

### After Appomattox: Military Occupation and the Ends of War

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## Review

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**Downs, Gregory P.** *After Appomattox: Military Occupation and the Ends of War*. Harvard University Press, \$32.95 ISBN 9780674743984

### Between Surrender and Peace

When did the Civil War end? The answer mythologized in American memory—and one that might escape the red pen of hasty blue book graders—is April 9, 1865, the date of the famous meeting at Appomattox between Ulysses S. Grant and Robert E. Lee. Not so fast, Gregory Downs cautions in this impressive and wide-ranging book.

The difficulty is not merely that other Confederate armies remained in the field, and that Jefferson Davis, though in flight, still claimed the powers of the Confederate presidency. More fundamentally, the problem lies in a distinction that Grant emphasized when he told Lee that their discussions could embrace surrender but not peace—that is, the end of war. According to Downs, understanding the difference between surrender and peace—and the gray area in between—is crucial to understanding the course of Reconstruction. He deftly explores how, for a half dozen years after Appomattox, the federal government held parts of the South in a condition of “postsurrender wartime” and used its war powers to shape Reconstruction from both the top down and the bottom up (2).

Looking to Washington, Downs revisits the familiar narrative of national politics to emphasize that differences between President Andrew Johnson and Congress were over more than race and the rights of states and citizens. They clashed too over how and whether to carry out Reconstruction under the war powers exercised before Appomattox, when the federal government, chiefly through the military, overruled civilian laws, replaced local officials, and arrested and tried wrongdoers. Johnson initially embraced those powers as the best means at his disposal to restore order and set up provisional governments in the South. But after his break with Republicans in early 1866, the President

decried Congress's efforts to act under its claim to war powers and issued not one but two proclamations of peace.

Determined to bypass the President, Congress by early 1867 was making plans to intensify military government of the former Confederate states. Although Thaddeus Stevens and others favored an open-ended occupation, the final Military Reconstruction Acts steered a more moderate course, beefing up the powers of occupying forces in the short term but providing a clear path to their removal in states that ratified the Fourteenth Amendment and enfranchised black men. To protect that occupation, Congress passed the Tenure of Office Act and later impeached the President for violating it. The central events in this story, as Downs readily acknowledges, are well known. But recent accounts have not tended to highlight these debates over war powers, and Downs reminds us that talk of holding the ex-Confederate states in the "grasp of war" was not just a bit of hyperbolic metaphor or abstract speculation about the laws of war. It established the basis for federal policies that would, in the end, do a good deal to determine the successes and failures of Reconstruction.

Downs excels when he turns his eye to events on the ground, where those policies played out at military posts throughout the South. Even as hundreds of thousands of Union soldiers mustered out in the months after Appomattox, others spread to new areas of the Southern interior. Nearly three million slaves still lived beyond Union lines in April 1865, and Downs builds on the work of social historians of emancipation to explore how those troops helped (and sometimes hindered) freedpeople eager to give practical meaning to the freedom declared in the Emancipation Proclamation. Through painstaking research in Army records, Downs charts the number of soldiers and their location in the former Confederacy. By September 1865 almost 150,000 troops manned more than 300 posts in the ten ex-Confederate states outside Texas (a special case for Downs because of its status as both an ex-Confederate state and also something of a Western one). But the number of troops and posts declined precipitously over the final months of 1865 and into 1866, encouraged as a cost-cutting measure by some of the same Congressional Republicans who promoted the Army's role in protecting black rights. (Downs' data about troop levels, interactive maps, and other material are freely available at <http://www.mappingoccupation.org/>. The website is a treasure in itself, and will be especially welcome to readers who are likely to find some elements of the printed maps small and faint).

Military Reconstruction brought modest increases in the number of troops and posts in the South. Just as importantly, it expanded military authority, restoring some of the Army's earlier functions and bestowing new responsibilities for registering voters and overseeing elections to form new state governments. Here Downs finds the tragic flaw of Military Reconstruction: in organizing the state governments that enfranchised black men, the occupation simultaneously created the conditions for its own demise and new targets for white Democrats' vigilantism. "Peace," he writes, "would bring a carnival of violence" in the states restored to civilian government, as the Klan and other groups attacked Republican leaders and voters (231). By 1870, the results were evident in Democrats' recapture of Congressional seats and legislatures in a number of Southern states. Nonetheless, Congress and the Army pressed ahead to end Military Reconstruction in Georgia, the last state under any degree of military control. Downs thus arrives at his answer to the question posed above: the Civil War legally ended in early 1871, when the Senate seated Georgia's Joshua Hill in February and the Military District of Georgia closed a few months later.

This is a smart and provocative book that touches on—and perhaps will touch off—a number of historiographical debates. One involves Downs' judgment about the effectiveness of military occupation, and even his choice to use that term at all. Some will object to the notion that a country can occupy itself, but what was at stake after Appomattox was not merely a military presence in the South (that remains today, on bases often named after Confederate generals) but military government of a still unpacified region. During the early twentieth century, historians often accepted white Southerners' depictions of Reconstruction as an era of "bayonet rule." In reaction, historians by mid-century were more likely to question whether the troops' small numbers and brief role qualified as an occupation in any meaningful sense.

While acknowledging many of occupation's shortcomings, Downs concludes that it was "stymied but still in many ways successful" (7). Troops made a tangible difference when and where they were present. They provided protection against the worst of white Southerners' exploitation and violence, removed oppressive officials, and overruled much of the Black Codes and other discriminatory laws. Military occupation also helped secure passage of all three post-war amendments to the federal Constitution, since their ratification was required in some or all of the ex-Confederate states as a condition for restoring civil government. While troop levels paled in comparison to the post-World War

If occupations of Germany and Japan, Downs observes that they compared more favorably to other occupations of the nineteenth and early twentieth centuries, including those of the United States in the Philippines and of Great Britain in Ireland and India. These imperial comparisons are intriguing and Downs raises them several times, but he does not plumb them in depth.

Historians have for some time been tugging at Reconstruction's chronological boundaries, pulling its beginnings back into the years of active combat, as in the case of Eric Foner's landmark study, and pushing its end beyond the conventional date of 1877. Downs lends a hand by adding a twist. He suggests dividing Reconstruction in two: an initial period conducted under extraconstitutional war powers that lasted until 1870-71, followed by a period of "peacetime Reconstruction" that stretched to 1890, when the defeat of the Lodge Election Bill marked the end of national Republicans' fitful efforts to protect black rights (244). While Downs is surely right about the wide latitude of action available under the government's war powers, he may go too far in suggesting that peacetime Reconstruction amounted to little more than a "government without force" (the title of his conclusion). This is because the Constitution itself had been transformed by the Civil War. The federal government acquired broad new powers under the enforcement clauses of all three post-war amendments and for a time put them to use in the South, through means that included the continuing use of the Army. National officials ultimately faltered in their protection of African American rights not so much for the want of authority as the want of political will—which had likewise constrained the military's use during the late 1860s, thus making 1870-71 look less of a bright dividing line.

Downs' book deserves mention alongside a number of recent works that have meditated upon the moral and legal basis of violence during the Civil War era. His argument that rights were not self-realizing—that to give them practical meaning required the use of force by the state and often by individuals—recalls some of the themes of Carole Emberton's *Beyond Redemption: Race, Violence, and the American South after the Civil War* (2013). And his emphasis on war powers as the legal basis for that use of force during the late 1860s builds upon John Fabian Witt's *Lincoln's Code: The Laws of War in American History* (2012). Downs provides a sobering reminder that extraconstitutional war powers and the use of force—which some Americans have questioned in the country's twenty-first century wars—were vital to the expansion of rights during Reconstruction.

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