterson. As Nevins tells it: "In an address on Jackson Day Watterson had said that one hundred thousand Kentuckians would see that justice was done to Tilden, a threat which the press roundly derided."<sup>122</sup> Not only is Nevins incorrect about what Watterson said and when he said it, but also Nevins's claim that the "press roundly derided" the speech is simply asserted; no footnote or sources are provided.<sup>123</sup> To be sure, if Nevins's main source was the *New York Times* or the *San Francisco Chronicle*, then the speech was "roundly derided," as described above. However, an analysis of a broad sample of newspapers, not just Republican ones, reveals considerable, albeit partisan, support of the January 8th protests.<sup>124</sup> An issue with Nevins's analysis is a common one: He puts too much emphasis on the views of the elite actors he profiles. And since Hewitt and Tilden, his main subjects of study, cooled on the protests in their aftermath, Nevins likewise downplays their effect.<sup>125</sup>

Michael Les Benedict is similarly unimpressed by the protests, describing the mass meetings as "smaller than anticipated" and the resolutions "watered down." And in "several states the party refused to endorse the protests officially."<sup>126</sup> In fact, according to Benedict, what was evident by January 14, just six days after the protests, was the "collapse of the last Democratic offensive."<sup>127</sup> George Rable criticizes Woodward for paying *too much* attention to the protests and threats of violence, saying that Woodward "emphasizes the threats of violence by the Northern Democrats in January, but few Republicans took these threats seriously."<sup>128</sup> As with Nevins, though, this claim is simply an assertion; there is no evidence provided. And, as shown above, Republican newspapers certainly took them seriously, as did President Grant, who stationed more troops in DC. Almost approaching the tenor of talking points, Allan Paskin chides Woodward as well, because he "takes at face value Henry Watterson's threat to

<sup>122</sup> Nevins, *Abram S. Hewitt*, 358.

<sup>123</sup> Watterson said nothing about Kentuckians in his January 8th speech. In an article published by the *Louisville Courier-Journal* the day prior, Watterson had said that he hoped *ten thousand* Kentuckians would attend the February 14th protest, not *one hundred thousand*. Henry Watterson, "The Political Situation," *Louisville Courier-Journal*, January 8, 1877. See also Woodward, *Reunion and Reaction*, 111.

<sup>124</sup> See, for instance, "An Honest Count: The People of Illinois Demand One," *Detroit Free Press*, January 10, 1877; "Eighth of January Meetings," *Baltimore Sun*, January 10, 1877; "The Protests," *Cincinnati Enquirer*, January 9, 1877; "The Voice of the People," *Nashville Tennessean*, January 12, 1877; "Ohio Democrats," *Louisville Courier-Journal*, January 10, 1877.

<sup>125</sup> Tilden, it should be noted, was always reluctant to support the protests, and only did so after considerable vacillation. Hewitt, on the other hand, strongly supported the January protests and worked to persuade Tilden, to some eventual success, of their merit. See Nevins, *Abram S. Hewitt*, 332–34. But Hewitt's support of the protests would wane in their aftermath, as Michael Les Benedict points out, particularly in that he, as Democratic National Committee Chairman "refused pleas to convene the committee to endorse formally Watterson's [sic] protest." See Benedict, "Southern Democrats in the Crisis of 1876–1877," 507.

<sup>126</sup> Benedict, "Southern Democrats in the Crisis of 1876–1877," 507.

<sup>127</sup> *Ibid.*, 508.

<sup>128</sup> George C. Rable, "Southern Interests and the Election of 1876: A Reappraisal," *Civil War History* 26, no. 4 (December 1980): 357.

assemble 100,000 armed men to insure Tilden's inauguration, but at the time Watterson's rodomontade was roundly ridiculed."<sup>129</sup> Unlike Nevins and Rable, Paskin does provide sources for this claim, but they are questionable at best.<sup>130</sup> It is worth noting, too, that Paskin, perhaps following the *New York Times*, records Watterson as calling for *armed*, not *unarmed*, citizens.

Michael Holt probably comes closest to getting the ultimate mood of the mass meetings right, even if he discusses them only briefly: "All these public meetings, significantly, pledged to abide by any congressional decision in which both the House and the Senate had an equal voice."<sup>131</sup> Despite the calls to arms, Watterson's threat of 100,000 unarmed men in Washington, and similar saber rattling at the mass meetings, there was a strange moderation to them, especially the resolutions that most of the meetings adopted. Essentially, they were asking for something quite simple, that is, for Congress to find a peaceful, joint-house solution to the electoral crisis, which it would find in the Electoral Commission Act.

Benedict is shocked that "in the immediate aftermath of the Democrats' abortive Jackson Day offensive, the Electoral Commission bill was reported" by the joint committee in Congress tasked with finding a solution to the crisis. "Just when it had become clear that Democrats could mount no effective opposition, Republican unity collapsed."<sup>132</sup> Paskin likewise notes that the "Democrats held only two low cards: the threat of revolution and the House of Representatives," both of which he discounted. "Considering all these handicaps, it was a major triumph for the Democrats to have obtained a new set of ground rules in the form of the electoral commission." Indeed, the passage of the act was a "Democratic coup."<sup>133</sup> But it should not be difficult to fathom that perhaps the mass meetings *did* have an effect on public opinion and, most importantly, on members of Congress, who would ultimately control the electoral outcome, as a perceptive piece in the *Chicago Tribune* in advance of the meetings noted.<sup>134</sup> As explored in the following section, members of both the House and the Senate during the

Electoral Commission Act debates surely were aware of the January protests, as well as Watterson's notorious "100,000 unarmed men" speech.

This is not to say that there were not many other reasons for a compromise to be reached in Congress to address the electoral crisis. Most scholars, for example, have noted the role that business interests, especially those in the East, played in the eventual outcome. The unsettled nature of the presidential contest leaving business decisions in a state of suspension, it was hardly surprising that business leaders favored a compromise, as was clear at the time.<sup>135</sup> And, it is practically axiomatic that many Southern Democrats increasingly came to support a peaceful solution since they knew that they had taken, or would be taking, control of their state governments again in Florida, Louisiana, and South Carolina. The archetype for this Southern moderation would be Wade Hampton in South Carolina, who, as noted above, provoked some of his fellow Southerners with his moderate and conciliatory manner of approaching the election chaos. And, of course, Woodward's seminal *Reunion and Reaction* would take as its central point that a compromise or bargain between Southerners and Northern political leaders was driven predominantly by economic interest and benefit, even if, according to his critics, he gave too much credence to the protests along the way.

Even if the turnout of the meetings disappointed expectations and Tilden could not be persuaded to ratify them publicly, the opposition press took them seriously. And numerous contemporary accounts suggested that attendance at the meetings was, in fact, impressive.<sup>136</sup> The *Atlanta Constitution* even claimed that news organs were purposefully downplaying the protests: The "associated press, which is supposed to give the news of the day, dishonestly omitted any allusion to these great events, of which Washington has been kept in profound ignorance until the arrival of the Times containing the proceedings in full."<sup>137</sup> Perhaps just as importantly, with the experiences of the rifle clubs in the South lending an undercurrent of menace (intended or not) to the mass meetings, Republicans, North and South, had reason to worry about pushing too hard with their strategies to elect Hayes. Up until the passage of the Electoral Commission Act, Democratic partisans continued to threaten a mass meeting on February 14, although Tilden and other high-level Republicans distanced themselves from such plans. And some proponents even used the language and invoked the spirit of the rifle clubs. According to the *Washington Capital*, "it will be wise for Mr. Watterson's hundred thousand to be present at the counting and to come armed. The right to bear arms is guaranteed the American citizen, and this right is not marred by the count of an electoral vote. Whether the hundred thousand will be called upon to use them depends altogether upon the conduct of the Republicans in power."<sup>138</sup>

<sup>129</sup> Paskin, "Was There a Compromise," 73.

<sup>130</sup> The source is Ellis Paxson Oberholzer, *A History of the United States: Since the Civil War*, 5 vols. (New York: Macmillan, 1917–1937), 3:219n. The footnote in question cites two sources. One is Milton Harlow Northrup, "A Grave Crisis in American History: The Inner History of the Origin and Formation of the Electoral Commission of 1877," *Century Magazine*, October 1901, where there is no direct discussion of the January protests, only quick mention of "one hundred thousand Democrats" standing "ready to march on Washington," amid a passage discussing "extremists" and "hotheads" (p. 923). If anything, the piece suggests the partisan tensions and hints of a civil war that were in the air rather than that Watterson's protests should be dismissed. The second source cited is Paul Leland Haworth, *The Hayes-Tilden Disputed Presidential Election of 1876* (Cleveland: Burrows Brothers, 1906). Of this source's standpoint, here is a contemporaneous review's perspective: "The monograph is pervaded from cover to cover with a strong bias in favor of the Republican party and against the Democratic. ... [F]rom start to finish of the long, complicated, and malodorous story, it is perfectly obvious that in Mr. Haworth's eyes the Republican party was uniformly right and the Democratic party uniformly wrong." See *The American Historical Review* 12, no. 2 (January, 1907): 410. The review is unattributed.

<sup>131</sup> Holt, *By One Vote*, 209.

<sup>132</sup> Benedict, "Southern Democrats in the Crisis of 1876–1877," 509.

<sup>133</sup> Paskin, "Was There a Compromise," 73.

<sup>134</sup> See "Tilden's Patent Thunder," where it is noted that the ultimate audience for the protests will be Democrats in Congress. The protests arguably had a bigger impact on Republican members of Congress, however.

<sup>135</sup> See, for instance, "What Business Demands."

<sup>136</sup> See, among others, "Eighth of January Meetings" and "Washington: The Great Democratic Powwow."

<sup>137</sup> "The People and the Crisis," *Atlanta Constitution*, January 16, 1877.

<sup>138</sup> Reprinted in "The Radical Scare: Protest of the Conspirators against the People's Right to Peaceful Petition."



There would be only about ten days between the Kentucky mass meetings, the last of the large protests, held on January 18 (Wisconsin Democrats would also hold meetings on the January 18<sup>139</sup>), and the passage of the Electoral Commission Act.<sup>140</sup> Although Congressman Watterson was in Washington, DC, as these Kentucky protests were occurring, his newspaper's strong support of them left little doubt that Watterson had not changed his mind since his call for the 100,000 unarmed men to flood Washington on the 14th of February. And, yet, Watterson would surprise many when he came out in support of the commission bill. As Woodward recounts, "Watterson was converted from the most bellicose and uncompromising of all the Southern congressmen and editors to one of the leading advocates of peace and deplorers of hotheads."<sup>141</sup> This seems an exaggeration, though, considering the tone of Watterson's speech in favor of the bill. Expressing gratitude that a settlement had been reached, Watterson nonetheless saw the commission as the least-worst choice. As he put it, the "sole hope left the people—a choice of evils, I grant—is the proposed commission. That it is to be fairly constituted, and that as made up it will compose a tribunal which men can respect, I believe, and so believing I am willing to rest the case with it." Nevertheless, before concluding, he noted the stark nature of the choices. "In other words, it is this [the commission], or the Senate, or civil war. I may not, and I do not, like it as an original proposition. ... But, reduced to a choice of evils, I take this tribunal, entertaining no doubt that it will be composed of competent and patriotic men, by whose judgment I shall abide, something more than party being at stake."<sup>142</sup> Woodward hesitates to ascribe reasons for Watterson's ostensible about-face, but notes that "it was the cause of some comment. 'The Louisville Courier-Journal, much to public astonishment,' observed Joseph Medill's Chicago *Tribune* with satisfaction, 'is one of the fairest Democratic papers.'"<sup>143</sup> And the *New York Tribune* would likewise praise Watterson: His speech supporting the bill "was quite unlike his famous speech of the hundred thousand on the 8th of January. It was temperate, it was interesting, and it contained many striking passages upon which Democrats and Republicans alike might have meditated with profit."<sup>144</sup>

What Woodward misses, as have many others, is that the protests had always had at their core the desire for a joint-house solution to the crisis, which is why this demand often featured in resolutions passed at the various meetings. Although Paskin exaggerated when saying that Democrats had only "low cards" to play in the crisis,<sup>145</sup> the Electoral Commission Act certainly seemed to be a decent bargain for the party that needed to gain electoral votes to win the

presidency. And not surprisingly, many political leaders and editors, especially on the Republican side, saw the act as favoring the Democrats. Why should it be hard to fathom that leaders of a movement that demanded a congressional solution to the electoral crisis ultimately would find the Electoral Commission Act—a congressional solution to the electoral crisis—worthy of support, especially when the compromise seemed to be fair, if not even advantageous, to their party?

What is more, the Democrats' one "low card"—the "threat of revolution" according to Paskin—did not seem to be that low of a card after all, at least judging from an analysis of the Electoral Commission Act's debates as well as its reception. Though scholars have downplayed if not entirely dismissed the January protests as a driver of the debates over a congressional solution to the electoral crisis, no scholar has examined in any detail the actual congressional debates or the reception of the Electoral Commission Act as it was being debated and upon its passage. Yet, members of Congress themselves—during the debates over the bill—frequently noted the influence of the protests, as did the newspaper coverage across both sides of the aisle. In particular, Republican members of Congress and Republican newspapers bridled at the fact that the Democratic mass meetings had "bulldozed" the Congress to support the compromise. The next section turns to these debates in Congress and the reception of the compromise bill.

## 5. "We Are to Be Bull-dozed into the Adoption of a Bill That Nobody Wants"

The bill that was eventually signed into law provided for an "Electoral Commission" to adjudicate the competing claims from the contested states. The commission would be composed of fifteen members in total, with five coming from the House of Representatives, five from the Senate, and four from the Supreme Court, with these four justices naming a fifth justice to be the final member of the commission. It was widely assumed that the fourteen members of the committee from the House, Senate, and Supreme Court would be split evenly between the parties and that the final member, to be chosen by the Court members, would be Justice David Davis from Illinois. Davis was by all accounts considered to be fair and independent, so his likely selection as the tie-breaking vote on the commission contributed significantly to congressional support for the bill. As it turned out, Davis was nominated to be a U.S. senator from Illinois and thus refused to serve on the commission, even though his Senate term would not start until after the commission's work was to be done. The fifth justice, and final member of the commission to be selected, then, was Joseph Bradley of New Jersey. While not a rank partisan, Justice Bradley nevertheless secured the advantage of the Republicans, and the commission would predictably decide all critical matters in the party's favor.<sup>146</sup>

But when the debates on the Electoral Commission Act began in the Senate, the paramount question was not the composition of the commission but whether Congress had

<sup>139</sup> "Wisconsin's Democrats: Yesterdays' Convention," *Louisville Courier-Journal*, January 19, 1877.

<sup>140</sup> The bill was signed by President Grant on January 29.

<sup>141</sup> Woodward, *Reunion and Reaction*, 121.

<sup>142</sup> "Constitutional Arbitration: The Proposed Commission to Settle the Disputed Issues in the Contested Presidential Election," *Louisville Courier-Journal*, January 27, 1877.

<sup>143</sup> Woodward, *Reunion and Reaction*, 121.

<sup>144</sup> "A Kentucky View," *New York Tribune*, January 30, 1877.

<sup>145</sup> Paskin, "Was There a Compromise," 73.

<sup>146</sup> For a detailed discussion of the creation of the Electoral Commission, see Holt, *By One Vote*, 212–24.

been coerced into accepting a compromise bill. A key opponent of the bill was Senator Oliver P. Morton, a Republican from Indiana. Morton had been on the Senate committee that drafted the commission bill and was the only committee member to vote against it. Senator Morton began his speech on the bill with a direct reference to the January 8th protests and his characterization deserves to be quoted at length:

We are aware that there is great uneasiness in the public mind throughout the country; apprehensions are entertained of violence, of revolutionary action on the part of the House of Representatives, of some course being taken that may result in disturbing the peace of the country. A member of Congress has said in a speech in this city that 100,000 men would be here on the 14th of February to witness the counting of the votes. That may be regarded as an extravagant utterance; but it is one of the very many of the kind that come up to us from different parts of the country; so that the business interests of the country have become alarmed, and there is a disposition to take almost any measure that may be proposed that will give assurance of peace. ... **I do not think that I am at all out of the way when I say that this bill is a literal product of the "Mississippi plan;" that the shadow of intimidation has entered this Chamber, and that in proposing this bill, and in consideration of it, members of the Senate and of the House are acting under the apprehension of violence, of some great revolutionary act that will threaten the safety and continuance of our institutions.** I do not myself believe in the reality of this danger. I believe that this sort of talk is intended for a purpose, and I very much fear that it will accomplish that purpose.<sup>147</sup>

This was not a passing thought for Morton, either, as he would repeat his concerns more starkly later in the day: "We have been told we are to be overrun here by armed men; we are to have these corridors and halls and galleries filled with armed men; and we must make haste to legislate to avoid this danger. We are to be bull-dozed into the adoption of a bill that nobody wants. I do not believe there are half a dozen republicans on this floor who would want this bill if their judgments were to be consulted and if they were not under the influence of apprehension."<sup>148</sup> And two days later, as the Senate debate wore on, Morton would again beat the same drum, asking, sarcastically as it were, "What have we to apprehend? Are we to apprehend violence? Are we to apprehend the invasion of the capital?"<sup>149</sup>

It is important to stress here that it is at the *outset* of the debate in the U.S. Senate that the very first speaker made direct and explicit mention of the January 8, 1877, Democratic protests, particularly Watterson's call for 100,000 unarmed men to attend the counting of the electoral votes on February 14. Not only this, but Senator Morton connected the January protests, and Watterson's proposed February 14th protest, fairly or not, to the Mississippi Plan and to attempts to intimidate and "bulldoze" voters. In this case, though, it was the members of Congress who were being coerced or pressured, not voters in the states. A clearer statement of the argument of this article—that *public opinion* as manifested by mass

protests, both peaceful and threatening, profoundly influenced the passage of the Electoral Commission Act—could hardly be better made than in these opening remarks by Senator Morton.

To be sure, not all members of Congress agreed that they were being "bulldozed" into accepting the compromise plan. Morton was directly followed in these remarks by Senator George F. Edmunds, a Republican from Vermont, who contended that "nobody has spoken of fears about these one hundred thousand men. They do not seem to exist in the imagination of anybody but my friend from Indiana."<sup>150</sup> Over three decades later, Edmunds would still be saying of the January 8th speeches (with Watterson's front-and-center) that were "intended to frighten members of Congress by the threatened presence of at least one hundred thousand men assembling at Washington," even if he maintained that they did not have that effect.<sup>151</sup>

Notwithstanding Senator Edmunds's view at the time—or in retrospect—it is striking how frequently members of both the House and Senate referred to the January protests and the prospect of 100,000 men visiting Washington, DC, on February 14. Typically, it was Republicans who brought up the January protests and Watterson's 100,000 unarmed men. Republican House member Abraham Herr Smith, from Pennsylvania, echoed Senator Morton's sentiment: "The hundred thousand unarmed men that are to be brought here to bull-doze the Senate and House, I do not fear. It is a useless threat and can injure none but its partisan authors. ... Out of Congress no excitement exists; here it seems to have been manufactured. The 8th of January was made infamous as intimidation day."<sup>152</sup> Congressman Martin I. Townsend, a Republican from New York, was even more sneering in his assessment of the January protests, likening Henry Watterson to French Revolutionary figure Jean-Paul Marat and the Democratic Party to the radical French Jacobins, saying that "our citizen Marat has threatened this assembly with the overawing power of a hundred thousand unarmed democrats." However, "I wish to say to the people of the country ... that there are a few republicans here on whom this 'great fear' has not fallen." And, yet, Townsend did seem to acknowledge that, even if he himself was not impressed by it, the "great terror" has "threatened us, and ... 'bull-dozed' a large number of members on my side of the House."<sup>153</sup>

Several more prominent examples from the congressional debates bring home the importance of the January protests—and Democratic protests in general—to the congressional debates. Senator Aaron A. Sargent, a California Republican, who was opposed to the bill, complained that the senators "are acting under duress, under menace. ... We are told that civil war impends upon us. We have drank [sic] deeply of that bitter cup. ... The liberties of this people are gone when violence or threats of violence can constrain the Senate to temporary and inconsiderate expedients."<sup>154</sup>

<sup>150</sup> *Ibid.*, 807.

<sup>151</sup> George F. Edmunds, "Another View of the Hayes-Tilden Contest," *Century Magazine* 86 (June 1913), 196.

<sup>152</sup> *Congressional Record*, vol. 5, 968.

<sup>153</sup> *Ibid.*, 1024.

<sup>154</sup> *Ibid.*, 869.

<sup>147</sup> *Congressional Record: Containing the Proceedings and Debates of the Forty-Fourth Congress, Second Session*, vol. 5 (Washington, DC: Government Printing Office, 1877), 799, emphasis added.

<sup>148</sup> *Ibid.*, 807.

<sup>149</sup> *Ibid.*, 894.

Republican Congressman Charles G. Williams of Wisconsin facetiously expressed surprise that the idea of the President of the Senate counting the electoral votes “would justify the marching upon the capital of thousands and hundreds of thousands of unarmed men, thereby securing a calm, dignified, and proper construction of constitutional law.”<sup>155</sup> James Garfield, Republican Congressman from Ohio, and future president, had a very interesting take on the congressional debates over the bill. He noted that “we have been told to-day in this Chamber that there is danger of civil war if the bill does not pass. ... When you tell me that civil war is threatened by any party of State in this Republic, you have given me supreme reason why an American Congress should refuse, with unutterable scorn, to listen to those who threaten, or to do any act whatever under the coercion of threats by any power on the earth.”<sup>156</sup> Finally, Congressman John H. Baker, Republican of Indiana, strongly argued against the Democratic “menace”—especially as seen through their conventions—influencing the congressional debates: “Partisan conventions, local, State, and national, are a menace to peace and good order whenever society is agitated by conflicting emotions or is nearly evenly divided on questions of great public interest. If a national convention of the character suggested by some Jacobin spirits, anxious for cheap notoriety, did convene, if it did not throw the nation into anarchy it would greatly augment the chances of that calamity.”<sup>157</sup>

It was not just Republicans who referenced the January protests. Democratic Congressman Roger Q. Mills of Texas, for instance, rhapsodized about the constructive role that the protests had played: “if the people of the West had not spoken in terms so defiant and determined, I doubt if the conspirators [Republicans] would have faltered or accepted any terms. After the western meetings on the 8th of January, I doubt very much if the leaders would have attempted to carry their plans into execution.”<sup>158</sup> Congressman John Goode, Jr., Democrat from Virginia, inveighed against the “preconcerted clamor of a large portion of the republican press from one end of this land to the other against the inherent right of democratic citizens peaceably to assemble and to concert measures for the public safety.” Goode was undoubtedly referring to the coordinated attacks against the January meetings by the prominent Republican presses profiled above. Naturally, in Goode’s estimation the protests were not intimidation or bulldozing or part of a Mississippi Plan, but were protected expressions of peaceable assembly and petitioning of the government. Goode further warned that unless the congressional plan was approved, there must be war: “Are they [Republicans] or the people whom they represent prepared for a conflict of arms?”<sup>159</sup> And Congressman Lucius Q. C. Lamar, Democrat from Mississippi, explicitly defended the January protestors against attacks from Republicans (and even some Democrats): “I wish to repel the disparagement

which has been expressed of the courage and patriotism of our northern political associates and friends which we sometimes hear. ... As to the charge that in the past they have encouraged us with promises of support that were not fulfilled, I deny it.”<sup>160</sup> Lamar was here addressing the common criticism made by Republicans—but also some Southern Democrats—that the bold rhetoric of the January meetings and conventions was just that, rhetoric, and that like during the Civil War, Northern Democrats would desert their Southern partisans.

Naturally, Congressman Henry Watterson himself, in his speech supporting the electoral bill, also noted the January protests and his role in them, if somewhat opaquely: “Rather than see a cabal of party managers using the power placed in their possession as a supreme party to seat a usurper in the Chief Magistracy, ... I have from the first urged upon my political associates proper agitation as to the danger, so that the public opinion of the time might be fully advised, and, being advised, might organize itself to avert it.” Watterson further complained that his participation in this agitation “came to be dismissed with alternate derision and odium, by some as a piece of empty bravado, by others as downright sedition.” Furthermore, “I do admit that the time has gone by when the people at large could act effectively for themselves.”<sup>161</sup>

It is worth noting that Watterson’s speech took on a tone of resignation, and this on the cusp of a major victory for the Democrats at that. It appears that the many criticisms of his January 8th speech, primarily from the Republican presses and politicians, had hit their mark. Watterson surely resented having characterizations such as “empty bravado” and “sedition” leveled at him and his speech. Perhaps those critiques and recriminations played a role in his ultimate moderation, but it is ironic that he failed to see here—or at least did not say so—that his “100,000 unarmed men” declaration had played a key role in moving public opinion and congressional leaders toward a compromise. His fiery words, along with the various conventions in January, had achieved their purpose, that is, making untenable the Republicans’ plan to use the Senate President to elect Hayes and thus moving the political consensus toward a congressional compromise.

Other members did not mention Watterson or his protests as directly as those above, but it was very common for members to reference general worries about unrest, threats of violence, and even a civil war looming. In fact, so common are these references, among both Republicans and Democrats, that there is no need to quote them here. Even an inattentive reader will encounter them, over and again. Remarkable, too, are the numerous references during the debates to telegrams and letters from prominent constituents recommending passage, not to mention members noting the anxiousness of business leaders and the business community in general.<sup>162</sup> It is clear from the debates that most members understood which way public opinion was moving on the matter, hence

<sup>155</sup> *Ibid.*, 837.

<sup>156</sup> *Ibid.*, 968.

<sup>157</sup> *Ibid.*, 999.

<sup>158</sup> *Ibid.*, 982.

<sup>159</sup> *Ibid.*, 940.

<sup>160</sup> *Ibid.*, 999.

<sup>161</sup> *Ibid.*, 1007.

<sup>162</sup> See, for instance, “Washington: The Electoral Bill the Chief Topic of Conversation,” *Detroit Free Press*, January 20, 1877; and “What Say You: To the Main Question Now Before Congress and the American People,” *Chicago Tribune*, January 20, 1877.

the bitterness on the part of Republicans that the Democrats had “bulldozed” the process. Whether truly bulldozed or not, the final votes were not even close. In the Senate, the “Republicans supported the measure 24 to 16; Democrats did so 23 to 1.” In the House, “Republicans opposed the bill 33 to 68, and Democrats supported it 154 to 18.”<sup>163</sup>

Newspaper coverage of the debates as well as the passage of the bill is similarly revealing, suggesting the significant influence of the January protests as well as the tide of public opinion turning toward a legislative solution to the electoral crisis.<sup>164</sup> In fact, it is apparent that in addition to the protests around the northern part of the country, the tumult in South Carolina and Louisiana, which both had competing governors and legislatures at the time the Electoral Commission Act debate, was having an influence on the national conversation. As the *Chicago Tribune* put it, on the eve of the debate: “It is not a perfect scheme, but it is better than civil war; better than the Mexican plan of duplicate Governments; better than a prolongation of the strife; and acceptable not only as determining the Presidential election, but as settling the threatened violence in Louisiana and South Carolina.”<sup>165</sup> The *New York Herald* was also hopeful that the compromise would be approved, as “the Committee have discharged their duty in a spirit of justice and conciliation.” Otherwise, the “country would then be left to a fate we do not like to contemplate, to a wrangling and furious Congress, to secret intrigues and bolder strokes of demagogues, and to increasing excitement among the people, all ending probably in violence and perhaps in civil war, or at best in lasting discontent on one side or the other.”<sup>166</sup>

But a number of newspapers were more direct in tying the bill’s passage to the January protests. As the independent Republican *New York Evening Post* put it, in approving of the bill: “Outside of this city the bill receives hearty and general approval. ... We want no Watterson-Thompson-Wickham mass-meetings, no ‘hundred thousand unarmed Democrats’ marching upon Washington or anywhere else.”<sup>167</sup> Perhaps also not surprisingly, the independent *Boston Globe* was supportive of the commission bill and seemed relieved that the “decisive majority in the two houses of Congress renders any occasion for a national convention entirely void.”<sup>168</sup> The *New York Times*, though in opposition to the commission plan, was quick to draw connections between the Democratic protests and the compromise: “the Democrats having given to their opposition the form of menaces pointing to anarchy, timid people listened to overtures for compromise.” Although the Republicans, if they are unsuccessful before the commission,

“will indulge in no talk about revolution and anarchy;” “does anyone imagine that the Democratic braggarts and blusterers who have done all the threatening will acquiesce with a good grace in the defeat of Tilden?”<sup>169</sup>

The *Times* would descend into bitterness a few days later, as it was clear that the bill would pass both houses of Congress. The Democrats had bamboozled the Congress, by playing a game of “bluff” with “great boldness and skill. The [Democratic] managers pretended to be holding in leash the passions of the rank and file. Mr. Tilden was represented as counseling ‘moderation,’ while the statesmen from remote regions, the temper of which could be safely exaggerated, represented that their constituencies would not listen to such counsels.” Furthermore, the “Northern leaders were reported to be laboring with the Southern leaders to keep their tempestuous dispositions in bounds; the Southerners replied that they would wait for their Northern friends to begin, but that there was a limit beyond which they would not be responsible for consequences.” The *Times* mentions on this score “an imposing demonstration that was got up in New-Orleans” as well as “vague threats [that] were circulating regarding Hampton’s intentions in South Carolina.”<sup>170</sup>

This story by the *Times* is remarkable, as it strongly supports the argument made in this article, with one major distinction: the *Times*’ suspicion that it was all a “bluff.” It seems clear from the analysis here that neither the January protests nor the menacing behavior of the Southern rifle clubs were undertaken in the spirit of a “bluff” or with a hidden or Machiavellian agenda. The rifle clubs had wielded influence well before election day, let alone before there was any talk about the President of the Senate counting votes, and they continued to wield influence predominantly at the state level in the South, especially in South Carolina and Louisiana. And the idea that the January protests—across the states of Ohio, Indiana, Illinois, Kentucky, Wisconsin, Virginia, and Washington, DC—were some sort of ruse, rather than a largely organic expression of opinion, is farcical. No doubt they were planned and organized by partisan leaders, but much of this was at the local and state levels, and with little support from Tilden or national Democrats. The amount of planning that occurred at the local level alone—there are many news stories about the various county meetings across the different states, throughout December and into January, in anticipation of the larger rallies—gives the lie to the “bluff” claim.

Interestingly, even though Democrats tended to favor the plan, not all Democratic newspapers were on board. The *Cincinnati Enquirer* thought the commission would be a “perilous” prospect since, in its view, the Democrats had the stronger bargaining position. However, Democrats had decided to be “noble and generous.” This act of “political unselfishness” was “magnanimous, if not politic.” More importantly, the *Enquirer*, one of the key voices supporting the January protests, offered that if the commission did not decide properly (i.e., for Tilden), the “touch of a torch would ignite the passions of millions of men, ready to fight as they voted.” Consistent with the *New York Times*’ characterization

<sup>163</sup> Holt, *By One Vote*, 223.

<sup>164</sup> While I will just address the editorial perspectives of the newspapers here, it should also be noted that, unlike today, the newspapers published very long passages from the debates as a regular feature of their coverage. See, for example, “44th Congress—Second Session: Senate,” *Baltimore Sun*, January 25, 1877; and “House of Representatives: The Electoral Vote,” *New York Times*, January 26, 1877.

<sup>165</sup> “The Compromise: Senate. House,” *Chicago Tribune*, January 19, 1877.

<sup>166</sup> Quoted in “The Compromise: How It Is Received by the Press and the Politicians,” *San Francisco Chronicle*, January 20, 1877.

<sup>167</sup> “The Newspapers: Press Comments on the Plan,” *Chicago Tribune*, January 22, 1877.

<sup>168</sup> “Electoral Notes: Watterson’s Army Will Not Appear,” *Boston Globe*, January 27, 1877.

<sup>169</sup> “Where the Plan Will Fail,” *New York Times*, January 24, 1877.

<sup>170</sup> “The Electoral Bill and the Senate,” *New York Times*, January 26, 1877.

above, minus the irony and sarcasm, the *Enquirer* continued: “The leaders of the Democratic party have steadfastly sought to assuage, rather than excite, the anger of the hour. But the bugle note has been, and is, alone wanting.”<sup>171</sup>

But the bugle note would not be sounded, even after the commission made every critical decision on a partisan basis and awarded the presidency to Hayes. Democrats had agreed to stand by the commission’s verdict, and they would grudgingly do so. Some Democrats counseled a filibuster of Congress’s official counting of the electoral vote, delayed from February 14 until early March 1877, and others advocated further protest and opposition, even at Hayes’s inauguration. However, the mainstream Democratic reaction, in both the North and the South, was largely one of resignation and acceptance, if tempered by bitterness.<sup>172</sup> Having expended considerable energy in moving the country and the Congress toward the Electoral Commission solution to the election crisis, *contra* the *New York Times*, Democrats did indeed largely “acquiesce with a good grace in the defeat of Tilden.”<sup>173</sup>

## 6. Conclusion

This article has examined the significant role that *public opinion* played in the resolution of the 1876 election. Let me be clear that I am not arguing that party elites, business interests, and/or racist bargains played no role in the 1876 election aftermath and resolution. Rather, what I suggest here is that *public opinion*, especially the January 1877 *peaceful and non-threatening mass meetings* calling for a congressional solution to the election crisis, played a surprisingly robust part in shaping the terms of debate as well as the eventual outcome. Though characterized in some quarters as a “bluff,” the January mass meetings bear no markings of being insincere or devious. Indeed, that so many Democrats across multiple states—at the local and state levels—were motivated to rally and express their voices on the election uncertainty and especially against the Republican plan to use the Senate President to select Hayes; that these meetings raised serious concerns among Republicans, including congressmen, and their partisan newspapers; and that President Grant deployed troops seemingly in response to them, it seems almost obtuse or even willful to discount the role that these protests played in the eventual outcome, especially in their advocacy of a congressional solution to the crisis and notwithstanding that, a follow-up meeting in February.

But the January protests did not happen in a vacuum. They could not be wholly disconnected from the incendiary *speeches and publications* from politicians and especially the partisan presses or from the *peaceful-but-threatening*—although sometimes *violent and riotous*—mass

meetings held throughout the South, especially in South Carolina and Louisiana, during the election season and in its aftermath. At the very time that Congress was debating the Electoral Commission Act, both South Carolina and Louisiana were riven by unrest, each having competing governors and legislatures.<sup>174</sup> With these immediate and pressing examples, not to mention similar strife in Florida, in the minds of Republicans in the administration, as well as in Congress, the January mass protests no doubt brought with them a threatening undercurrent that was at least adjacent to this Southern unrest. And this is to say nothing of the partisan media and politicians that fed off of these meetings, peaceful and nonpeaceful, and fanned the flames of partisan acrimony and antinomy.

In fact, an irony of this partisan acrimony is that Republican attempts to target the Democrats’ mass meetings with labels such as “bulldozing,” or even “insurrection” and “rebellion,” likely backfired on them. One can understand why they pushed hard against the mass meetings as a political matter. If a peaceful protest could be tagged as threatening and *not peaceful*, to say nothing of insurrectionist, the protest could be halted or disbanded, or at least have its influence diminished. This was part of an already established playbook used in South Carolina with President Grant’s proclamation against the rifle clubs, a key difference being, of course, that the behavior of (some of) the rifle clubs could much more justifiably be termed “insurrection” or “domestic violence.” And, yet, by promoting the narrative that these protests—especially Watterson’s proposed February 14th meeting—were in essence menacing and riotous behavior, Republicans helped to make the case, if unwittingly, for the congressional solution that was the Electoral Commission Act.

Republican attempts to designate the Democratic groups and their expressions of public opinion as illegitimate in 1876 and 1877 were unsuccessful and illustrate the perils of the endeavor. Not only will there be disagreement among citizens as to a group’s legitimacy based upon citizens’ own political preferences—few are truly committed to a viewpoint-blind interpretation of the First Amendment—but group actions also will be interpreted in like fashion. To a supporter, a group’s riotous, even violent, actions, will be interpreted generously as justified due to the injustice being protested, as well as minimized as to their aggressive nature, while to a critic, the group’s actions may very well strike at the core of government power and national security. And when political parties, especially those holding government power, are involved in applying and establishing these labels and characterizations, the temptation to use (or, rather, abuse) these characterizations for political gain is too great to resist. Particularly troubling is the specter of disorder that is often raised in opposition to group assemblies and protests. Although most would agree that a foreign terrorist organization is illegitimate, as we move away from this extreme

<sup>171</sup> “The Attitude of the Democracy,” *Cincinnati Enquirer*, January 24, 1877.

<sup>172</sup> See, for instance, “How Shall Hayes Be Treated,” *Atlanta Constitution*, March 2, 1877; and “The Usurper’s Inaugural Address,” *Cincinnati Enquirer*, March 6, 1877. So strongly would Democrats feel about the “fraud” that had been perpetrated, that they would launch a congressional investigation in 1878. For a full treatment of this investigation, see Karen Guenther, “Potter Committee Investigation of the Disputed Election of 1876,” *The Florida Historical Quarterly* 61, no. 3 (January, 1983).

<sup>173</sup> “Where the Plan Will Fail.”

<sup>174</sup> Hampton would take control of the governorship of South Carolina on April 11, 1877, after President Hayes had ordered federal troops to leave South Carolina on April 10. Andrew, *Wade Hampton*, 418–19. Democrat Francis Nichols would also take over as governor of Louisiana in April after a protracted battle with Republican Stephen Packard. See also, Morris, *Fraud of the Century*, 245.

example, consensus almost immediately breaks down, setting a difficult task for the enterprising theorist seeking to establish rules and criteria for distinguishing legitimate from illegitimate group public opinion expression.

Nevertheless, though concepts such as bulldozing and even insurrection were frequently applied subjectively and pejoratively by Republicans to the January protests, there were connections between them and the bulldozing strategies that were employed in the South by the rifle clubs, as well as by protests more generally. Indeed, Watterson himself later recounted that an impetus for the January protests was a series of English protests that led to the Reform Bill of 1832. One of Tilden's friends, Robert M. McLane, as a child "had witnessed the popular demonstrations and had been impressed by the direct force of public opinion upon law-making and law-makers." According to Watterson, they all agreed then that "we must organize a movement such as had been so effectual in England."<sup>175</sup> Notably, these English "popular demonstrations" to which Watterson referred are often described—and no doubt were perceived this way in Watterson's time—as "social unrest" and even "riots."<sup>176</sup> And Watterson himself had to know that in explicitly saying *unarmed* in his famous speech, that he was invoking the specter of *armed* citizens. Even if not armed, amassing 100,000 unarmed men would be, by any account, an act of at least mild intimidation or bulldozing, due to the sheer scope of the enterprise.

But whether it would be 100,000 or 10,000 or 1,000, in a very important sense, there is the threat of bulldozing or overawing at the heart of "petitioning" a government, or engaging in "peaceable assembly." Though it was seeking partisan advantage, the *New York Tribune* was not wrong when, criticizing the January protests, it said that "petitioning the Government in person is always dangerous when political excitement runs high."<sup>177</sup> When large numbers of individuals are gathered, even if those individuals are not armed, there is almost inherently some threat of intimidation, especially when "political excitement runs high." In fact, the very idea of the petitioning of *grievances* suggests emotion and anger. Popular demonstrations or mass meetings fall on a continuum from more to less menacing, but there is rarely a large

demonstration or protest that does not have at least a hint of intimidation or menace—even those committed explicitly to nonviolent protest. The *Tribune's* implied solution—no protests allowed when "political excitement runs high"—was untenable, of course, because demonstrations and protests often emerge precisely because political or social tensions run high, and it is to this fact that their power can be attributed.

And thus it was that in a state of political excitement, with an election hanging in the balance, average citizens and business leaders alike on edge, rifle clubs roaming the streets in several of the contested states, and partisan presses and leaders escalating the tensions, that Democrats organized a series of protests across numerous states in January of 1877. Not only this, but they also called for a follow-up meeting in February in the nation's capital, on the day of the counting of the electoral vote in Congress. While some of the rhetoric was overheated and charged at the mass meetings, most of it was moderate, if firm. And these meetings were overarchingly directed at preventing Republican Senate President Ferry from declaring Hayes the winner by only counting the electoral returns that were in his favor. Notwithstanding Republican arguments, the Democrats' request for a congressional solution was not unreasonable; but the prospect of the Senate President counting in Hayes was arbitrary and unfair. On just the merits, the Democrats had the stronger argument. But the mass meetings helped to clarify and reinforce this position. Even more, though the January mass meetings did not turn violent, and despite that their aims appeared to be rather modest and justifiable, their family resemblance to—even sympathy with—the Southern rifle clubs surely also helped to move members of Congress increasingly toward a legislative solution to the crisis. Was public opinion—especially as expressed through political activism and protest—the *sole* determinant of the congressional solution and essential compromise to the 1876 election? Undoubtedly not. Did it play a significant, perhaps even critical, role? The conclusion seems difficult to escape.

**Competing interests.** The author declares none.

<sup>175</sup> Watterson, "The Hayes-Tilden Contest for the Presidency," 15–17.

<sup>176</sup> See Toke S. Aidt and Raphaël Franck, "Democratization Under the Threat of Revolution: Evidence from the Great Reform Act of 1832," *Econometrica* 83, no. 2 (March 2015): 511–12.

<sup>177</sup> "Mr. Watterson's Hundred Thousand."