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# Great Conspiracies, Stealing Seats, and Anarchy: Senatorial Elections in Disputed States, 1892–1893

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## Abstract

While scholars are revitalizing political history, they continue to neglect the formal yet dynamic institutional framework that shaped not merely the traditional subjects of election campaigns and governance but also newer concerns dealing with political participation, representation, power, legitimacy, and conflict. This article focuses on the 1893 senatorial elections in the six states where neither major party held the legislative majority on joint ballot necessary to elect a U.S. senator. This fraught situation derived from the success of the new Populist party and threatened the customary Republican control of both state politics and the U.S. Senate. By examining the previously overlooked actions and interactions of election and canvassing boards, state courts, and party committees with electoral rules, judicial norms, and legislative procedures *after* the general election of 1892, this article demonstrates that election outcomes were often contingent upon factors other than electoral mobilization, great issues, and popular opinion. Partisanship and the search for power produced “conspiracies” that corrupted basic electoral institutions, subverted voting results, denied rightful representation, violated democratic norms and practices, and provoked popular unrest.

**Keywords:** election fraud; senatorial elections; legislative wars; courts; Populism

Conspiracies! Fraud! Stolen elections! “Find” votes! Fake electors! Election deniers! Insurrection! The sad litany of attempts at electoral subversion following the closing of the polls in the 2020 presidential election surprised and alarmed many Americans. The nation’s formal political and electoral institutions, notably the Electoral College and Congress but also voting practices and procedures, election officials and rules, state legislatures, and ultimately courts and judges, all came under intense pressure from ambitious individuals and heedless partisans determined to manipulate election laws, ignore democratic norms, and undermine political legitimacy. However jarring that revelation was to some, it clearly demonstrated that the institutional framework of the nation’s electoral system is not a static and impartial arena within which “politics” occurs but a dynamic forum where Americans directly address and struggle over competing

beliefs about power, order, equity, and democracy. In actual operation, its rules and procedures provide both constraints to accept and opportunities to exploit, each with serious political consequences.

Unfortunately, beyond the obvious issues of suffrage and political parties, historians have shown remarkably little interest in analyzing or often even recognizing the contested operations of electoral institutions.<sup>1</sup> Indeed, the stimulating recent roundtable on political history in this journal, which begins with a reference to the current political crisis and a query as to its antecedents, almost completely ignores this important subject.<sup>2</sup> Scholars of the Gilded Age and Progressive Era have certainly addressed the issue of vote fraud, and few any longer dismiss its reality, if still at times disagreeing upon its definition and persistence.<sup>3</sup> But the crucial related question raised by the current political controversies, that of the conduct of election administration *after* the voters leave the polls, remains very much what one scholar has called “a historiographical blind spot.” In one detailed article, John F. Reynolds analyzed a famous instance of election officials falsifying the count in New Jersey’s 1889 state election. His arresting conclusion is that much of what passed for electoral chicanery stemmed not from the “evil designs” but from the “gross incompetence” of election officials.<sup>4</sup> Many official investigations of election administration at the time also found widespread incompetence, with election clerks and judges confessing that they were wholly unaware of their legal duties and responsibilities and often asleep, drunk, or indifferent when ballots were counted or reported. But as one Ohio investigation concluded, such incompetent or careless election officials thus often became merely “ignorant, stupid tools” of party operatives who deliberately violated election laws and subverted the democratic process.<sup>5</sup>

This article examines the contested operation of the rules and practices of electing U.S. senators in disputed states in 1892–1893. Remarkably overlooked by scholars, this complex but significant subset of senatorial elections was rarely characterized by the flamboyant speeches, voter mobilization, and great policy issues that political historians typically consider. These elections were instead contingent upon structural and procedural aspects of the electoral process, which in 1893 proved not only more exciting but, for the democratic process itself, perhaps more consequential as well. Senatorial elections, of course, were then conducted by state legislatures rather than by popular vote, and as indirect elections, like the presidential election of 2020, were subject to various electoral institutions and proceedings long after voters cast their ballots in November. Such elections were also central to state politics and often influential in national politics, reflecting and reinforcing important political developments. Partisan voting was usually decisive, but personal, factional, and ideological factors sometimes figured prominently. Success often depended upon effective state party organizations and controlling elections for legislators, but it also then assured influence over federal patronage, appropriations, and policies that could help sustain state political power. In the closely balanced and competitive politics of the period, national political leaders also took an active interest in senatorial elections.<sup>6</sup>

Republican leaders were particularly concerned because their party’s national power was most consistently, if narrowly, based in the Senate, which disproportionately rewarded the small or sparsely populated states of New England and the West controlled by Republicans. But by 1890 widespread discontent among the West’s farmers and miners threatened the party’s continued regional success. Harsh economic conditions and grievances about railroad, tax, and financial policies championed by Republican elites prompted the formation of a major third party, the People’s (or Populist) Party. Populists swept most elections in Kansas and Nebraska and scored notable victories elsewhere in

the West in 1890. These unprecedented returns and large Democratic gains in the East and Midwest cost Republicans their control of the House of Representatives. Then in 1892, with Democrats and Populists often fusing in western states to defeat Republicans, Grover Cleveland overcame Benjamin Harrison's bid for reelection and the Grand Old Party (GOP) lost control of the Executive branch, too, as well as many legislatures and state offices.

The 1892 election also left Republicans facing another phase of their worsening political crisis: the likelihood of surrendering control of the U.S. Senate when the new state legislatures met in 1893 to elect senators. Nineteen of the twenty-nine senatorial elections were for seats held by Republicans. Their gerrymandered legislatures in New England guaranteed Republicans some victories, and they were assured of success in Pennsylvania and a few other states. But if they lost four seats, control of the Senate would pass to a working coalition of Democrats and Populists; a loss of six seats could give Democrats absolute control. Republican attention quickly turned to six western states where the party had suffered popular defeats but Populist voters had prevented either major party from clearly capturing the legislative majorities required to elect senators. If Republicans could exploit those fraught situations effectively, they could gain the senators necessary to narrowly preserve their hold on the U.S. Senate. They had admitted several of those states in 1889 and 1890 to guarantee their national power; they hoped that those western states still might serve that partisan purpose.<sup>7</sup>

### "The Great Conspiracy"

Local political conditions, varying by state, shaped each senatorial election, but the broad patterns marched in lockstep, appearing to many as a coordinated effort, which the *New York Times* labeled the "Great Conspiracy." National party officials, including James Clarkson and Cornelius Bliss of the Republican National Committee, and Senate Republican leaders John Sherman of Ohio, George Hoar of Massachusetts, and William Chandler of New Hampshire, gave substance to that description by holding meetings in Washington with western Republican senators facing reelection, especially Francis Warren of Wyoming, Wilbur Sanders of Montana, Bishop Perkins of Kansas, and A. S. Paddock of Nebraska. After intensely discussing the political situations in what Warren called the "disputed states," the Republican leaders formed a committee to oversee party strategy for the coming senatorial contests. Warren privately reported the committee's optimism about Republican prospects to his collaborators in the West; the aggressive Chandler publicly dismissed Democratic chances to gain control of the U.S. Senate as only "one in a hundred." One tactic they all agreed upon was to foment conflict between Democrats and Populists. That had been a Republican practice to undermine fusion in the 1892 campaign; it now might enable Republican legislative minorities to elect senators. The Populist National Committee provided indirect assistance by issuing a public appeal to all Populist legislators in western states to refuse to vote for Democratic senatorial candidates but instead to stand firm for their own party and its principles and candidates.<sup>8</sup>

One member of the Republican National Committee saw three other methods for Republicans to elect senators without having a legislative majority. First, attract votes from Populist legislators who formerly had been Republicans by pledging to support economic and political reforms the party had previously opposed. Second, simply bribe "venal" Populist and Democratic legislators to vote for Republican candidates by using

money from railroad corporations or promises of patronage by senatorial aspirants. Third, Republicans could “steal” the necessary seats by “trumping up claims” for defeated Republican legislative candidates. He maintained that “the only legitimate and honorable means” was the first, that of “conciliating” Populists, but acknowledged that other Republicans favored either buying votes or stealing seats. In the end, Republicans pursued all three courses, but few favored any accommodation with Populist reform principles, and fewer countenanced (or at least attempted) bribing opposition legislators. The emphasis would be on stealing.<sup>9</sup>

The key to possible Republican success lay in the operations of a basic but often overlooked aspect of the electoral process: canvassing boards, which aggregated precinct results and certified the official winning candidates. And here Republicans had an important guide from their previous efforts to manage election outcomes even before the rise of Populism. In 1889 Montana had held its first state election, resulting in a legislature so evenly divided between Republicans and Democrats that control depended upon a single precinct in Silver Bow County. The county canvassing board, dominated by Republicans, threw out the returns of the precinct as fraudulent, thereby providing a narrow victory to Republican candidates; the all-Republican state canvassing board then quickly awarded them election certificates. But the county board had no legal authority to reject returns, and Democrats secured a court order requiring it to count the precinct’s ballots and issue election certificates to the Democratic candidates. Thus, when the closely divided legislature convened, Silver Bow County had two sets of representatives, each possessing certificates issued by different canvassing boards. Democratic members, including their Silver Bow claimants, met and elected two U.S. senators. Republicans, including their Silver Bow claimants, organized a separate legislature and elected two Republicans to the Senate.<sup>10</sup>

Democrats had the better legal argument, but Republicans had the political advantage, for in 1890 they controlled the U.S. Senate, the judge of its own members’ elections. Senator Hoar shepherded the case through the chamber, and by strictly partisan votes Republicans seated their own adherents. The *Nation* condemned the proceedings as “one of the most humiliating exhibitions of partisanship” in years; Republicans, indifferent to the merits of the case, had not even bothered to counter the evidence that their candidates had “only obtained their certificate by methods like those of the old Carpet-Bag returning boards.” Democrats could only helplessly point out that the self-proclaimed “party of morality and purity of elections above all things” had overridden Senate precedents, defied the public will, and ignored constitutional obligations in order to fulfill Senator Sherman’s dictum that “Anything that will beat down that [Democratic] party and build up our own is justifiable in morals and in law.” And now, in 1892, Hoar and Sherman appeared determined to repeat their triumph on a wider scale.<sup>11</sup>

From coast to coast, Democratic state platforms in 1890 had denounced the Republicans’ capture of Montana’s senate seats as “nothing less than grand larceny.” In 1892, determined to defeat such maneuvers during that election cycle, Democratic leaders met in New York in early December to discuss what they saw as Republican schemes “to reverse the will of the people expressed at the late election.” Some were national party officials, including William Harrity, chair of the Democratic National Committee, and Don Dickinson, chair of the Campaign Committee; others were close associates of President-elect Cleveland, including William Whitney and Daniel Lamont; the remainder were Democratic senators hopeful of protecting their expected majority in the Senate, including Arthur P. Gorman of Maryland and Calvin Brice of Ohio, or prominent western politicians like Martin Maginnis of Montana. Maginnis, one of the senators elected by

Democrats but rejected by the Republican U.S. Senate, explained the Republican electoral and judicial “manipulations” of 1890 and described current Republican attempts to duplicate that success. Consulting by telegraph with party officials in the West, these national leaders considered how to combat Republican efforts already underway in Wyoming, Montana, Kansas, Nebraska, and California to use canvassing boards and courts to seize legislative control “in order to steal the US [*sic*] Senate.” They stoutly pledged to block “the steal if it can be prevented by legal methods,” and charged party officials in New York and Senator Gorman in Washington, D.C., to lead in protecting Democratic interests in the West.<sup>12</sup>

Alarmed Republicans viewed the Democratic meetings just as Democrats saw the Republican conferences. As the *Anaconda Standard* noted, both were convinced that their opponents were “hatching a conspiracy.” Indeed, the tendency to see conspiracies was common in all parties. “There is universal distrust of the ‘other fellows,’” the *Standard* continued, “and perhaps experience justifies it.” Indeed, what their platforms called the “great conspiracy” of the Montana senate steal of 1890 had certainly convinced Democrats of the “political perfidy” and “treachery” of Republicans; the sudden loss of regional political hegemony easily persuaded Republicans that their opponents were “vindictive conspirators,” a “combination of disloyalty, anarchy, ignorance, vice, and degradation.” In December 1892, the advisory committees established by both Republicans and Democrats insisted publicly that their intentions were only to protect the integrity of the November election results from subversion by their unscrupulous adversaries. Some committee members on both sides believed important national policy issues were at risk; Republicans, for instance, sometimes feared that the “daring and desperate Democratic conspiracy” to steal senate seats was to secure the repeal of the McKinley Tariff Act of 1890 or the Federal Election Laws of 1871. But for most committee members and nearly all state politicians involved, the goal was more basic: the maintenance or the acquisition of political power. In their determination, many were interested in election integrity only insofar as it served their own purposes; no wonder they saw conspiracies hatched by their opponents.<sup>13</sup>

### “Infamous and Corrupt Schemes”

Attention focused first on Wyoming. The 1892 election had immediately followed the notorious Johnson County War between cattle barons and small settlers, in which Republicans conspicuously backed the large cattle interests. Democrats and Populists, condemning the GOP as “a standing conspiracy against the public welfare,” joined in a fusion campaign and rode the popular reaction to success in the gubernatorial and congressional elections. They also apparently won control of the legislature, which was scheduled to elect a U.S. senator. But Republicans then quickly launched a scheme that George Miller condemned as “infamous, high handed, and audacious beyond precedent.” Miller, a Nebraskan working with the Democratic National Committee (DNC), had overseen much of the party’s 1892 campaign in the West, including what he called “our neighboring Rotten Borough state” of Wyoming. He now hurried to New York to meet with DNC chair Harrity, Whitney, and Dickinson, seeking help to block the Republican plan of stealing a senator. Miller’s trip to New York alarmed the wary Republican committee, with Wyoming’s Senator Warren concluding that it indicated that “the Democratic party from President to striker is bent upon obtaining a Democratic Senate seat at all hazards and our matter in Wyoming is against the Democratic Party of the

United States.” But Miller was just as uneasy. “I look for possible violence and a bad time out there,” he told Whitney.<sup>14</sup>

Warren was in fact prepared to use force or bribery to overcome his gloomy prospects of reelection, but his party adopted a simpler tactic of refusing to count opponents’ ballots. Republicans had twenty-three members of the legislature, two short of the necessary majority on joint ballot, while Democrats had twenty-one and Populists five. Local Republican election officials, spurred by Warren and Republican campaign chair Willis Van Devanter, took the first steps to steal the legislature. (Democrats observed of Van Devanter, “Winning an election is not his forte, but stealing an election is exactly in his line.”) In Carbon County, for example, Republican county clerk B. F. Ross refused to count the ballots of one precinct, thereby securing his reelection and the election of two Republican legislative candidates in place of Democrats. Ross maintained that unnaturalized immigrants had voted in the precinct, but the two other members of the county canvassing board, one a Republican, accepted the ballots as cast. The clerk then submitted his own set of returns to the state canvassing board along with the official set, while Warren urged Republican officeholders to “work close together” so that “we can all yet push through.”<sup>15</sup>

The state canvassing board, consisting of three incumbent Republicans, took the next step. Its task was to canvass county returns and issue election certificates to the winning candidates. That board met on December 8, and “the God and morality aristocrats” (as the Populist state secretary described the officials) formally accepted the incomplete and incorrect returns from the Republican clerk and awarded certificates to the Republican candidates, giving their party control of the legislature. Democrats and Populists denounced the board’s action as blatantly partisan, undemocratic, and illegal. “Why not let these boards declare the result beforehand so that all the annoyance and labor of the campaign may be saved?” Mass meetings adopted resolutions framing the issue in clear democratic terms: Declaring that “a free expression of the people’s will, a pure ballot, and an honest count are the prime safeguards of our liberties,” they condemned the “infamous and corrupt schemes of Republican conspirators in this state to destroy the electoral franchise and steal the legislature.” Seeking redress, Democratic attorneys, including a representative of the advisory committee, immediately asked the Wyoming Supreme Court for a mandamus ordering the state board to canvass the returns made by the majority of the Carbon County board rather than the partial returns of the Republican clerk.<sup>16</sup>

Large crowds thronged the Capitol as the hearing began, with reporters declaring that no judicial proceedings had ever attracted “more eager interest.” Lacking a serious legal basis for their position, Republican attorneys filed a series of dilatory motions while arguing that the court had no jurisdiction in the matter. They seemed to depend most upon Van Devanter’s possible influence on the all-Republican Supreme Court. A fierce partisan, Van Devanter had been the state’s first chief justice, before resigning to continue his lucrative career as a corporate attorney for major railroad and cattle companies. (Later, after he had served on the Republican National Committee for years, President William Howard Taft appointed him to the U.S. Supreme Court.) Van Devanter daily discussed both political tactics and judicial proceedings with Warren, who, still in Washington meeting with the Republican committee, used a cipher to conceal his advice. After two weeks of courtroom drama, the court rejected Van Devanter’s arguments and issued the mandamus, requiring canvassing boards to perform their legal duties of canvassing all returns. It pointed out that county and state canvassing boards had no judicial functions, i.e., they could not “go behind the returns” to decide their validity, but only the ministerial



function to record the returns as received. It also dismissed the contention that the county clerk was alone responsible for the formal canvass and required the state board to accept the full and official canvass made by the majority of the county board.<sup>17</sup>

Van Devanter, encouraged by the Republican advisory committee in Washington, had one last scheme. Seeking to exploit the state's Australian ballot law, he now argued that the nomination certificates of the Carbon County fusion candidates did not satisfy legal requirements. As a consequence, those candidates should not have been on the ballot and could not have been elected. Voting was a privilege, and people had no right to vote for candidates who were not properly on the ballot. When the court adjourned to deliberate, the state erupted in protest. The *Cheyenne Leader* spoke for many when it condemned the Republican argument that "technical defects in the certificates of nomination" should "overthrow the will of the people." Was the object of election laws "to protect the people or ... to dig pitfalls for them to fall into?" Technicalities should not "nullify an election, disfranchise 1,300 voters, and transform an electoral triumph into a defeat." From Carbon County itself came the further warning that if the justices sustained "the fraudulent acts already committed, no argument or reason can convince the people of the purity or justice of their decision." Beyond such democratic outrage, critics pointed out that the state canvassing board had already issued election certificates to other candidates whose nomination papers were identical to those that hypocritical Republicans now denounced with "such holy horror."<sup>18</sup>

Finally, on December 31, 1892, the Wyoming Supreme Court delivered its ringing decision. Again rising above partisan influences, it declared as a general principle that electoral rules were a means to an end for free and fair elections and that technical violations should not be decisive. Some provisions of the ballot law were essential and mandatory, but others were merely directive. The nomination certificates fit the latter: though technically faulty they did convey all necessary information. Throwing out elections and disfranchising voters because of minor errors, Chief Justice Herman Groesbeck asserted, would be "monstrous" and "defeat the will of the people at the ballot box." Election laws were to determine the intent of the voter, not "to serve as a cloak for disfranchisement."<sup>19</sup>

The crude Republican attempt to capture the legislature had failed. But the election of a U.S. senator remained uncertain. With neither major party holding a legislative majority, whoever succeeded needed Populist votes. Warren arrived in Cheyenne in early January, hoping to bargain with Populist legislators but without success. Indeed, for weeks thereafter both Republicans and Democrats brought forth one candidate after another and appealed for Populist support, but most Populists consistently voted for their own candidates, including Mary Bartlett, a party official and organizer. Stalemated, the legislature finally adjourned without electing a senator. The Democratic governor appointed a Democrat to the position, but the U.S. Senate soon ruled that governors had no authority to fill a vacancy occasioned by a legislature's failure to elect. Despite their aggressive actions, Republicans had failed to retain a senator in one contested state, but Democrats had also lost out.<sup>20</sup>

### "So Divided and So Bitter"

A similar situation in what Democrats called "the epidemic of Republican state stealing" played out in neighboring Montana. The November election had been so close that neither major party controlled the new legislature on a joint ballot, and Populists held the

balance of power. Seeking command, Republicans asked the Republican supreme court to overturn the results from the Box Elder precinct in Choteau County. The bipartisan county canvassing board had thrown out all its ballots after finding fraud by Republican officials and voters so extensive that the board concluded that no legal vote existed at all. The board's action accorded with earlier court decisions, and it then gave the Democratic House candidate the election certificate.<sup>21</sup> But now, to Democrats' fury, the court followed the partisan imperative. Reversing its previous position that canvassing boards had such authority, it ruled that the board had to count the Box Elder returns, thereby electing the Republican candidate. (When the board reconvened, an agitated Republican onlooker attacked a Democratic member with a shovel.) Led by the chair of the Republican National Committee, Thomas Carter, who had returned to his hometown of Helena after the national campaign, Republicans also prepared to contest other returns sufficient to gain control of the legislature. Their only hesitation, noted one observer, was their fear that the Democrats controlling the state senate "may be as unscrupulous as themselves," and unseat Republicans from that body. In the maneuvering that the *Helena Independent* called "the case of the people vs. the conspiracy," Republican "senatorial thieves" also laid plans to secure Populist votes in the legislature and confidently predicted the election of a Republican U.S. senator. Democrats, too, thought they could attract Populist support for their senatorial candidate, but were riven with bitter factionalism. William Clark, a wealthy mining magnate who bankrolled the state party, led the field, and DNC chair Harrity supported his bid. But some Democratic legislators, backed by Marcus Daly, Clark's great antagonist within the party, resisted Clark, and the crucial Populists rejected him completely. Indeed, Populists made their own plans for the coming contest. J. W. Allen of the People's Party National Committee arrived to advise the party's legislators on a course of action to organize the house and to influence the senate election. Dismissing claims that the Populists would vote for major-party politicians, Allen maintained that "Our men all stand together for the candidates and principles of our party."<sup>22</sup>

"Suspense and unrest" hung over the legislature when it convened on January 2, 1893, and the house quickly dissolved in chaos. One fearsome possibility was that Republicans and Democrats would again organize competing houses, neither of which would be legal without the Populists participating to provide a quorum. That night legislators of all three parties bargained. Republicans offered Populists all house offices, their choice of committees, and passage of some favored bills in exchange for their votes on election contests to unseat Democrats and give Republicans a majority on joint ballot. Populists rejected the proposal, at least partly because Republicans could not assure passage of Populist bills in the Democratic senate. Democratic negotiators offered Populists the speakership, other offices, and passage of some Populist bills in both houses. In the morning, Democrats and Populists organized the house, and Democrats triumphantly foresaw the election of a Democratic U.S. senator.<sup>23</sup>

But Democrats continued to fight among themselves for the honor. With ballots taken daily, Republicans stood fast for their candidates, first Senator Sanders and then Lee Mantle, while Democrats split their votes between Clark and William Dixon. Populists backed their own candidate before eventually supporting Dixon, renowned for opposing "the rapacity of corporate power." Daly warned that Populist opposition to Clark assured his defeat even if all Democrats endorsed him; but if all Democrats supported Dixon, the Populists would provide the margin of victory. But Clark refused to withdraw; he had been chosen senator by the Democratic legislature in 1890 only to be rejected by the Republican U.S. Senate and was determined to secure the office. And state party officials stood by him, to the consternation of the Democratic advisory committee, whose



members urged his withdrawal to prevent the “great national disaster” of failing to secure Democratic control of the U.S. Senate. A frustrated Senator Gorman, convinced that his committee had done “everything in its power to bring about harmony and the election of a Democratic Senator,” urged Cleveland himself to send an emissary to Montana to resolve the impasse. But Democrats could not overcome their factionalism to unite on a candidate, and the legislature adjourned without electing a senator. They thus lost a second expected senator, a setback worsened, at least temporarily, when the Republican governor appointed Mantle to the vacant seat. But, again, the U.S. Senate shortly blocked that Republican accession by denying the authority of governors to fill a senatorial vacancy caused by a legislature’s failure to elect.<sup>24</sup>

Despite incurring “odium and scandal,” as the *New York Times* had predicted, Republicans had failed in their attempts to elect senators in Wyoming and Montana, but Democrats had still lost two seats they had expected to win. Yet Republicans next lost two seats they had expected to win. In both Washington and North Dakota, they held a legislative majority but their own unrelenting factionalism led to defeats. The Washington legislature took 101 ballots stretched over the entire session, but no candidate could secure a majority. The Republican governor appointed the Republican incumbent, but he met the same fate as Montana’s Mantle, leaving the state only partially represented in Congress. Republicans fared still worse in North Dakota. They had lost the state offices to a Populist-Democratic fusion and carried the legislature by such a slim margin that both national advisory committees took interest. And despite their majority, Republican legislators were “so divided and so bitter in their antagonism” that they slogged through weeks of balloting without uniting on a candidate. Senators Sherman, Hoar, and Chandler of the Republican committee telegraphed a warning that failure to elect a Republican “would be a serious blow to the party organization and to the party’s future,” but the wrangling continued. Democratic and Populist legislators often voted together (including for four different women) and eventually elected Democrat William Roach when ten Republicans were “induced” to join them by promises of patronage. An attempt by Hoar and Chandler to challenge Roach’s seating then collapsed amidst partisan conflict in the Senate.<sup>25</sup>

Republicans faced still more difficult obstacles in California. The 1892 election had left Democrats just short of a majority in the legislature, with eight Populists holding the balance of power. Republican leaders, including Senator Leland Stanford, nevertheless insisted that a Republican would be elected. Their confidence stirred fears that Stanford would use his wealth to buy the election for a party colleague with well-placed bribes, and Democrats described their situation as “very ticklish,” for only one of their prospective candidates could attract the necessary Populist votes. Early Republican hopes of using county canvassing boards to create more Republican legislators faded quickly, so party leaders sought votes from Populist legislators. That hope, too, dissipated when state and national Populist leaders, particularly Annie Diggs of Kansas, actively pressured the Populists to remain true to party principles and the party’s organization.<sup>26</sup> All eight soon pledged to support only a Populist, becoming what the press termed the “solid eight.” Their determination convinced some Populists that by creating a deadlock they might force Democrats to join in electing the Populist candidate, Thomas Cator. It also persuaded Republicans of a third possible route to success: if all partisans stayed firm, the legislature would be unable to elect anyone at all, and the Republican governor could appoint a Republican. Strict party voting on the first ballot made that outcome a clear possibility. On the second day, however, one Populist, a former Democrat elected with Democratic fusionist support, defected to Democratic candidate Stephen White, assuring

his election. The other Populists denounced the betrayal and charged it to bribery; White himself had previously called indirect elections “the boodle system of electing senators.” Republicans knew only that a senate seat in another state had escaped their grasp.<sup>27</sup>

### “Seeking to Dominate by Fraud”

The two remaining states Republicans targeted offered a different challenge, in which they confronted ideological divisions as well as partisan differences. In both states, Populists had displaced Democrats as the major opposition party, with Populists narrowly controlling the legislature in Kansas while Democrats held the balance of power in Nebraska. Persisting, however, was the Republicans’ determination, despite their minority status, to gain control of each legislature and thereby elect a U.S. senator by any means necessary. And as in Wyoming, the states’ incumbent Republican senators took major roles in the Washington meetings planning how to advance the party’s chances. Eventually, the advisory committee sent a personal emissary to untangle “the senatorial snarl” in Nebraska and elect a Republican.<sup>28</sup>

Nebraska Republicans looked first to their control of local election officials and the courts to transform their large bloc of legislators into a majority on a joint ballot. Democratic Governor James Boyd already believed that where Republicans had controlled election boards they had inflated their vote totals in the November election. Now they pursued additional tactics. One effort rocked Clay County. Herman Stein was both the county clerk supervising the canvassing board and the Republican county chair. In reporting the election results, he refused to combine the votes fusion candidates received on the Populist and Democratic tickets. The county’s three Republican legislative candidates, although easily outvoted at the polls, then petitioned the Republican state supreme court for a mandamus to have Stein issue them certificates of election. Not all Republicans agreed with this brazen effort to overturn the election. The *Omaha Bee* warned against using the Supreme Court as “a partisan machine” for “the avowed purpose of seating and unseating members of the legislature.” While it wanted a Republican legislature, it did not favor “subverting justice, overthrowing the constitution, and seeking to dominate by fraud.” The court, already suffering from a partisan reputation for earlier decisions, apparently agreed. To the dismay of “the Republican conspirators,” as the press reported, the court rejected their ploy and declared the fusionists elected. Chief Justice Samuel Maxwell, a Republican in transition to a Populist, condemned the Republican scheme to “throw out votes legally cast.” It was the duty of all courts, he said, “to carry out the lawfully expressed will of the electors as declared through the ballot box.”<sup>29</sup>

Maxwell held an idealistic view of courts, as his fellow Republican justices quickly demonstrated. In an opinion from which Maxwell vigorously dissented and which was seen as partisan by members of all parties, they sanctioned another Republican electoral scheme. The court ordered the Knox County board of canvassers, which on the basis of voting returns had issued an election certificate to Populist James Kruse, to add the ballots of neighboring Boyd County to the Knox results and issue the certificate to Republican Chester Norton instead. Boyd had been organized as a county only after the legislative apportionment of 1891, but its residents had voted in and paid taxes to Holt County, to which it was also attached in congressional and judicial districting. Shortly before the 1892 election Boyd County’s Republican clerk added Norton’s name to the ballot but refused to add Kruse’s name. As a consequence, the county cast 201 votes for Norton and only four write-in votes for Kruse. Adding Boyd’s results to Knox’s rather than Holt’s

produced a Republican victory through the machinations of Republican local officials and the complicity of the partisan court. It took Populists in the legislature to correct this undemocratic outrage. When Republican state officials, citing the court's mandate, added Norton to the legislature's roster, a storm of protest developed. Populists pointed out that the constitution gave the House, not the Supreme Court, authority to settle election contests of its members while also denouncing the court's decision as "an attempt to redistrict the state," thereby usurping a second legislative function. Democrats, convinced that Republicans intended to elect a U.S. senator by unseating opposition legislators, joined Populists to prevail in a party-line vote to seat Kruse instead of Norton, "and the audience went wild with enthusiasm."<sup>30</sup>

Such Republican efforts to employ election laws and machinery and the courts to increase their number in the legislature had convulsed Nebraska but failed. So, too, had their attempts to bribe Populist legislators. What had begun as an "open secret" in Lincoln eventually produced a major investigation in which several Populists testified they had been offered up to \$2,000 each to vote for Republican John Thurston for senator. The plot foundered, noted one newspaper, only because Populists "were not for sale."<sup>31</sup>

Democrats, no less ruthless, made their own determined efforts to elect a U.S. senator. Governor Boyd told Cleveland and Whitney by both letter and personal envoy of the stakes: "A gain of a Democratic Senator, insuring our party a decisive majority in the National Senate." To improve their chances, Democrats tried to unseat ten Republicans because of misconduct by illegally constituted election boards (complaints too readily dismissed by Republicans as involving mere "irregularities, technicalities, and legal quibbles"), but the state senate eventually shut down the effort as so consuming as to imperil action on all other business. Still a small minority, but holding the balance of power, Democrats next sought votes from both Populists and Republicans, diverging schemes reflecting the sharp division between silver and gold Democrats. Silverites led by William Jennings Bryan, who had facilitated Democratic-Populist fusion in the fall campaign, tried to attract Populist votes; conservative goldbugs led by J. Sterling Morton attempted "to coax, bully, and frighten" Republicans into backing him lest Bryan or, worse, a radical Populist gain the seat. Senator Gorman promoted Boyd as a compromise choice.<sup>32</sup>

All such efforts failed. Morton got some, but not enough, support from Republicans; Populists, as one leader noted, could not vote for a Democrat, even Bryan, and still "go home and face their constituents." Finally, Democrats, pressed by Senators Gorman and Brice, joined with Populists to elect Populist William V. Allen as Nebraska's next senator, thwarting in another state Republicans' dogged attempts to maintain control of the U.S. Senate.<sup>33</sup>

### **"Black Fraud and Treacherous Villainy"**

Kansas seemed to offer still less hope to Republican dreams of stealing a senator than other western states, but its senatorial election proved to be the most dramatic and dangerous development in the "Great Conspiracy" and attracted rapt attention throughout the nation. The Populists, endorsed by Democrats, had swept the 1892 election, carrying their presidential and state tickets, five of eight congressional seats, and twenty-five of forty state senate seats. They also won a clear majority of the legislature on joint ballot, but surprisingly the returns indicated they fell just short of controlling the lower house, a result they attributed to Republican electoral fraud, especially actions of local and

state retuning boards, dominated by Republican partisans. Populists presented a good case, particularly against the State Board of Canvassers, consisting of five lame-duck officials, four Republicans led by Governor Lyman Humphrey and one Populist, Attorney General John Ives. One Republican legislative candidate received an election certificate because of the clerical transposition of voting totals with his opponent, a maneuver of the county clerk that the state board acknowledged but refused to correct. What Populists called “black fraud and treacherous villainy” also underlay other election certificates awarded to Republican legislative candidates. In Ness County, which Populists carried for all other offices, the Republican was declared elected by crediting him with 140 “bogus ballots” – tickets labeled “People’s Party” but with the name of the Republican house candidate substituted for that of the Populist nominee. Such ballots, designed to mislead voters into voting for someone they opposed, were specifically prohibited by an 1887 law. Such partisan trickery would have been impossible if Kansas had an official, state-printed ballot rather than party-printed tickets, but Senate Republicans had rejected an Australian ballot law passed by House Populists in 1891. Still, the 1887 law invalidated such votes, and should have invalidated the Republican “victory.” Another Republican received an election certificate by a process that seemed still more outrageous. In Coffey County, where Populists had also carried all other offices easily, local election officials recorded the Populist candidate the victor by a single vote, but the county board reported the result as a tie, which the state board then turned into a Republican win by misusing a law condemned by the attorney general as unconstitutional. That law provided for resolving a tie by lot, but only in the presence of the contending candidates. With the Populist attorney general refusing to participate in what he regarded as an illegal proceeding under an unconstitutional law, the four Republican members of the board met in secret before emerging to report that the Republican candidate had won their drawing. Other Republicans awarded election certificates included five constitutionally ineligible candidates, and Populists challenged still others on the basis of illegal votes, bribery, and miscounted ballots. Electoral manipulation by Republican canvassing boards extended beyond legislative elections, one flagrant instance involving a Populist candidate for presidential elector, E. B. Cabbell. In reporting returns, two county boards incorrectly spelled Cabbell’s name as Campbell, an error quickly exploited by the state board. Over Attorney General Ives’s protest, the board credited 6,000 Cabbell votes to the imaginary Campbell and then issued an election certificate to the defeated Republican candidate.<sup>34</sup>

Not all Republicans supported such electoral subterfuges. The legislative candidate awarded office by the transposition of vote totals with his victorious opponent eventually declared that he could not honorably accept a seat acquired by such means. Still more notably, U.S. District Judge Cassius Foster publicly wrote Governor Humphrey that even as an ardent Republican he could not countenance “stealing members of the legislature and Presidential Electors from a political opponent.”<sup>35</sup>

Stealing a presidential elector particularly provoked an uproar. Cabbell was one of the most prominent African American Populists, a leading party orator, and an important officer in the Farmers’ Alliance. African Americans had long been a crucial element in the Kansas Republican party, but Populists had made significant efforts to attract Black voters, many of whom had been alienated by the indifference if not hostility of white Republicans. Now angered by this treacherous treatment of Cabbell, Black leaders staged protests and called a meeting in Topeka to organize the Colored Men’s Brotherhood of the People’s Party. Anxious to stave off more Populist inroads among Black voters, and recognizing that counting out Cabbell had no practical consequence for the now

completed presidential election, the Board of Canvassers reconvened, rescinded its earlier action, and awarded a certificate to the Populist.<sup>36</sup>

But the Republican board refused to reconsider any of its other controversial decisions. Those decisions still had importance for the control of the legislature and the election of a U.S. senator. The board had issued election certificates for sixty-three Republicans in a house of 125 members, just enough for a quorum. Still short of a majority on a joint ballot with the Populist senate, Republicans now planned to use their nominal house majority to organize the body and then oust enough Populists to enable them to elect a senator. "A little manipulation of matters in the House," predicted one Republican insider, would lead to success. To forestall that prospect, the Populist state committee met to discuss how to defeat Republicans "in their bold and infamous attempt to steal the house." Although Republicans attacked Populists for plotting "the most outrageous conspiracy ever proposed," the actual Populist plan was modest. Before the legislature met, Populists filed lawsuits asking the Supreme Court to compel the canvassing board to reconvene to correct its decisions in four districts, enough to give them control of the house.<sup>37</sup>

Outgoing Republican Governor Humphrey denounced the lawsuits as an "attempt to steal the legislature," but Populists approached the court warily. Although convinced of the legitimacy of their elections, they faced a situation "full of perplexities and complications," noted Annie Diggs. "Heaven alone knows what may transpire." The court's decision, as the *Topeka Sentinel* observed, might determine "the organization and political complexion of the house" and whether Populists or Republicans would elect a U.S. senator. But all three justices were Republican, and Chief Justice Albert Horton was a party hack, famously described even by the state's foremost Republican, John J. Ingalls, as a dishonest, unprincipled "political judge" who should be wearing jail stripes rather than judicial robes.<sup>38</sup> Horton always consulted closely with state and national party leaders and had cryptically promised toward the end of the fall campaign that "work is being done to make the House of Representatives" safe for Republicans. He did not hide his hatred of Populists, whom he saw as "scheming" to gain control of the legislature. Presenting the Populist arguments in the four contested election cases were some of the best legal minds in the state, including Frank Doster and G. C. Clemens, but Horton and his fellow Republican justices were unmoved. Declining to follow the example of the Wyoming Supreme Court of a week earlier, the Kansas court ruled it had no power to reconvene canvassing boards and that if Populists had "been wronged" by board decisions, only the house itself could remedy matters.<sup>39</sup>

### War and Anarchy

Both Republicans and Populists agreed with the court that the House had authority over the elections and qualifications of its members, but Republicans saw the court's decision as giving them control of the House. Holding sixty-three of 125 election certificates, they would organize the House and then quickly reject all Populist election contests. But Populists insisted that they had sixty-eight members of the body, fifty-eight with certificates, and ten fraudulently denied certificates by canvassing boards. While Republicans contended that certificates were *prima facie* evidence of election and precluded any inquiries into the eligibility of their holders until after the House was organized, Populists countered that such a view gave the canvassing board, not the House itself, final authority over the institution. The question, then, was whether "the right to office depended upon *election* or upon *canvass*." Why should those elected by the people stand aside for

usurpers chosen by canvassers? Those whose seats were contested should not participate in first organizing the House and then deciding the merits of their own cases while their opponents were allowed “no voice in the decision.” Republicans dismissed the Populist position, declaring it would enable a partisan minority to contest enough cases to assure its majority. Populists easily pointed out that a partisan canvassing board could award enough certificates to transform a minority into a majority.<sup>40</sup>

Lawyers for both parties searched for supporting precedents, and the most appropriate one endorsed the Populist position. In 1880, Maine experienced a similar dispute over organizing its legislature, with some partisans claiming election by actual popular vote and their opponents claiming seats on the basis of election certificates awarded by its canvassing board. Maine’s supreme court ruled that the board was “thus strangling and overthrowing the popular will as honestly expressed by the ballot.” Concede the power to determine the membership of the legislature to such a board, the court concluded, “and the right of the people to elect their own officers is at an end.” Wrongfully certified candidates had no right to participate in organizing a legislative body. But in 1893, as one Populist ruefully noted, Kansas Republicans regarded “precedents only good when they are made in the interest of the Republican party.”<sup>41</sup>

When the legislature convened on January 10, 1893, the House plunged into chaos. Both Republicans and Populists organized the body, with conflicting leadership and membership, Republicans swearing in all whose seats were contested and Populists enrolling their claimants to the contested seats. Republicans relentlessly invoked what they called law and order and condemned their opponents as anarchists; Populists insistently appealed to democratic values and denounced Republicans as the real anarchists for subverting government through the systematic violation of election laws. Populists also noted that the state constitution effectively authorized the governor and the senate to determine the legality of the other house of the legislature, and both Populist Governor Lorenzo D. Lewelling and the senate, controlled by Populists, recognized the Populist house. But the Republicans refused to disband, and for a month, amidst intense national publicity as the “Legislative War,” the two groups alternated in holding sessions in the capitol, Republicans in the morning and Populists in the afternoon.<sup>42</sup>

Populists put their time to good use. Guided by its counsel, the learned and highly respected lawyer Edwin Waterbury, the House election committee issued subpoenas for local election officials, poll books, tally sheets, and ballots and had county judges depose individual voters. It regularly found that election officials had been “guilty of gross fraud, or of the most inexcusable carelessness or ignorance, in counting and making return of the votes” and in issuing election certificates; it also uncovered illegal ballots, illegal voting by nonresidents and underage men, and other electoral problems. Local Populists had undertaken their own “relentless, untiring” investigations of Republican election fraud and now sent their affidavits and witnesses to Topeka, urging action by the election committee. With all such evidence, the Populist House replaced six Republicans with Populist contestants. It also ousted five more Republicans as constitutionally ineligible for election, four postmasters and one resident of Oklahoma. Only by counting such ineligible members had the Republican house ever claimed a quorum. The Populist house, concluded Waterbury, was legally established, “firmly and rightly, consistently with the popular majority at the election, and by every test of constitution, law, and precedent.”<sup>43</sup>

Republicans aggressively defended their position. The Republican House undertook its own investigations, declared four Populist seats vacant, and insisted that postmasters were eligible for the legislature provided they resigned their offices before it convened.



That view, however, violated the precedent that Republicans had themselves established in a previous legislature. Moreover, they ousted two Populists for being postmasters. But both had resigned their position, one well before the election, only to have U.S. Assistant Postmaster General E. G. Rathbone, in collusion with Republican Senator Perkins, refuse to accept the resignations. Republicans also adamantly rejected compromises proposed by Democrats and reluctantly accepted by Populists. And when Governor Lewelling, noting that election officials incurred no liability for disregarding the legal rights of voters and candidates, urged enactment of forceful laws to give legal effect "to the will of the people expressed through the ballot box," the Republican House refused even to print his message. Finally, Republicans forced a resolution of the legislative war. They first attempted to arrest officials of the Populist house and battered down the door to the legislative chamber with a sledgehammer, actions that soon spiraled into a larger and dangerous confrontation involving the state militia under insubordinate command, more than a thousand armed Republican "deputies," the threatened importation of Pinkerton thugs by the Santa Fe Railroad, and the mobilization of Populist farmers in the hinterland. Justice Horton, although mischaracterizing the Populist position, described the state as "on the verge of a civil war." Frightened by the prospect of mass violence, Populists made concessions to Republican legislators, yielding "their legal rights in the interest of peace," noted a sympathetic Democratic reporter. Obdurate Republican leaders, however, concocted a lawsuit to enable the Supreme Court to declare their house the legal body.<sup>44</sup>

Attorney General John Little accurately described the suit as "feigned and collusive," based on "a partial and untruthful presentation of the facts and without a presentation of the legal merits of the controversy," and designed simply to allow the court to sustain the Republican house. Indeed, although Populist Stephen Allen had joined the court in January, it remained under Republican domination, and Chief Justice Horton quickly ruled for the Republicans. Allen's dissent was powerful. The court, which had declared it had no authority to order the canvassing board to reconvene, now asserted its authority to determine the membership of the House, despite the constitution giving that body sole power to judge the elections and qualifications of its members. In contravention of the constitution and all precedents, Horton had claimed judicial supremacy in deciding political questions. Allen demonstrated that cases cited by Horton were either irrelevant or not in support of his position, while bluntly quoting Horton's own words, from a previous decision, emphatically denying the court's jurisdiction in the matter. Exclusive power over the election of its members was constitutionally vested in the House, Horton had then acknowledged, and "cannot [even] by its own consent ... be vested in any other tribunal." Horton's twists and turns in now advancing his party's political interests Allen found preposterous if not grotesque. The Populist house, recognized by the lawfully constituted authorities of the senate and governor, was the legal body. Doster and Clemens were less restrained in denouncing Horton's decision as the "brutal sophistry" and "mendacity" of a "partisan judge" engaged in "a premeditated act of audacious usurpation." Waterbury's condemnation of the "absurdities" of Horton's decision was less political and personal but constitutionally and legally more devastating. Nevertheless, confronted with an ever more threatening situation, the Populist house disbanded, but under formal protest against the "illegal and void" ruling, "a political decision made by partisan judges" and destructive of democratic government. Most of its members then entered the Republican body.<sup>45</sup>

Before this troubling resolution of the "war," the legislature was required to elect a U.S. senator. Democrats and Republicans had both conferred with their national leaders in laying plans to capture the seat. As in Nebraska, Democrats were bitterly divided, with a

conservative minority opposing any cooperation with Populists and a larger group recognizing its advantages. But both factions expected to elect a Democrat and pressed Whitney and Gorman for support. Fusion Democrats believed they deserved the reward for their aid in the successful 1892 Populist campaign but worried about the anti-fusion address by the Populist national committee as well as anti-fusion sentiment among Populist legislators; the conservatives believed that Republican legislators would support a Democrat rather than allow a hated Populist to win, a conviction hardened when, as early as December, some Republican leaders openly endorsed such a scenario. Indeed, Republicans initially held little hope to reelect Senator Perkins, but after the Supreme Court's January decision on contested seats, other Republicans joined the incumbent in seeking the prize, and the Republican advisory committee in Washington intensified its activities "in Western states where the fight is now on." Once two competing houses, each claiming legitimacy, were organized, the situation became still more complex, for now all had to consider how the U.S. Senate might regard a senator elected by a fractured legislature. Most expected any result would be contested, an outcome the Republican committee called inevitable.<sup>46</sup> Some Democrats urged Kansas Populists to follow the lead of Montana Populists and vote for a Democrat, with John Martin the obvious choice as the most prominent fusionist. But with strong anti-fusion feelings among Populist legislators, other Democrats still believed that, with Republican backing, a straight Democrat could triumph. Republicans abandoned Perkins in hopes of electing Joseph Ady by somehow attracting both the few Democratic legislators and some Populists who opposed any Democratic dalliance. (Later, several Populists testified that Cyrus Leland of the Republican National Committee had offered them bribes to vote for Ady.) And, indeed, the Populist caucus split over the fusion issue. Anti-fusionists favored Frank Doster, but a majority, fearful that the U.S. Senate might reject a Populist chosen by a three-house legislature, eventually endorsed Martin, certain that his credentials would be accepted by the expected Democratic majority in the next senate. Gorman, in almost constant consultation by telegram, provided advice and assurance to both Democrats and key fusionist Populists.<sup>47</sup>

On January 25, 1893, both houses and the senate met in joint session to elect a senator. Eight Populists refused to support Martin and scattered their votes, but the remaining Populists and several Democrats elected Martin with eighty-six votes, three more than the necessary majority, and the joint session adjourned. Republicans had refused to vote, hoping that Populist disaffection would leave Martin short of a majority. When that proved illusory, they held their own ballot, casting seventy-seven votes for Ady. Without a constitutional majority of the legislature, they could not declare him elected and instead prepared a formal protest against Martin's "revolutionary and illegal" election which they sent to the U.S. Senate, where Hoar and Chandler waited to present the party's case.<sup>48</sup>

As Senator-elect Martin left for Washington to consult Gorman on plans to assure his acceptance, Republicans and conservative Democrats considered one final scheme. Secretly informed of Horton's forthcoming decision upholding the Republican house, and expecting it to scuttle Martin's recognition by the Senate, Republican "boss" Cy Leland pushed to hold another election. He worked with two Democratic legislators who had refused to support Martin, and with the encouragement of Cleveland insiders who, unlike Gorman, hated the prospect of the liberal Martin in the Senate, particularly as the new Administration planned to repeal the Sherman Silver Purchase Act in the next Congress. Their goal was to elect Balie Waggener, an archconservative Democrat who opposed cooperation with Populists and was a former law partner of Justice Horton. As a Democrat, Waggener would still be seated by a Democratic senate but align more with

Cleveland Democrats and Republicans than with Silver Democrats and Populists. (The shifting coalitions in the West's 1893 senatorial elections, predicted Annie Diggs, foreshadowed a party realignment in the 1896 election.) The Republican legislative caucus endorsed the scheme, but its success still depended upon securing the votes of a few Populists to reach the required legislative majority. According to later testimony by several anti-fusion Populists who had not voted for Martin, Leland offered them from \$1,000 to \$10,000 to vote for a stalwart Democrat in a new balloting. Bribery had figured prominently in previous Kansas senatorial elections, and most observers believed Leland capable of the act although some doubted the magnitude of his alleged offers. Although Leland was not "exactly a saint," said one Republican, nor was he "a fool." But, as in Nebraska, the Populists rejected any bribes, and the final Republican effort to steal a senator collapsed.<sup>49</sup>

## Conclusion

Thus, in 1892 and 1893, Republicans in six western states, aided and encouraged by national party leaders, had in varying degrees pursued cynical and unprincipled tactics to subvert election results, undermined basic electoral institutions, corrupted courts and judges, prostituted state officials, threatened violence, frightened the public, and violated democratic norms and practices. But in each state, they had failed in their objective to control the legislature and "steal" a U.S. Senate seat to maintain their hold on state and national power. But their failures were not merely their own or limited to senatorial elections. Legislatures of three states had failed to elect any senator, depriving large constituencies of equitable representation in Washington. Populists with an undisputed majority on joint ballot in the Kansas legislature had felt compelled to elect a Democratic senator, disrupting their own party and dispiriting their followers. Popular belief in democratic elections and legitimate representative government had weakened. Indeed, the overarching failure involved the American electoral system itself. Partisanship in competitive political environments had overwhelmed ballot laws, election judges, canvassing boards, legislatures, and courts; by rejecting the concept of legitimate opposition, it had spawned eager conspiracies willing to degrade voters' rights and political institutions. Such unbridled partisanship and the related failures of the democratic process were certainly not unique to Republicans in the West, but historians have too narrowly focused on their appearance in the crude and despicable practices of Democrats in the South. As victims of systematic election fraud by both major parties, Populists certainly recognized both the national scope and the corrosive effects of such partisanship in American politics. Referring to the 1893 senatorial elections, one Populist concluded that the Republican "Kansas method" of using canvassing boards and courts was "both simple and cheap" compared to the Democratic "Georgia method" of intimidating and disfranchising voters. But in order to advance their power, both major parties regularly engaged in "the infernal work of defeating the will of the people."<sup>50</sup>

Scholars of the Gilded Age and Progressive Era should similarly recognize that the contested institutional framework of the electoral system (both in its legal constraints and in its political malleability in the conduct of elections) often determined election results as much as did issues, candidates, or the will of the people. The widespread right to vote, itself contested in both the North and South, did not by itself assure democracy; the vote had to have practical value: it had to be counted and credited properly and not diluted by illegitimate or overweighted ballots. But defining, establishing, and implementing such

procedures always remained open to challenge, and the ways in which politicians operated in practice could be as important as any abstract guarantees of political rights.

The widespread protests against these senatorial elections, like similar popular protests against the pervasive gerrymandering and other electoral abuses of the 1890s, indicated that much of the public held to democratic principles and expectations; they also helped explain the subsequent popular demand in the Progressive Era for electoral reforms, including the direct election of senators, finally achieved in the Seventeenth Amendment, ratified in 1913.<sup>51</sup> One reason for this delay was that some political elites (and some of their constituents) did not share those democratic norms, as we have seen. The Seventeenth Amendment is beyond the scope of this article, but by exposing attempts at the subversion of popular suffrage rather than simply the corruption of legislatures, the disputed senatorial elections of 1893 expanded spectacularly the demand for the popular election of senators: Nearly all state legislatures in the West quickly adopted resolutions endorsing the reform in 1893 – North Dakota pausing its interminable balloting for senator to do so unanimously – or in their next session; referenda in several states recorded nearly unanimous popular support; the U.S. House of Representatives approved a constitutional amendment in both 1893 and 1894. But the amendment required approval by the very institution it sought to change, a stark illustration of the importance of institutional constraints. And the Senate, led by Hoar and Chandler, rejected reform for both partisan and ideological reasons. While working to control indirect senatorial elections in 1893, Hoar also harangued the Senate against direct election, endorsing restraints on popular suffrage, not its expansion. Other Northeastern Republican senators also opposed a democratic change that might threaten the structural advantage their party enjoyed by electing senators through malapportioned legislatures.<sup>52</sup> Only after other political developments, including growing factionalism within the GOP and sharp Democratic gains in the 1910 elections, did the Senate finally approve direct elections for senators. However, indirect senate elections provided only one institutional arena for parties and politicians to place political interests before democratic principles. And continuing partisan conflict over a parallel reform, the direct election of the president, blocked its achievement in the Progressive Era, not only demonstrating again the contested nature of electoral rules but also preserving Republicans' structural advantages and leaving Americans in 2000, 2016, 2020, and 2024 with an undemocratic and increasingly dangerous Electoral College.<sup>53</sup>

## Notes

1 On suffrage, see especially Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000); on parties, see Mark Wahlgren Summers, *Party Games: Getting, Keeping, and Using Power in Gilded Age Politics* (Chapel Hill: University of North Carolina Press, 2004).

2 Jeffrey Broxmeyer et al., "New Directions in Political History," *Journal of the Gilded Age and Progressive Era* 22 (Jan. 2023): 63–95. Ironically, Lisa Andersen found that students were most readily interested in the "specific electoral laws that shaped Americans' political experience" in the Gilded Age (80). Relevant topics and citations that could have been considered include the following: for the Electoral College, see Alexander Keyssar, *Why Do We Still Have the Electoral College?* (Cambridge, MA: Harvard University Press, 2020); for ballots and voting procedures, see Peter H. Argersinger, *Structure, Process, and Party* (Armonk, NY: M. E. Sharpe, 1992), Richard Franklin Bensel, *The American Ballot Box in the Mid-Nineteenth Century* (Cambridge: Cambridge University Press, 2004), and Erik J. Engstrom and Samuel Kernell, *Party Ballots, Reform, and the Transformation of America's Electoral System* (Cambridge: Cambridge University Press, 2014); for apportionment and districting, see Peter H. Argersinger, *Representation and Inequality in Late*

*Nineteenth-Century America: The Politics of Apportionment* (Cambridge: Cambridge University Press, 2012) and Erik J. Engstrom, *Partisan Gerrymandering and the Construction of Democracy* (Ann Arbor: University of Michigan Press, 2016); for primary elections, see Alan Ware, *The American Direct Primary: Party Institutionalization and Transformation in the North* (Cambridge: Cambridge University Press, 2002) and John F. Reynolds, *The Demise of the American Convention System, 1880–1911* (Cambridge: Cambridge University Press, 2006); for campaign finance restrictions, see Paula Baker, *Curbing Campaign Cash: Henry Ford, Truman Newberry, and the Politics of Progressive Reform* (Lawrence: University Press of Kansas, 2012).

3 For the scope and significance of vote fraud, see Peter H. Argersinger, “New Perspectives on Election Fraud in the Gilded Age,” *Political Science Quarterly* 100 (Winter 1985–1986): 669–687; John F. Reynolds, *Testing Democracy: Electoral Behavior and Progressive Reform in New Jersey, 1880–1920* (Chapel Hill: University of North Carolina Press, 1988); Summers, *Party Games*, esp. 91–106; Tracy Campbell, “Machine Politics, Police Corruption, and the Persistence of Vote Fraud: The Case of the Louisville, Kentucky, Election of 1905,” *Journal of Policy History* 15 (2003): 269–300; Hedwig Richter, “Transnational Reform and Democracy: Election Reforms in New York City and Berlin Around 1900,” *Journal of the Gilded Age and Progressive Era* 15 (Apr. 2016): 153; Gideon Cohn-Postar, “‘Vote for Your Bread and Butter’: Economic Intimidation of Voters in the Gilded Age,” *Journal of the Gilded Age and Progressive Era* 20 (Oct. 2021): 480–502.

4 John F. Reynolds, “A Symbiotic Relationship: Vote Fraud and Electoral Reform in the Gilded Age,” *Social Science History* 17 (Summer 1993): 227, 243.

5 *Chicago Tribune*, Jan. 30, 1885; *Appendix to the Journal of the House of Representatives of the State of Ohio*, 1886 (Columbus, OH: Westbote, 1886), 7, 39, 44, 94.

6 For a valuable overview of senatorial elections, see Wendy J. Schiller and Charles Stewart III, *Electing the Senate: Indirect Democracy Before the Seventeenth Amendment* (Princeton, NJ: Princeton University Press, 2015). While concerned with institutional factors separating voters from senatorial elections, it ignores most of the factors as well as the specific elections addressed in this article.

7 For the partisan strategy of admitting new states, see Charles Stewart III and Barry R. Weingast, “Stacking the Senate, Changing the Nation: Republican Rotten Boroughs, Statehood Politics, and American Political Development,” *Studies in American Political Development* 6 (1992): 223–271.

8 *New York Times*, Dec. 11, 16, 1892; *Anaconda Standard*, Dec. 11, 16, 1892; Francis Warren to Willis Van Devanter, Dec. 13, 14, 16, 1892, Francis Warren Papers, American Heritage Center, University of Wyoming, Laramie, Wyoming; *Helena Independent*, Dec. 12, 1892; *Evening Star* (Washington, DC), Dec. 21, 1892; *Cheyenne Daily Leader*, Dec. 29, 1892.

9 *Omaha Daily Bee*, Dec. 20, 1892. Previous Republican actions had also effectively limited the use of “legitimate” tactics. Republicans had already cynically endorsed agrarian reform demands only to repudiate their pledges once elected, and desperate farmers were not to be trifled with again. For the extraordinary actions Populists took to prevent their legislators from succumbing to Republican appeals in the first senatorial election involving their party, in Kansas in 1891, see Peter H. Argersinger, *The Limits of Agrarian Radicalism: Western Populism and American Politics* (Lawrence: University Press of Kansas, 1995), 80–101. For suggestive observations as to why bribery in senatorial elections was common during this period, see Schiller and Stewart, *Electing the Senate*, 9–10, 46–47.

10 *Appletons’ Annual Cyclopaedia*, 1889 (New York: D. Appleton, 1890), 571; *Appletons’ Annual Cyclopaedia*, 1890 (New York: D. Appleton, 1891), 565–566.

11 *Nation*, Apr. 3, 1890, 272, Apr. 17, 1890, 306, Apr. 24, 1890, 325; *Congressional Record*, 51st Cong., 1st sess., 3103–3106, 3230–3231, 3423, 3435. The *New York Times* on Apr. 17, 1890, headlined its account, “Theft of Two Senators.” For the Republican perspective, see *New York Tribune*, Apr. 14, 1890. By frustrating their previous partisan strategy for controlling the Senate, election reverses in western states turned Republican senators to the strategy already adopted by their House colleagues, that of contesting seats. For context, see Jeffrey Jenkins, “Partisanship and Contested Election Cases in the Senate, 1789–2002,” *Studies in American Political Development* 19 (2005), 68, 74.

12 *Tribune Almanac and Political Register for 1891* (New York: Tribune Association, 1891), 52, 57, 60, 70, 76; A. P. Gorman to W. C. Whitney, Dec. 7, 1892, John Stout to W. C. Whitney, Dec. 17, 1892, William C. Whitney Papers, Library of Congress, Washington, D.C.; *New York Times*, Dec. 10, 11, 12, 1892; *Sun* (New York), Dec. 11, 12, 1892.

13 *Anaconda Standard*, Dec. 16, 1892; *Weekly Tribune* (Great Falls, MT), Sept. 17, 1892; *Helena Independent*, Sept. 16, 1890, Oct. 8, 1892; John J. Ingalls to P. I. Bonebreak, Aug. 18, 1890, John J. Ingalls Papers, Kansas Historical Society, Topeka, Kansas; John J. Ingalls to Joseph Fifer, Nov. 8, 1892, Joseph Fifer Papers,

Abraham Lincoln Presidential Library, Springfield, Illinois; *Columbus (Nebraska) Journal*, Dec. 28, 1892. Party elites, of course, encouraged conspiratorial thinking to mobilize their voters and justify their own behavior. See Summers, *Party Games*, esp. 64. The point here is that, being conspirators themselves, they also believed in conspiracies designed by opponents. In this context, the importance of Chandler (credited by Warren for his advice to the Republican committee) seems particularly apparent. Two years before, with control of the New Hampshire legislature in dispute, Chandler had guided the state party to sweeping success, and the election of a U.S. senator, by crafting a scheme employing certifying boards, courts, and legislative officers that his legal advisors described as “in flat violation” of the law, while Chandler himself launched a propaganda campaign charging “Democratic conspirators” with “threatening revolution” to control the legislature but maintaining that Republicans sought merely to “prevent civil strife.” Democrats condemned Chandler for introducing into New Hampshire “his Florida methods,” a reference to Chandler’s role in the disputed presidential election of 1876. Afterward, Chandler reassured the more fastidious President Harrison that “Time and reason will abundantly vindicate the victory.” See Warren to Van Devanter, Dec. 13, 1892, Warren Papers; F. N. Parsons to W. E. Chandler, Nov. 11, 1890, and W. E. Chandler to Henry Putney, Dec. 29, 1890, William E. Chandler Papers, New Hampshire Historical Society, Concord, New Hampshire; Chandler to editor, *New York Tribune*, Nov. 20, 1890; *Nashua Daily Telegraph*, Nov. 10, 19, 24, 25, 1890; *Concord Evening Monitor*, Jan. 7, 9, 1891; W. E. Chandler to Benjamin Harrison, Jan. 8, 1891, Benjamin Harrison Papers, Library of Congress, Washington, D.C.

14 *Laramie Boomerang*, Sept. 29, 1892; George Miller to W. C. Whitney, Dec. 1, Nov. 10, 1892, Whitney Papers; Francis Warren to Willis Van Devanter, Dec. 14, 1892, Warren Papers.

15 Lewis L. Gould, *Wyoming: A Political History, 1868–1896* (New Haven, CT: Yale University Press, 1968), 173; *Cheyenne Daily Leader*, Nov. 25, Dec. 7, 9, 1892; Francis Warren to J. B. Okie, Dec. 14, 1892, Warren Papers. Van Devanter also tried to have thrown out the votes of two Democratic precincts in Converse County. *Cheyenne Daily Leader*, Nov. 17, 19, 1892. For a ferocious defense of Republican tactics, see *Cheyenne Daily Sun*, Nov. 26, 1892.

16 *Cheyenne Daily Leader*, Dec. 9, 10, 11, 15, 1892; *Cheyenne Daily Sun*, Dec. 9, 1892; *Sundance Reform*, Dec. 15, 1892. Warren now preferred to believe that Republicans had finally secured a legislative majority but that Democrats, by legally challenging Republican machinations, intended to “steal it away from us.” Warren to Enoch Vanter, Dec. 12, 1892, Warren Papers.

17 *Cheyenne Daily Leader*, Dec. 16, 17, 18, 21, 22, 24, 1892; *Laramie Boomerang*, Dec. 29, 1892; Francis Warren to Willis Van Devanter, Dec. 21, 22, 1892, Warren Papers; *Cheyenne Daily Sun*, Dec. 28, 1892.

18 Warren to Van Devanter, Dec. 13, 1892, Warren Papers; *Cheyenne Daily Leader*, Dec. 28, 30, 1892; *Carbon County Journal* (Rawlins, Wyoming), Dec. 10, 1892; *Laramie Boomerang*, Dec. 29, 1892.

19 *State v. Barber*, 32 Pac. Rep. 14, 18 (Wyoming, 1893); *Cheyenne Daily Sun*, Jan. 1, 1893. Groesbeck, elected as a staunch Republican, became a crusading Socialist after he left the bench.

20 Francis Warren to Willis Van Devanter, Jan. 4, 1893, Warren Papers; I. S. Bartlett, *History of Wyoming* (Chicago: Clarke, 1918), I: 222; Gould, *Wyoming*, 183–195. Warren consoled himself that Republicans, by “deadlocking the legislature,” had prevented the election of a Democrat to a six-year term; an appointee would serve only until the next legislative session or be rejected by the Senate, diminishing the state’s representation in Washington, an outcome the partisan Republican found agreeable. Warren to H. T. Jones, Feb. 28, 1893, Warren to M. M. Estee, Mar. 1, 1893, Warren Papers.

21 *Helena Independent*, Nov. 29, 30, Dec. 7, 17, 1892; W. A. Clark to W. C. Whitney, Nov. 15, 1892, Whitney Papers; *Anaconda Standard*, Dec. 4, 7, 1892; *Sun* (New York), Dec. 11, 1892.

22 *State v. Board of Canvassers of Choteau County*, 31 Pac. Rep. 879 (Montana, 1892); *Anaconda Standard*, Jan. 1, 1893; *Helena Independent*, Dec. 6, 7, 12, 13, 29, 1892; Clark to Whitney, Nov. 15, 1892, W. F. Harrity to W. C. Whitney, Jan. 14, 16, 1893, Whitney Papers.

23 *Anaconda Standard*, Jan. 4, 5, 1893; *Helena Independent*, Jan. 3, 4, 1893.

24 *Livingston (Montana) Enterprise*, Aug. 20, 1892; Marcus Daly to A. P. Gorman, Jan. 18, 1893, A. P. Gorman et al. to W. A. Clark, Jan. 18, 1893, A. J. Davidson to A. P. Gorman, Jan. 18, 1893, W. A. Clark to A. P. Gorman, Jan. 19, 1893, A. P. Gorman to W. C. Whitney, Jan. 19, 1893, Whitney Papers; *House Journal of the Third Session of the Legislative Assembly of Montana* (Butte, MT: Inter Mountain Publishing, 1893), 376. See also William L. Lang, “Spoils of Statehood: Montana Communities in Conflict, 1888–1894,” *Montana: The Magazine of Western History* 37 (Autumn 1987): 40–41.

25 *New York Times*, Jan. 3, Apr. 12, 13, 1893; *New York Post*, Dec. 12, 1892; Nath Brewer to W. C. Whitney, Dec. 26, 1892, Whitney Papers; *Jamestown (North Dakota) Weekly Alert*, Jan. 26, 1893; *Bismarck Weekly Tribune*, Feb. 3, 1893; *Appletons’ Annual Cyclopaedia*, 1893 (New York: D. Appleton, 1894), 534–535.



- 26 *Morning Call* (San Francisco), Dec. 7, 1892; *Helena Independent*, Dec. 21, 1892; John P. Irish to W. C. Whitney, Dec. 25, 1892, Whitney Papers; Annie Diggs to T. V. Cator, Nov. 27, 1892, Jan. 7, 1893, Thomas V. Cator Papers, Green Library, Stanford University, Stanford, California.
- 27 *Morning Call* (San Francisco), Dec. 10, 11, 1892, Jan. 11, 19, 1893; *Daily Record-Union* (Sacramento, California), Jan. 5, 11, 1893; C. A. Barlow to T. V. Cator, Nov. 17, 1892, Cator Papers; *The Journal of the Assembly during the Thirtieth Session of the Legislature of the State of California, 1893* (Sacramento, CA: State Office, 1893), 125; Stephen White to F. A. Eastman, Sept. 16, 1890, Stephen M. White Papers, Green Library, Stanford University, Stanford, California. See also Harold Francis Taggart, "The Senatorial Election in California in 1893," *California Historical Society Quarterly*, 19 (Mar. 1940): 59–73.
- 28 *Columbus Journal*, Jan. 25, 1893.
- 29 James Boyd to W. C. Whitney, Dec. 2, 1892, Whitney Papers; *Alliance-Independent* (Lincoln, Nebraska), Nov. 24, Dec. 22, 1892; *Omaha Daily Bee*, Dec. 13, 19, 1892; *State v. Stein*, 53 N.W. 999, 1003, 1005 (Nebraska, 1892). Republicans refused to renominate Maxwell in 1893 because of his criticism of Republican justices for making partisan decisions; Populists nominated him for chief justice in 1895. Robert W. Cherny, *Populism, Progressivism, and the Transformation of Nebraska Politics, 1885–1915* (Lincoln: University of Nebraska Press, 1981), 44.
- 30 *Omaha Daily Bee*, Jan. 1, 1893; *Alliance-Independent* (Lincoln, Nebraska), Nov. 24, 1892, Jan. 5, 12, 1893; *State v. Van Camp*, 54 N.W. 113, 119 (Nebraska, 1893); Thomas Allen to William Jennings Bryan, Jan. 21, 1893, William Jennings Bryan Papers, Library of Congress, Washington, D.C.; *House Journal of the Legislature of the State of Nebraska, 1893* (York, NE: Nebraska Newspaper Union, 1893), 7.
- 31 *Alliance-Independent* (Lincoln, Nebraska), Jan. 5, 12, Feb. 16, 1893; *Omaha Daily Bee*, Feb. 13, 18, 1893; G. W. Hopkins to W. J. Bryan, Jan. 23, 1893, Bryan Papers; *House Journal of Nebraska 1893*, 1583–1692. Republican editors had predicted the senatorial contest would be won by the Republican "with the fattest purse," able to bribe "half a dozen" Populists. See *Omaha Daily Bee*, Nov. 28, 1892, quoting *Fremont Flail*.
- 32 Boyd to Whitney, Dec. 2, 1892, A. P. Gorman to W. C. Whitney, Dec. 20, 1892, Whitney Papers; *Omaha Daily Bee*, Jan. 20, Feb. 8, 1893; *Senate Journal of the Legislature of the State of Nebraska, 1893* (York, NE: Nebraska Newspaper Union, 1893), 316–324, 340; Thomas Allen to W. J. Bryan, Jan. 13, 1893, Bryan Papers. For the Democratic rift, see also Paolo E. Coletta, "William Jennings Bryan and the Nebraska Senatorial Election of 1893," *Nebraska History* 31 (Sept. 1950): 182–203.
- 33 *Omaha Daily Bee*, Jan. 22, Feb. 5, 1893; H. M. Boydston to W. J. Bryan, Jan. 13, 1893, Thomas Allen to W. J. Bryan, Jan. 20, 1893, Bryan Papers; *Capital City Courier* (Lincoln, Nebraska), Feb. 11, 1893.
- 34 *Barber County Index* (Medicine Lodge, Kansas), Feb. 1, 1893; *Kansas Session Laws of 1887* (Topeka, KS, 1887), chapter 154; *Advocate* (Topeka, Kansas), Dec. 7, 1892, Nov. 1, 1893; *Topeka [Weekly] State Journal*, Dec. 8, 1892; *Eighth Biennial Report of the Secretary of State of the State of Kansas, 1891–92* (Topeka, KS: Hamilton Printing, 1892), 129–140; *Topeka Daily Capital*, Nov. 30, 1892; W. H. Kent, *An Historical Review of the Causes and Issues that Led to the Overthrow of the Republican Party in Kansas in 1892* (Topeka, KS: Topeka Daily Press, 1893), 10.
- 35 *Topeka Daily Capital*, Dec. 18, 1892; *New York Times*, Dec. 8, 1892.
- 36 *St. Paul (Minnesota) Daily Globe*, Dec. 18, 1892; *Topeka [Weekly] State Journal*, Dec. 22, 1892; *Eighth Biennial Report of the Secretary of State, 129–140*. Republicans did manage to steal a presidential elector in North Dakota. Democratic and Populist fusionists had cast a majority of popular votes for all three state electors, but Republican county canvassing boards rejected sufficient returns from fusionist precincts to enable two Republican candidates to claim election. Populists and Democrats appealed to the courts, which ruled that the boards were legally required to accept all returns as submitted. But the outgoing Republican governor ignored the ruling and issued a certificate to one Republican before the local board reported its recount. Such actions, well after the election, could not affect its national outcome but demonstrated the Republicans' implacable partisanship. *Jamestown Weekly Alert*, Dec. 15, 22, 29, 1892, Jan. 5, 1893; *Bismarck Daily Tribune*, Dec. 27, 28, 1892.
- 37 J. H. Hamilton to Lyman Humphrey, Dec. 26, 1892, Lyman Humphrey Papers, Kansas Historical Society; *Kansas Commoner* (Wichita, Kansas), Dec. 15, 1892; *Emporia Weekly Republican*, Dec. 15, 1892. Populists held fifty-eight certificates, and the remaining house members consisted of three Democrats (including one seated after the transposed vote totals were properly reversed) and one Independent.
- 38 *Salina (Kansas) Sun*, Dec. 31, 1892; Diggs to Cator, Jan. 7, 1893, Cator Papers; *Daily Sentinel* (Topeka, Kansas), Jan. 6, 1893; *Advocate* (Topeka, Kansas), Mar. 8, 1893.
- 39 Albert Horton to E. W. Halford, Oct. 8, Nov. 14, 21, 1892, to Benjamin Harrison, Apr. 10, 1893, Harrison Papers; *Topeka Daily Capital*, Jan. 4, 5, 6, 1893; *Rosenthal v. State Board of Canvassers*, 32 Pac. Rep. 129

(Kansas, 1893); *Shellabarger v. Williamson*, 32 Pac. Rep. 132 (Kansas, 1893); *Rice v. Board of Canvassers of Coffey County*, 32 Pac. Rep. 134, 136 (Kansas, 1893); *Wilds v. State Board of Canvassers*, 32 Pac. Rep. 136 (Kansas, 1893).

40 *Republican Election Methods in Kansas: General Election of 1892, and Legislative Investigations, Session of 1893* (Topeka, KS: n.p., 1893), 82; G. C. Clemens, *Points for Populists as to Organizing the House of Representatives* (n.p., n.d.), 6–8; *Kansas Weekly Capital* (Topeka), Jan. 26, 1893; *Advocate* (Topeka, Kansas), Jan. 18, 1893.

41 Appendix No. 2, 70 *Maine Reports* 560, 584, 586; Clemens, *Points for Populists*, 4; *Advocate* (Topeka, Kansas), Nov. 1, 1893. For the Maine controversy, see Louis Hatch, ed., *Maine: A History* (New York: American Historical Society, 1919), 2:599–619; Summers, *Party Games*, 107–109.

42 [Populist] *House Journal ... Kansas*, 1893 (Topeka, KS, 1893), 1–8; [Republican] *House Journal ... Kansas*, 1893 (Topeka, KS, 1893), 1–16, 60–63; Kent, *Historical Review*, 17–20; *Kansas Democrat* (Topeka), Jan. 10, 1893; *Atchison Daily Champion*, Jan. 19, 1893; *Topeka Populist*, Jan. 20, 1893. For Republicans' single-minded determination to charge Populists with a "conspiracy" against "law and order" to promote "anarchy and communism," see J. K. Hudson, *Letters to Governor Lewelling* (Topeka, KS: Topeka Capital, 1893). For a forceful indictment of Republicans as the real anarchists, see *People's Voice* (Wellington, Kansas), Jan. 20, 1893. The "Legislative War" desperately needs a full and modern study. William E. Parrish, "The Great Kansas Legislative Imbroglia of 1893," *Journal of the West* 7 (Oct. 1968): 471–490, is seriously flawed by its reliance on a handful of Republican sources, avoidance of Populist sources, and inattention to many legal issues.

43 [Populist] *House Journal*, 56–58, 61–69, 82–89, 97–106, 116–119; *Advocate* (Topeka, Kansas), Jan. 25, Feb. 1, 1893; C. T. Mingenbeck to L. D. Lewelling, Jan. 29, 1893, Lorenzo D. Lewelling Papers, Kansas Historical Society, Topeka, Kansas; Edwin Waterbury, *The Legislative Conspiracy in Kansas: Court vs. Constitution: Who Are the Anarchists?* (Topeka: Kansas Bureau and News, 1893), 13.

44 [Republican] *House Journal*, 83–89, 125–28, 175–176; *Kansas Democrat* (Topeka), Jan. 24, 1893; *Pratt County Union* (Pratt, Kansas), Mar. 9, 1893; *Lawrence Daily World*, Jan. 13, 1893; Kent, *Historical Review*, 23–25; *Senate Journal: Proceedings of the Senate of the State of Kansas, 1893* (Topeka, KS: Hamilton Printing, 1893), 61–62; *People's Voice* (Wellington, Kansas), Feb. 24, 1893; *Topeka Daily Press*, Feb. 16, 1893; Horton to Harrison, Apr. 10, 1893, Harrison Papers; *Topeka [Weekly] State Journal*, Feb. 23, 1893. Rathbone also manipulated the issue of the ineligibility of postmasters in order to advance Senator Warren's reelection in Wyoming. After deflecting Democratic Senator Brice's charge that a Republican legislator was a postmaster, Rathbone privately told Warren's secretary that "so long as the man was not against us, if he was in the legislature, it was all right." L. C. Baker to F. E. Warren, Jan. 16, 1893, Warren Papers. Despite his partisan services, Rathbone was later removed from the Post Office and sentenced to ten years in prison for embezzlement and fraud. Joseph L. Bristow, *Fraud and Politics at the Turn of the Century: McKinley and His Administration as Seen by His Principal Patronage Dispenser and Investigator* (New York: Exposition Press, 1952), 96–101.

45 John Little to L. D. Lewelling, Feb. 17, 1893, Lewelling Papers; *In re Gunn*, 32 Pac. Rep. 948 (Kansas, 1893); *State v. Tomlinson*, 20 Kan. 692, 703 (1878); Waterbury, *Legislative Conspiracy*, 33, 79–89; *Advocate* (Topeka, Kansas), Mar. 1, 8, 1893; [Populist] *House Journal*, 373.

46 W. C. Jones to W. C. Whitney, Nov. 25, 1892, George Glick to W. C. Whitney, Dec. 8, 1892, Whitney Papers; *Kansas City Gazette*, Jan. 5, 12, 1893; *Daily Sentinel* (Topeka, Kansas), Dec. 14, 1892; *Topeka Daily Capital*, Jan. 6, 1893.

47 *Kansas Democrat* (Topeka), Jan. 6, 1893; Thomas Moonlight to P. H. Coney, Jan. 18, 1893, P. H. Coney Papers, Kansas Historical Society; *Topeka Daily Capital*, Mar. 19, 1893; *Atchison Daily Champion*, Jan. 19, 1893; *Pittsburg (Kansas) Daily World*, Jan. 9, 1893; *Emporia Daily Republican*, Jan. 25, 1893.

48 *Kansas Senate Journal*, 159–62; [Republican] *House Journal*, 98–100, 104–105, 108–116. For the failure of Chandler's attempt to unseat Martin, see Anne M. Butler and Wendy Wolff, *United States Senate Election, Expulsion, and Censure Cases, 1793–1990* (Washington, DC: Government Printing Office, 1995), 246–248.

49 *Topeka [Weekly] State Journal*, Feb. 2, 9, 1893; Fred Close to John Martin, Feb. 22, 1893, Lewelling Papers; *Emporia Weekly Republican*, Feb. 23, 1893; Diggs to Cator, Jan. 7, 1893, Cator Papers; *Topeka Daily Capital*, Mar. 19, 1893; *Iola Register*, Mar. 24, 1893. For bribery in Kansas senatorial elections, see Robert S. La Forte, "Gilded Age Senator: The Election, Investigation, and Resignation of Alexander Caldwell, 1871–1873," *Kansas History* 21 (Winter 1998–1999): 234–255; Butler and Wolff, *Senate Election Cases*, 174–77,

219–220; William Allen White, *The Autobiography of William Allen White* (New York: Macmillan, 1946), 191–192.

50 *Kansas Agitator* (Garnett), Oct. 26, 1893. In the aftermath of the 1892 election, of course, Republicans in the West and Midwest also effectively disfranchised Populists by enacting antifusion laws. See Peter H. Argersinger, “‘A Place on the Ballot’: Fusion Politics and Antifusion Laws,” *American Historical Review* 85 (Apr. 1980): 287–306; Argersinger, *Limits of Agrarian Radicalism*, 136–175.

51 The degree to which the many such reforms, beyond the federal amendments providing for popular election of senators and woman suffrage, were actually democratic in either intent or effect is another question, one that merits far more consideration than yet accorded by historians.

52 *Congressional Record*, 53rd Cong., 1st sess., 101–110; 52nd Cong., 1st sess., 3191–3195; George F. Edmunds, “Should Senators Be Elected by the People?” *Forum*, Nov. 1894, 270–278.

53 Susan Ellis and Ronald F. King, “Inter-Party Advantage and Intra-Party Diversity: A Response to Wirls,” *Studies in American Political Development* 13 (Apr. 1999): 32, 34. In apparently the only Senate vote taken during the Progressive Era on direct presidential election and abolition of the Electoral College, Democrats strongly supported the proposal (twenty yea to nine nay) while Republicans just as strongly opposed it (twelve yea to twenty-seven nay). *Congressional Record*, 62nd Cong., 3rd sess., 2362; *Commoner*, Feb. 7, 1913, 7.

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