Ballot Manipulation and the "Menace of Negro Domination": Racial Threat and Felon Disenfranchisement in the United States, 1850–2002[1]

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Criminal offenders in the United States typically forfeit voting rights as a collateral consequence of their felony convictions. This article analyzes the origins and development of these state felon disenfranchisement provisions. Because these laws tend to dilute the voting strength of racial minorities, we build on theories of group threat to test whether racial threat influenced their passage. Many felon voting bans were passed in the late 1860s and 1870s, when implementation of the Fifteenth Amendment and its extension of voting rights to African-Americans were ardently contested. We find that large nonwhite prison populations increase the odds of passing restrictive laws, and, further, that prison and state racial composition may be linked to the adoption of reenfranchisement reforms. These findings are important for understanding restrictions on the civil rights of citizens convicted of crime and, more generally, the role of racial conflict in American political development.

Punishment for felony-level crimes in the United States generally carries collateral consequences, including temporary or permanent voting restric-

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tions. These felon disenfranchisement provisions have a significant collective impact. In the most recent presidential election, for example, an estimated 4.7 million people were disenfranchised owing to a felony conviction (Uggen and Manza 2002), representing "the largest single group of American citizens who are barred by law from participating in elections" (Keyssar 2000, p. 308).

If citizenship and the right to vote are truly "the essence of a democratic society," as the Supreme Court once declared (*Reynolds v. Sims*, 377 U.S. 533, 555 [1964]), then the forces driving adoption of disenfranchisement laws take on great importance for understanding the limits of citizenship rights in America. Voting rights in the United States before the Civil War had generally been limited to white males. The struggle to extend the franchise to all citizens, most notably to racial minorities and women, was a contested and protracted process (McCammon, Campbell, Granberg and Mowery 2001). By the mid-1960s, most of the legal barriers to political participation for U.S. citizens had fallen (Keyssar 2000). As one of the few remaining restrictions on the right to vote, felon voting bans stand out; indeed, the rapid *increase* in felon disenfranchisement rates since the early 1970s constitutes a rare example of significant disenfranchisement in an era of worldwide expansion of democratic rights (Uggen and Manza 2002). Today, the United States is conspicuous among advanced industrial societies for its unusually restrictive voting rules for felons (Allard and Mauer 1999; Demleitner 2000; Ewald 2003; Fellner and Mauer 1998).

Felon disenfranchisement laws are "race neutral" on their face, but in the United States race is clearly tied to criminal punishment: African-American imprisonment rates have consistently exceeded white rates since at least the Civil War era (U.S. Department of Commerce 1882) and remain approximately seven times higher than rates among whites today (U.S. Department of Justice 2002). Given the pronounced racial disparities in criminal justice, some legal theorists have offered race as a factor driving the initial adoption and unusual persistence of felon voting bans (e.g., Fletcher 1999; Harvey 1994; Hench 1998; Shapiro 1993). In particular, the prospective enfranchising of racial minorities during the Reconstruction period (with the adoption of the Fourteenth and Fifteenth amendments in 1868 and 1870) threatened to shift the balance of power among racial groups in the United States, engendering a particularly strong backlash not only in the South (see Foner 1988; Kousser 1974) but in the North as well (see Mendelberg 2001, chap. 2). One instance of this backlash, as established by a long line of research, is the connection that lynching and racial violence has to political and economic competition during this period (Olzak 1990; 1992, chap. 7; Soule 1992; Tolnay and Beck 1995). The simultaneous expansion of voting restrictions for criminal offenders in the period following the Reconstruction amendments may

thus provide an important clue to the origins of these laws, but this idea has not yet been subject to systematic examination.

Most studies of felon disenfranchisement laws address either their current impact or their moral and philosophical underpinnings (e.g., Allard and Mauer 1999; Clegg 2001; Ewald 2002; Fellner and Mauer 1998; Manfredi 1998; Pettus 2002; Uggen and Manza 2002). While many have noted the unusual origins and historical trajectories of these laws, virtually no empirical research has attempted to identify the conditions—whether racial or nonracial—that have driven their passage (see Keyssar [2000, pp. 62–63, 162–63] for a brief and rare exception). In general, we lack both case studies and comparative-historical analyses of the adoption of disenfranchisement laws.[2] This article begins to fill the void, developing the first systematic analysis of the origins and evolution of felon disenfranchisement laws across the states. We begin with an overview of the history of felon disenfranchisement and introduce results of a historical survey of laws passed by each state. We then outline the three varieties of racial-threat theory that we test in the article. The next part describes our measurement and modeling strategy. Subsequently we present our substantive results, including analyses of both the adoption of disenfranchisement laws throughout the entire period under consideration and the sources of the liberalization of state laws since 1940. The final part discusses the scientific and policy implications of these findings.

CITIZENSHIP, RACE, AND THE LAW

The United States Constitution of 1787 neither granted nor denied anyone the right to vote. Over time, states granted suffrage to certain groups and erected barriers to prevent other groups from voting. African-Americans were not considered legal citizens of the United States until 1868, when the Fourteenth Amendment defined a "national citizenship" (Wang 1997, p. 28). Two years later, the Fifteenth Amendment prohibited the denial of suffrage to citizens "on account of race, color, or previous condition of servitude," thus extending the franchise to black men. Nevertheless, violent suppression of the black vote during Reconstruction combined with weak federal enforcement thereafter, and the eventual adoption of a variety of disenfranchising measures by Southern states after 1890, prevented most African-Americans from voting in the South. It was not until

[2] Others have observed this large hole in the existing literature. Ewald (2002, p. 1065), e.g., notes, "There is very little scholarship on the practice [of felon disenfranchisement] in the late nineteenth and early twentieth centuries," while Shapiro (1993, p. 146) asserts "studies of state legislatures' reform and/or repeal of criminal disenfranchisement laws do not exist."

the 1965 passage of the Voting Rights Act (which effectively eliminated state voting restrictions that undermined the Fifteenth Amendment with the intent to diminish the voting rights of African-Americans) that near universal suffrage was finally assured (Keyssar 2000; Kousser 1999).

Even as the pool of eligible voters expanded after the Civil War to include a wider range of people—women with the passage of the Nineteenth Amendment in 1920 and people ages 18 to 20 with the passage of the Twenty-sixth Amendment in 1971—criminal offenders have generally been excluded. Section 2 of the Fourteenth Amendment, which was passed in 1868, specified that states would lose congressional representation if they denied males the right to vote, "except for participation in rebellion, or other crime." In light of this phrase, the U.S. Supreme Court upheld felon disenfranchisement measures in *Richardson v. Ramirez* (418 U.S. 24 [1974]), interpreting such voting bans as an "affirmative sanction" (p. 54) consistent with the intent of the Fourteenth Amendment. While offenders retain their status as U.S. citizens, they cannot vote, and they forfeit many other civil rights as collateral consequences of their felony conviction (Mauer and Chesney-Lind 2002; Olivares, Burton, and Cullen 1997). States thus exercise a form of internal closure (Booth 1997) against felons, distinguishing those "fit to possess the rights of citizenship" from other members of society (Keyssar 2000, p. 163).

Criminal disenfranchisement has an extensive history in English, European, and Roman law, where it was thought to offer both retribution and a deterrent to future offending (see, e.g., Ewald 2002; Itzkowitz and Oldak 1973; Pettus 2002). Nevertheless, no other contemporary democracy disenfranchises felons to the same extent, or in the same manner, as the United States (Fellner and Mauer 1998).[3] Currently, 48 U.S. states disenfranchise incarcerated felons and 14 states disenfranchise at least some ex-felons who have completed their sentences (Fellner and Mauer 1998; Uggen and Manza 2002). Table 1 shows a summary of state laws passed as of December 31, 2002.

[3] Most countries have more narrowly tailored disenfranchisement laws. To our knowledge, the United States is the only nation with broad ex-felon voting bans that extend to all former felons in several states. A few nations, such as Finland and New Zealand, disenfranchise for a few years beyond completion of sentence but only for election offenses (Fellner and Mauer 1998). In Germany, a judge may impose disenfranchisement for certain offenses, such as treason, but only for a maximum of five years (Demleitner 2000). France excludes from suffrage only those convicted of election offenses and abuse of public power. Ireland and Spain both allow prisoners to vote, and in Australia a mobile polling staff visits prisons so that inmates may vote (Australian Electoral Commission 2001). In 1999, South Africa's highest court ruled that prison inmates had the right to vote (Allard and Mauer 1999), and in October 2002 the Supreme Court of Canada ruled that prison inmates may vote in federal elections (*Sauvé v. Canada*, 2002 S.C.C. 68 [2002]).

TABLE 1
SUMMARY OF STATE FELON DISENFRANCHISEMENT LAWS AT YEAR'S END, 2002

Felons Disenfranchised	*N*	States
None	2	Maine, Vermont
Prison inmates	14	Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah
Prison inmates and parolees	5	California, Colorado, Connecticut,* Kansas, New York
Prison inmates, parolees, and probationers	15	Alaska, Arkansas, Georgia, Idaho, Minnesota, Missouri, New Jersey, New Mexico,† North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, West Virginia, Wisconsin
Prison inmates, parolees, probationers, and some or all ex-felons‡	14	Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Maryland, Mississippi, Nebraska, Nevada, Tennessee, Virginia, Washington, Wyoming

* Connecticut changed its law in 2001 to allow felony probationers to vote.
† New Mexico changed its law in 2001 to automatically restore voting rights upon completion of sentence.
‡ While many states have clemency procedures to restore voting rights, most are cumbersome and infrequently used (Fellner and Mauer 1998, p. 5).

American disenfranchisement laws date to colonial times; some states began writing restrictive provisions into their constitutions in the late 18th century. Most state constitutions explicitly gave their legislatures the power to pass laws disenfranchising criminals. Early U.S. disenfranchisement laws drew upon European models and were generally limited to a few specific offenses (Ewald 2002). Over time, states expanded the scope of such laws to include all felonies, often citing a rationale to "preserve the purity of the ballot box" (*Washington v. State*, 75 Ala. 582, 585 [1884]). Many states enacted felon disenfranchisement provisions in the aftermath of the Civil War. Such laws diluted the voting strength of newly enfranchised racial minority groups, particularly in the Deep South but in the North as well (Fellner and Mauer 1998; Harvey 1994; Hench 1998). Felon voting restrictions were the first widespread set of legal disenfranchisement measures that would be imposed on African-Americans, although violence and intimidation against prospective African-American voters were also common (Kousser 1974). Other legal barriers, such as poll taxes, literacy tests, "grandfather" clauses, discriminatory registration requirements, and white-only primaries, would follow at a later date. (Most of these measures were not adopted until after 1890 [Perman 2001; Redding 2003].)

Table 2 details the key legal changes in state disenfranchisement laws.[4] We gathered information about these laws by examining the elector qualifications and consequences of felony convictions as specified in state constitutions and statutes. We located the information by first examining the state constitutions and legislative histories reported by those states that incorporate such information into their statutory codebooks. For other states, we consulted earlier codebooks that referred specifically to voting laws, all of which are archived at the University of Minnesota and Northwestern University law libraries.

Figure 1 provides a visual display of the broad historical pattern of felon disenfranchisement, showing the percentage of states with any felon voting restriction and the percentage of states disenfranchising ex-felons at the end of each decade (adapted from survival distributions available from the authors). Whereas only 35% of states had a broad felon disenfranchisement law in 1850, fully 96% had such a law by 2002, when only Maine and Vermont had yet to restrict felon voting rights. As the figure shows, the 1860s and 1870s are marked by greater disenfranchisement as well as by the adoption of the Fourteenth and Fifteenth amendments. A period of fewer changes followed before another wave of restrictions began in 1889. After the turn of the century, there were fewer restrictive changes, although a number of newer states adopted disenfranchisement measures with their first state constitution.

The most restrictive form of felon disenfranchisement a state can adopt is that which disenfranchises *ex*-felons. These laws ban voting, often indefinitely, even after successful completion of probation, parole, or prison sentences. Over one-third of states disenfranchised ex-felons in 1850 and, as figure 1 illustrates, three-fourths of states disenfranchised ex-felons by 1920. This level of ex-felon disenfranchisement changed little throughout the next half century until many states removed these restrictions in the 1960s and 1970s, restoring voting rights to some or all ex-felons. No state has passed a broad ex-felon disenfranchisement law since Hawaii did so with statehood in 1959 (later amended to disenfranchise only prison inmates).[5]

[4] See Keyssar (2000, pp. 376–86) for a slightly different, independently developed analysis of state felon disenfranchisement laws, and criminal disenfranchisement in general, for the period from 1870 to 1920. We are indebted to Kendra Schiffman for research assistance in tracking down these often difficult to locate legal details.

[5] For a short time in the 1990s, Pennsylvania instituted a five-year waiting period before prison releasees were permitted to register to vote.

TABLE 2

Origins of and Changes to State Felon Disenfranchisement Laws*

State	Year of Statehood	Year of First Felon Disenfranchisement Law[†‡]	Major Amendments[‡§]
Alabama	1819	1867[‖]	
Alaska	1959	1959[#]	1994
Arizona	1912	1912[#]	1978
Arkansas	1836	1868	1964
California	1849	1849[#]	1972
Colorado	1876	1876[#]	1993, 1997
Connecticut	1788	1818	1975, 2001
Delaware	1787	1831	2000
Florida	1845	1868[‖]	1885
Georgia	1788	1868	1983
Hawaii	1959	1959[#]	1968
Idaho	1890	1890[#]	1972
Illinois	1818	1870[‖]	1970, 1973
Indiana	1816	1852[‖]	1881
Iowa	1846	1846[#]	
Kansas	1861	1859[#]	1969
Kentucky	1792	1851[‖]	
Louisiana	1812	1845[‖]	1975, 1976
Maine	1820		
Maryland	1788	1851	1957, 2002
Massachusetts	1788	2000	
Michigan	1837	1963	
Minnesota	1858	1857[#]	
Mississippi	1817	1868	
Missouri	1821	1875[‖]	1962
Montana	1889	1909	1969
Nebraska	1867	1875	
Nevada	1864	1864[#]	
New Hampshire	1788	1967	
New Jersey	1787	1844	1948
New Mexico	1912	1911[#]	2001
New York	1788	1847	1976
North Carolina	1789	1876	1970, 1971, 1973
North Dakota	1889	1889[#]	1973, 1979
Ohio	1803	1835[‖]	1974
Oklahoma	1907	1907[#]	
Oregon	1859	1859[#]	1961, 1975, 1999
Pennsylvania	1787	1860	1968, 1995, 2000
Rhode Island	1790	1841	1973
South Carolina	1788	1868	1895, 1981
South Dakota	1889	1889[#]	1967
Tennessee	1796	1871	1986
Texas	1845	1869[‖]	1876, 1983, 1997
Utah	1896	1998	
Vermont	1791		
Virginia	1788	1830[‖]	

TABLE 2 (*Continued*)

State	Year of Statehood	Year of First Felon Disenfranchisement Law[†‡]	Major Amendments[‡§]
Washington	1889	1889[#]	1984
West Virginia	1863	1863[#]	
Wisconsin	1848	1848[#]	1947
Wyoming	1890	1890[#]	

* Based on authors' canvass of state constitutional and statutory histories through 2002; full details available upon request.

[†] Many states disenfranchised for specific crimes before amending laws to disenfranchise for all felony convictions.

[‡] Years listed are according to the year of legal change rather than to the year the change became effective.

[§] "Major" amendments are those that have changed which groups of felons are disenfranchised. Most states have changed the wording of disenfranchisement laws in ways that generally do not affect who is disenfranchised.

[‖] The first state constitution gave the state legislature the power to restrict suffrage for criminal activity.

[#] Disenfranchisement of felons was instituted at time of statehood.

How Might Race Affect the Adoption of Felon Disenfranchisement Laws?

Drawing from the literatures on ethnic competition and criminal justice, we consider several possible ways in which racial factors, especially perceived racial threat from African-Americans, may be associated with felon voting law changes. Two questions are especially important. First, felon disenfranchisement laws are formally race neutral: all felons, or those falling into certain offense categories, are disenfranchised, not only African-Americans. Does the historical record suggest a plausible link between the laws and racial concerns at *any* point in time? Second, the politics of race have shifted drastically during the past 150 years. Can a single model of racial conflict account for political change over the entire period?

In the wake of the Civil War, states and municipalities enacted a wide range of Black Codes and later Jim Crow laws to minimize the political power of newly enfranchised African-Americans (Woodward 2001). While existing scholarship has rarely addressed the origins of felon voting bans, there are extensive literatures on the origins of general disenfranchisement measures. One classical debate has concerned the social forces driving the legal disenfranchisement of African-Americans after 1890 in the South. The predominant interpretation has been that white Democrats from "black belt" regions with large African-American populations led the fight for systematic disenfranchisement in the face of regional political threat (Key [1949] 1964; Kousser 1974; Woodward 1951), although more recent examinations have identified a number of cases that do not fit this pattern (Perman 2001). Racial violence, in particular the factors driving lynching,

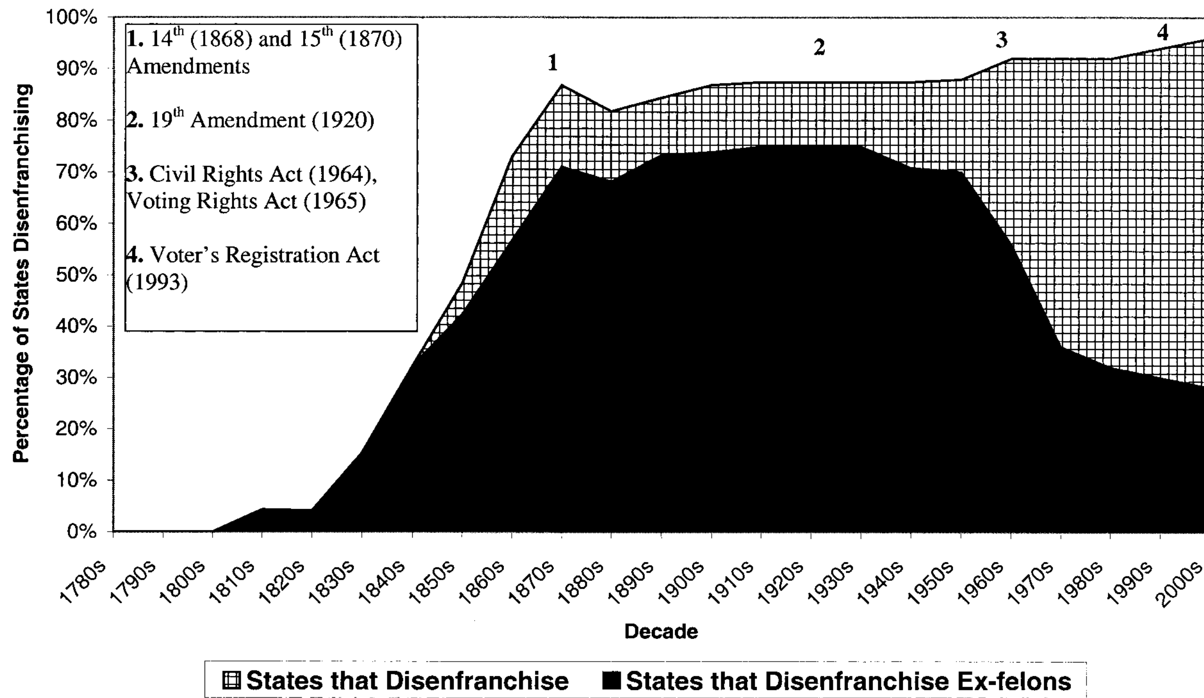

FIG. 1.—Percentage of states disenfranchising felons and ex-felons, 1788–2002

has also been the subject of thorough investigation. For example, some national-level studies report links between lynching and racial competition over political power (e.g., Olzak 1992, chap. 7), although other investigations (using county-level information) have not found the same effects (see Soule 1992; Tolnay and Beck 1995, chap. 6). Most of these studies have also found important impacts of general political-economic conditions, such as the dynamics of the Southern cotton economy, on racial violence and related outcomes (Tolnay and Beck 1995; see also James 1988).

The existing social science literature on the politics of criminal justice has produced conflicting results about the role of race in driving policy change. Research by Jacobs and Helms (1996, 1997) on prison admissions and police strength finds little racial impact, while the same authors' recent study of overall spending on social control finds that criminal-justice-system expenditures are responsive to racial threat (Jacobs and Helms 1999). Several city-level studies of police strength also report race effects (e.g., Jackson 1989; Liska, Lawrence, and Benson 1981). Myers's (1990, 1998) examination of racial disparities in prison admissions, sentencing, and release rates in Georgia between 1870 and 1940 finds modest support for racial competition explanations, in addition to the effects of economic factors such as cotton prices and industrialization. Overall, the existing research provides at best a mixed picture about the role of racial threat in shaping criminal justice policy. Most studies with appropriate statistical controls, however, focus on recent years rather than on the long historical period covered by this article.

Of course, racism and racial threats change shape over time. During the 19th and first half of the 20th centuries, advocacy of racial segregation and the superiority of whites was both widespread and explicit (see Mendelberg 2001, chap. 2). The Civil Rights Act of 1964 and the Voting Rights Act of 1965, however, served as an "authoritative legal and political rebuke of the Jim Crow social order" (Bobo and Smith 1998, p. 209) and fundamentally reshaped the law of democracy in the United States (Issacharoff, Karlan, and Pildes 1998; Kousser 1999). Nevertheless, in spite of the changes inaugurated by the "second reconstruction" of the 1960s, a number of scholars have argued that racial influence on policy making persists (see, e.g., Gilens 1999; Manza 2000). The institutional legacies of slavery and Jim Crow reverberate to the present in a decentralized polity and through path-dependent and policy feedback processes (see, e.g., Brown 1999; Goldfield 1997; Lieberman 1998; Quadagno 1994). Whereas structural and economic changes have reduced the social acceptability of explicit racial bias, current "race-neutral" language and policies remain socially and culturally embedded in the discriminatory actions of the past (Gilens 1999; Mendelberg 2001; Quadagno 1994).

Bobo and Smith (1998) characterize this historical process as a shift from "Jim Crow racism" to "laissez-faire racism." The latter is based on notions of cultural rather than biological inferiority, illustrated by persistent negative stereotyping, a tendency to blame African-Americans for racial gaps in socioeconomic standing (and, arguably, criminal punishment), and resistance to strong policy efforts to combat racist social institutions (see also Bobo, Kluegel, and Smith 1997; Kinder and Sanders 1996; Mendelberg 2001; Schuman, Steeh, Bobo, and Krysan 1997). In the case of race and crime, the institutionalization of large racial disparities in criminal punishment both reflects and reinforces tacit stereotypes about young African-American men that are intensified through media coverage (Entman and Rojecki 2000, chap. 5; Hurwitz and Peffley 1997; cf. Gilens 1999 and Quadagno 1994 on welfare).

The transition from the racism evident in the Jim Crow era to more modern forms can be seen in the discourse surrounding suffrage and the disenfranchisement of felons. Table 3 provides examples of the two modes of racial framing. The left side of the table presents examples of rhetoric on race and disenfranchisement in the Jim Crow era. Although the 1894 excerpt from a South Carolina newspaper does not specifically address felon disenfranchisement, it makes a clear racial appeal for suffrage restrictions. As Tindall (1949, p. 224) points out, South Carolina's Democratic leadership spread word that "the potential colored voting population of the state was about forty thousand more than the white" to push for a state constitutional convention to change the state's suffrage laws. When the convention was held in 1895, South Carolina expanded its disenfranchisement law to include ex-felons.

The 1896 excerpt is taken from the Supreme Court of Mississippi, which upheld the state's disenfranchisement law (*Ratliff v. Beale*, 74 Miss. 247 [1896]) while acknowledging the racist intent of its constitutional convention. The state obstructed exercise of the franchise by targeting "certain peculiarities of habit, of temperament, and of character" thought to distinguish African-Americans from whites. The U.S. Supreme Court later cited this Mississippi decision, maintaining that the law only took advantage of "the alleged characteristics of the negro race" and reached both "weak and vicious white men as well as weak and vicious black men" (*Williams v. Mississippi*, 170 U.S. 213, 222 [1898]).

The other excerpts from the Jim Crow era are taken from Alabama's 1901 Constitutional Convention, which altered that state's felon disenfranchisement law to include all crimes of "moral turpitude," applying to misdemeanors and even to acts not punishable by law (*Pippin v. State*, 197 Ala. 613 [1916]). In his opening address, John B. Knox, president of the all-white convention, justified "manipulation of the ballot" to avert "the menace of negro domination" (Alabama 1901, p. 12). John Field

TABLE 3
Racial Threat and Justifications for Felon Disenfranchisement

Jim Crow Era	Modern Era
1894: “Fortunately, the opportunity is offered the white people of the State in the coming election to obviate all future danger and fortify the Anglo-Saxon civilization against every assault from within and without, and that is the calling of a constitutional convention to deal with the all important question of suffrage.”—*Daily Register*, Columbia, South Carolina, October 10, 1894.	**1985:** “Felons are not disenfranchised based on any immutable characteristic, such as race, but on their *conscious decision to commit an act for which they assume the risks of detection and punishment*. The law presumes that all men know its sanctions. Accordingly, the performance of a felonious act carries with it the perpetrator’s *decision to risk disenfranchisement* in pursuit of the fruits of his misdeed”—U.S. District Court in Tennessee (*Wesley v. Collins*, 605 F. Supp. at 813) upholding the state’s disenfranchisement law.
1896: “The [constitutional] convention swept the circle of expedients to obstruct the exercise of the franchise by the negro race. By reason of its previous condition of servitude and dependence, *this race had acquired or accentuated certain peculiarities of habit, of temperament and of character, which clearly distinguished it, as a race, from that of the whites*—a patient docile people, but careless, landless, and migratory within narrow limits, without aforethought, and its criminal members given rather to furtive offenses than to the robust crimes of the whites. Restrained by the federal constitution from discriminating against the negro race, *the convention discriminated against its characteristics and the offenses to which its weaker member were prone*.”—Mississippi Supreme Court (*Ratliff v. Beale*, 74 Miss. at 266–67) upholding the state’s disenfranchisement law.	**2001:** *“If it’s blacks losing the right to vote, then they have to quit committing crimes. We are not punishing the criminal. We are punishing conduct.* . . . You need to tell people to stop committing crimes and not feel sorry for those who do.”—Rep. John Graham Altman (R-Charleston) advocating a more restrictive felon disenfranchisement provision in South Carolina (Wise 2001*a*).

1901: "[In 1861], as now, the negro was the prominent factor in the issue. . . . And what is it that we want to do? Why it is within the limits imposed by the Federal Constitution, to establish white supremacy in this State. . . . The justification for whatever manipulation of the ballot that has occurred in this State has been the *menace of negro domination*. . . . These provisions are justified in law and in morals, because it is said that the negro is not discriminated against on account of his race, but on account of his intellectual and moral condition."—John B. Knox, president of the Alabama Constitutional Convention of 1901, in his opening address. (See Alabama [1901], pp. 9–15.)	**2002:** "States have a significant interest in reserving the vote for those who have abided by the social contract. . . . Those who break our laws, should not *dilute the vote of law-abiding citizens*."—Senator Mitch McConnell (R-Ky.) opposing a bill to enfranchise all ex-felons for federal elections (U.S. Congress 2002, p. S802).
1901: "The crime of *wife-beating alone would disqualify sixty percent* of the Negroes."—John Field Bunting (Shapiro 1993, p. 541), who introduced the ordinance at the Constitutional Convention to change Alabama's disenfranchisement law.	**2002:** "I think this Congress, with this little debate we are having on this bill, ought not to step in and, with a big sledge hammer, *smash something we have had from the beginning of this country's foundation*—a set of election laws in every State in America—and change those laws. To just up and do that is disrespectful to them. . . . *Each State has different standards based on their moral evaluation*, their legal evaluation, their public interest in what they think is important in their States."—Senator Jeff Sessions (R-Ala.) agreeing with McConnell (U.S. Congress 2002, p. S803).

NOTE.—All emphases added.

Bunting, who introduced the new disenfranchisement law, clearly envisioned it as a mechanism to reduce African-American political power, estimating that "the crime of wife-beating alone would disqualify sixty percent of the Negroes" (Shapiro 1993, p. 541).

With the historical shift away from such overtly discriminatory laws and discourse, felon disenfranchisement laws are now defended on race-neutral grounds. A United States District Court in Tennessee (noted in table 3 under "Modern Era") explicitly rejected race as a criterion, but justified felon disenfranchisement based on individual criminal choice, or the "conscious decision to commit an act for which they assume the risks of detection and punishment" (*Wesley v. Collins*, 605 F. Supp. 802, 813 [M.D. Tenn. 1985]).[6]

In 2001, the South Carolina House of Representatives confronted the issue of race directly in debating a bill to disenfranchise all felons for 15 years beyond their sentence—a proposed expansion of the current law, which restores voting rights upon completion of sentence. After an opponent introduced an African-American ex-felon who would be harmed by the change, one of the bill's sponsors, John Graham Altman, distributed an old newspaper article detailing the man's crime, labeled "Democratic poster boy for murderers' right to vote." One representative likened the act to "Willie Horton race-baiting." Altman, however, denied any racist intent, stating, "If it's blacks losing the right to vote, then they have to quit committing crimes" (Wise 2001*a*, p. A3; Wise 2001*b*, p. B1).

A recent U.S. Senate measure to restore the ballot to all ex-felons in federal elections also met opposition and was ultimately voted down in February 2002. In opposing the bill, Republican Senator Mitch McConnell—himself a likely beneficiary of Kentucky's strict disenfranchisement law in his first Senate election victory in 1984 (Uggen and Manza 2002)—invoked imagery of the most heinous criminals. McConnell stated that "we are talking about rapists, murderers, robbers, and even terrorists or spies," before declaring that "those who break our laws should not

[6] Courts have generally upheld state felon disenfranchisement laws, adhering to the U.S. Supreme Court's *Ramirez* decision (418 U.S. 24 [1974]). In a rare case acknowledging racist legislative intent, the Supreme Court struck down Alabama's "moral turpitude" law in 1985 (*Hunter v. Underwood*, 471 U.S. 222 [1985]). Of course, even when a law has a disproportionately adverse effect on a racial group, intent of racial discrimination is difficult to establish. To date, courts have rejected disparate impact arguments that criminal justice system disparities alone constitute impermissible vote dilution (*Farrakhan v. Locke*, 987 F. Supp. 1304 [E.D. Wash. 1997]; *Wesley v. Collins*, 605 F. Supp. 802 [M.D. Tenn. 1985]).

dilute the vote of law-abiding citizens" (U.S. Congress 2002, p. S802).[7] Arguments such as these shift the focus from historical efforts to dilute the voting strength of racial minority groups to a concern with the vote dilution of "law-abiding citizens." Senator Jeff Sessions drew upon a traditional states' rights discourse—long associated with implicit racial appeals—in defending ex-felon disenfranchisement: "Each State has different standards based on their moral evaluation, their legal evaluation, their public interest" (U.S. Congress 2002, p. S803). Many interpret such statements as representing modern or laissez-faire racism; they appear to accept a legacy of historical racial discrimination uncritically and to oppose reforms by appealing to the legal and popular foundations of a system devised to benefit whites during the slavery and Jim Crow eras (see, e.g., Mendelberg 2001).

Conceptual Models of Racial Threat and Ballot Restrictions on Criminal Offenders

Sociological theories of racial or ethnic threat (Blalock 1967; Blumer 1958; Bonacich 1972) provide one avenue for explaining how racial dynamics shape policy-making processes, such as those surrounding felon disenfranchisement. There are several distinct conceptions of racial threat emphasizing, to varying degrees, economic competition, relative group size, and political power. Each has implications for operationalizing and testing the influence of racial threat on felon disenfranchisement laws.

Most generally, conceptions of "racial" threat are a particular application of group threat theories, which suggest that in situations where subordinate groups gain power at the expense of a dominant group, they will be perceived as a threat by that group (Blalock 1967; Blumer 1958; Bobo and Hutchings 1996; Olzak 1992; Quillian 1996). Actions against minority groups may be triggered by the majority group perception that a "sphere of group exclusiveness," such as the political sphere, has been broached (Blumer 1958, p. 4). In reaction, the majority group seeks to diminish the threat. For example, whites may push for political restrictions on racial minorities if they are concerned that these groups may mobilize and take action against them. The response to perceived threat may be to erect legal barriers, such as Jim Crow laws, and to institute other forms of racial discrimination. By strategically narrowing the scope of the elec-

[7] Offenders convicted of these crimes comprise a minority of the total felon population. Based on correctional data for 2000, we estimate that approximately 22% of the total state and federal prison population, and a far smaller share of the probation, parole, and ex-felon populations, would fall into these offense categories (U.S. Department of Justice 2000).

torate, a dominant majority can use disenfranchisement to sap the political strength of a minority group and diminish its threat to established social structures.

Social psychological aspects of group threat may also be linked to felon disenfranchisement. Race prejudice operates as a collective process, whereby racial groups project negative images onto one another that reinforce a sense of exclusiveness (Blumer 1958; Quillian 1996; Sears, Sidanius, and Bobo 2000). One particularly salient image that may be projected onto an ethnic or racial group is that of "criminal," linking race and crime in public consciousness. Regardless of the actual crime rate, for example, the percentage of young African-American males in an area is directly related to fear of crime among white residents, particularly when whites perceive themselves to be racial minorities in their own neighborhoods (Chiricos, Hogan, and Gertz 1997; Quillian and Pager 2001). Because such fears may trigger repressive or coercive responses (Blumer 1958), some suggest that the disproportionate criminal punishment of nonwhites constitutes, in part, a reaction to racial threat (Heimer, Stucky, and Lang 1999; Myers 1998). Currently, about 10% of the African-American voting-age population is under correctional supervision, compared to approximately 2% of the white voting-age population (U.S. Bureau of Census 2001; U.S. Department of Justice 2001, 2002). Felon disenfranchisement thus remains a potentially effective means to neutralize political threats from African-American voters.

Within the existing literature on racial group threat, two distinct theses can be identified, and we advance a third, synthetic version. The most common formulation traces racial threat to *economic* relationships between racial (or ethnic) groups (Bobo and Hutchings 1996; Bonacich 1972; Giles and Evans 1985; Olzak 1992; Quillian 1995; Tolnay and Beck 1995). Groups compete for material resources and the growth of a subordinate group potentially threatens the economic positions of those in the dominant group. Levels of racial hostility may therefore be greater in places where a dominant group has higher levels of economic marginality (e.g., Oliver and Mendelberg 2000; Quillian 1995).

Economic threat models, however, are potentially problematic in explaining the rise of felon voting restrictions. Disenfranchisement is situated within the *political* realm, an area that has received comparatively little attention in models of group threat. General models of racial antagonism that emphasize a political power threat highlight the importance of the size of subordinate groups within specific geographical contexts (see Fossett and Kiecolt 1989; Giles and Evans 1985; Quillian 1996; Taylor 1998). As subordinate groups grow in (relative) size, they may be able to leverage democratic political institutions to their advantage. Racial threats in the political realm are potentially devastating to existing power relations be-

cause the extension of suffrage formally equalizes individual members of dominant and subordinate racial groups with respect to the ballot. Yet racial threats in this domain are also more easily subdued by those in positions of power. Legal disenfranchisement and informal barriers to political participation offer a clear mechanism to neutralize racial threats and maintain a racially stratified electorate.[8]

The findings of a number of studies are also consistent with the more general view that the size of the racial minority population in a region heightens white concerns. As noted above, research on perceptions of crime has established a link to the perceived racial composition of neighborhoods and cities (see esp. Quillian and Pager 2001). When former Ku Klux Klan leader David Duke sought one of Louisiana's U.S. Senate seats in 1990, white support for his campaign was greatest in parishes with the largest African-American populations (Giles and Buckner 1993). Similarly, the proportion of African-Americans in each parish heavily influenced white registration with the Republican Party in Louisiana from 1975 and 1990 (Giles and Hertz 1994). Taylor (1998, 2000) also finds that traditional white prejudice, and white opposition to public policies seeking to enhance racial equality, swells with the proportion of the African-American population.

In applying racial threat theories to the specific case of felon disenfranchisement, however, a third operationalization can also be considered: the racial composition of the convicted felon population. Incarceration may be considered a response to racial threat, in that consigning a high proportion of African-Americans and other racial minorities to prison reduces their imminent economic threat to whites (Heimer, Stucky, and Lang 1999). Unless those imprisoned are also disenfranchised, however, a political threat remains. Moreover, because felon voting laws only affect those convicted of crime, prison racial composition is more proximally related to felon disenfranchisement than is the racial distribution of the general population. Thus, there may be a connection between the racial composition of state prisons and state felon voting bans not captured by the proportion of nonwhites in the total state population.

[8] A second, more general problem with economic threat models is that they may overgeneralize from the economic to the political and cultural. Theories of *symbolic racism* (Sears 1988; Sears and Funk 1991) or *racial resentment* (Kinder and Sanders 1996), e.g., suggest that racial antagonisms toward blacks among white Americans are deeply held and not simply reducible to economic conflict. Though these attitudes may remain latent, they can be triggered by events such as the invocation of the name Willie Horton by George Bush in the 1988 Presidential campaign (Mendelberg 2001).

DATA, METHODS, AND MEASURES

To test whether, and how, racial threat influences the passage of restrictive state felon disenfranchisement laws, we undertake an event history analysis that considers how the racial composition of state prisons and other measures of racial threat affect these voting bans, net of timing, region, economic conditions, political party power, and other state characteristics. We use decennial state-level data taken primarily from historical censuses from 1850 to 2000 (U.S. Department of Commerce 1853–1992; U.S. Bureau of Census 2001). We then conduct a parallel analysis of reenfranchisement to determine whether racial threat has played a continuing role in the recent movement toward restoring the vote to ex-felons, using annual state-level data from 1940 to 2002.

Independent Variables

We test all three of the racial threat models described above, within the limits of the available data for this lengthy time period. To assess the possibility that economic competition affects adoption of felon disenfranchisement laws, we include a measure of the rate of white male idleness and unemployment in each state, drawing upon U.S. Census data from the Integrated Public Use Microdata Series, or IPUMS (Ruggles and Sobek 1997) for the years 1850 to 1990. We derived this measure by dividing the number of unemployed or idle (neither attending school nor participating in the labor force) white males ages 15–39 by the total white male population ages 15–39. Because this indicator is subject to inconsistent measurement over the long observation period, we also operationalize economic conditions with a national economic contraction or recession indicator, which we derived from the National Bureau of Economic Research's series *Business Cycle Expansions and Contractions* (Moore 1961, pp. 670–71; NBER 2003; Stock and Watson 1993). Consistent with the ethnic competition literature (Olzak 1990; Olzak and Shanahan 2002), the latter measure captures cyclical economic fluctuations that may activate feelings of "economic threat."

Second, to capture the possibility that political threat in the general population drives disenfranchisement laws, we consider the impact of variation in the size of the African-American and non-African-American population across the states and years. Some research suggests that minority *male* populations pose a larger threat than the total nonwhite population (Myers 1990), so we also computed a measure based on the number of nonwhite males as a percentage of the total state population in historical censuses. Finally, we consider the percentage of nonwhite inmates in state prisons. We rely on Census Bureau "institutional population" and "group

quarters" subject reports to obtain state-level decennial information on the racial composition of prisons. Although an indicator of the racial composition of all convicted felons would be preferable to a prison-based indicator, the former is unavailable over the long historical period of our study. Fortunately, the two measures are highly correlated across space and time, at least for recent years when both data series are available (U.S. Department of Justice 2000). Because data on the race of prisoners are unavailable between 1900 and 1920, we interpolated estimates for these years based on data from 1890 and historical correctional statistics from 1926–30 (U.S. Department of Justice 1991). A summary of the key independent and dependent variables we use, and a brief description of their measurement, is presented in table 4.

In addition to racial threat, we also expect factors such as region, partisan control, and criminal justice punitiveness to affect passage of laws restricting the voting rights of felons. Regional effects are especially important in this context. While many states passed ballot restrictions following the Civil War, Southern states generally adopted more comprehensive and detailed laws (Keyssar 2000, p. 162). Although legally enfranchised after the Civil War, African-Americans in many parts of the South remained practically disenfranchised by barriers such as poll taxes and literacy tests well into the 20th century.[9] While Southern states have historically been especially restrictive, many Northern states have also been reluctant to enfranchise minority populations; between 1863 and 1870, 15 Northern states rejected giving African-Americans the right to vote (Keyssar 2000, p. 89). We use Census Bureau categories to represent region, coding northeast, midwest, south, and west as separate indicator variables.

Partisan politics are also tied to legal change, because state politicians ultimately introduce and amend felon disenfranchisement laws.[10] Before and after the Reconstruction period, Republicans were generally more supportive of African-American suffrage than were Democrats, even outside the South. These roles, however, gradually shifted as Northern Democrats became increasingly reliant on black votes and the Northern wing of the party shifted toward a pro–civil rights position (cf. Frymer 1999; Piven 1992; Weiss 1983). The conflicts over the Civil Rights Act of 1964 and the Voting Rights Act of 1965, as well as the virtual disappearance

[9] A 1961 report by the Commission on Civil Rights found that nearly 100 counties in eight Southern states were effectively denying black citizens the right to vote. Following the Voting Rights Act of 1965, nearly 1 million new voters registered in the South (Keyssar 2000, pp. 262–65).

[10] The state electorate sometimes makes the final decision regarding state disenfranchisement laws, as with the recent referenda in Utah in 1998 and Massachusetts in 2000.

TABLE 4

Summary of Dependent and Independent Variables, 1850–2002

Variable	Description	Coding	Mean
Disenfranchisement law:			
First law	Passage of first felon disenfranchisement law.	0 = no, 1 = yes	
Ex-felon law	Passage of first ex-felon disenfranchisement law.	0 = no, 1 = yes	
Racial threat:			
Nonwhite prison	Percentage of prison population that is nonwhite.	Percentage	30.2
Nonwhite males	Percentage of male population that is nonwhite.	Percentage	6.8
Nonwhite population	Percentage of total population that is nonwhite.	Percentage	13.6
Black population	Total African-American population.	100,000s	3.1 (4.7)
Nonblack population	Total non-African-American population.	100,000s	24.4 (32.6)
Economic competition:			
Idle white males	Percentage of white males, ages 15–39, unemployed or both not in the labor force and not in school.	Percentage	7.4
National recession	Proportion of decade in business contraction (NBER 2003).	Proportion	.33
Region:			
Northeast	Dichotomous Northeastern state indicator (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont).	0 = no, 1 = yes	.196
Midwest	Dichotomous Midwestern state indicator (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin).	0 = no, 1 = yes	.251
South	Dichotomous Southern state indicator (Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia).	0 = no, 1 = yes	.341

TABLE 4 (*Continued*)

Variable	Description	Coding	Mean
West	Dichotomous Western state indicator (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming).	0 = no, 1 = yes	.211
State punitiveness:			
Incarceration rate	State incarceration rate per 100,000 population.	Per 100,000	134.3 (114.4)
Political power:			
Pre-1870 Democrat	Dichotomous Democratic governor indicator, pre-1870.	0 = no, 1 = yes	.057
1870–1959 Democrat	Dichotomous Democratic governor indicator, 1870–1959.	0 = no, 1 = yes	.269
1960–2002 Democrat	Dichotomous Democratic governor indicator, post-1959.	0 = no, 1 = yes	.172
Timing:			
Time since statehood	Number of years since statehood.	Years	103.9 (56.4)
Time:			
Decade	Individual decade indicator variables (1850–59, 1860–69, etc.).	0 = no, 1 = yes	

NOTE.—Total state-years covered by this study is 733. Numbers in parentheses are standard deviations.

of black electoral support for the Republican Party, consolidated this new racial cleavage in the party system (Carmines and Stimson 1989; Huckfeldt and Kohfeld 1989).

Data limitations and these numerous historical turning points complicate efforts to assess the role of partisan influence on the passage of felon disenfranchisement laws. Because data on the party affiliations of state legislators are not available for the entire period, we represent political power in the decennial analysis with gubernatorial partisanship. Of course, political affiliations hold different meanings in the early years of our study than they do in the later years. To account for these changes, and for potential interactions between region and partisanship, we specified a series of models using various periodizations. Because we found no statistically significant interactions with time or region, we adopt a reasonably parsimonious specification, based on gubernatorial partisanship prior to 1870, from 1870 to 1960, and from 1960 to the present. This periodization captures the shift of racially conservative southern Democrats to the Republican Party beginning in the early 1960s.

Our sources for political data include the Council of State Governments' *Book of the States* series (1937–87), the Census Bureau's *Statistical Ab-*

stract series (1980–2001), and the Inter-University Consortium for Political and Social Research's "Candidate Name and Constituency Totals, 1788–1990" (1995). We also include incarceration rate indicators in multivariate models to assess the effects of punitiveness (U.S. Department of Justice 1987). Finally, we use a measure of the years since statehood to account for the likelihood that new states will adopt felon disenfranchisement provisions as part of their constitutions. Each decade does not have 50 potential cases because states do not enter the data set until the decade of official statehood, regardless of the state's status as a recognized territory preceding statehood.

Dependent Variables

The length of time an offender is disenfranchised varies by state, with states generally falling into one of four regimes: disenfranchisement only during incarceration; during parole and incarceration; during sentence (until completion of probation, parole, and incarceration); and after completion of sentence (ex-felons). A law was considered a restrictive change only if it disenfranchised a new category of felons.[11] States that disenfranchised only upon conviction for a few narrowly defined offenses, such as treason or election crimes, were not considered to have a felon disenfranchisement law until the scope of the law reached felony convictions in general. Details of state-level changes are presented in table 2.

Statistical Models

We model changes to felon disenfranchisement laws using event history analysis because this method appropriately models censored cases and time-varying predictors (see, e.g., Allison 1984; Yamaguchi 1991). To correctly model censored cases, states are only included in the analysis when they are at risk of changing their felon disenfranchisement regime. For example, Alaska and Hawaii were not at risk of passing a restrictive law until they attained statehood in 1959. If a state was not at risk of restrictive changes because it had already disenfranchised ex-felons, the most severe voting ban, that state was excluded until it repealed its ex-felon disenfranchisement law. Time-varying independent variables are important for this study because it would be unrealistic to assume stability over 150 years in key predictors such as imprisonment and racial composition. States that passed more restrictive felon disenfranchisement laws within

[11] For example, some states that disenfranchise ex-felons routinely change their clemency eligibility criteria. These administrative changes generally affect few ex-felons and were not considered new laws in this analysis.

the decade were coded "1"; if no change occurred, states were coded "0." These state-years comprise the unit of analysis for this study.

We estimate the effects of racial threat and other factors using a discrete-time logistic regression model (Allison 1984, 1995; Yamaguchi 1991):

$$\log[P_{it}/(1 - P_{it})] = \alpha_t + \beta_1 X_{it1} + \cdots + \beta_k X_{itk}.$$

P_{it} represents the probability that a law is passed in state i in time interval t, β signifies the effect of the independent variables, $X_1, X_2 \ . \ . \ . \ X_k$ denote k time-varying explanatory variables, and α_t represents a set of constants corresponding to each decade or discrete-time unit. While we have complete information on state felon disenfranchisement law changes spanning from 1788 to 2002, the time-varying explanatory variables are limited to the period from 1850 to 2002.[12]

To identify the factors responsible for changes in state felon disenfranchisement laws, we first chart historical changes in these laws. We then examine the bivariate relationship between the independent variables and passage of a first restrictive law. Next, we fit multivariate models to show the effects of racial threat, region, economic competition, political power, punitiveness, and time on the passage of laws disenfranchising felons and ex-felons between 1850 and 2002. We also specify piecewise models to estimate the effects of racial threat and other independent variables before and after passage of the Fifteenth Amendment in 1870. Finally, we present an analysis of ex-felon reenfranchisement for the more recent period from 1940 to 2002.

RESULTS

We compiled demographic life tables to identify periods of stability and change in felon disenfranchisement provisions. Figure 2 plots the hazard functions of restrictive (or disenfranchising) changes and liberal (or enfranchising) changes from 1850 to 2002. The solid line represents states passing more restrictive felon voting laws, and the dashed line indicates passage of more liberal laws. The first peak of activity, in the 1860s and

[12] Unfortunately, four states are *left censored* (see, e.g., Yamaguchi 1991) because they passed restrictive laws prior to 1840, when data on key independent variables are unavailable. Seven states passed a first restrictive law between 1841 and 1849. We estimated models that applied 1850 data to the 1840 period (assuming stability on the values of independent variables, except gubernatorial partisanship), as well as models that treated these states as left censored. To show regional effects, we present results from the former models (only three Northeastern states adopted a felon disenfranchisement law for the first time after 1847). Aside from region, the effects of racial threat and other independent variables are very similar to those reported below in analyses that omit the 1840 changes (tables available from authors).

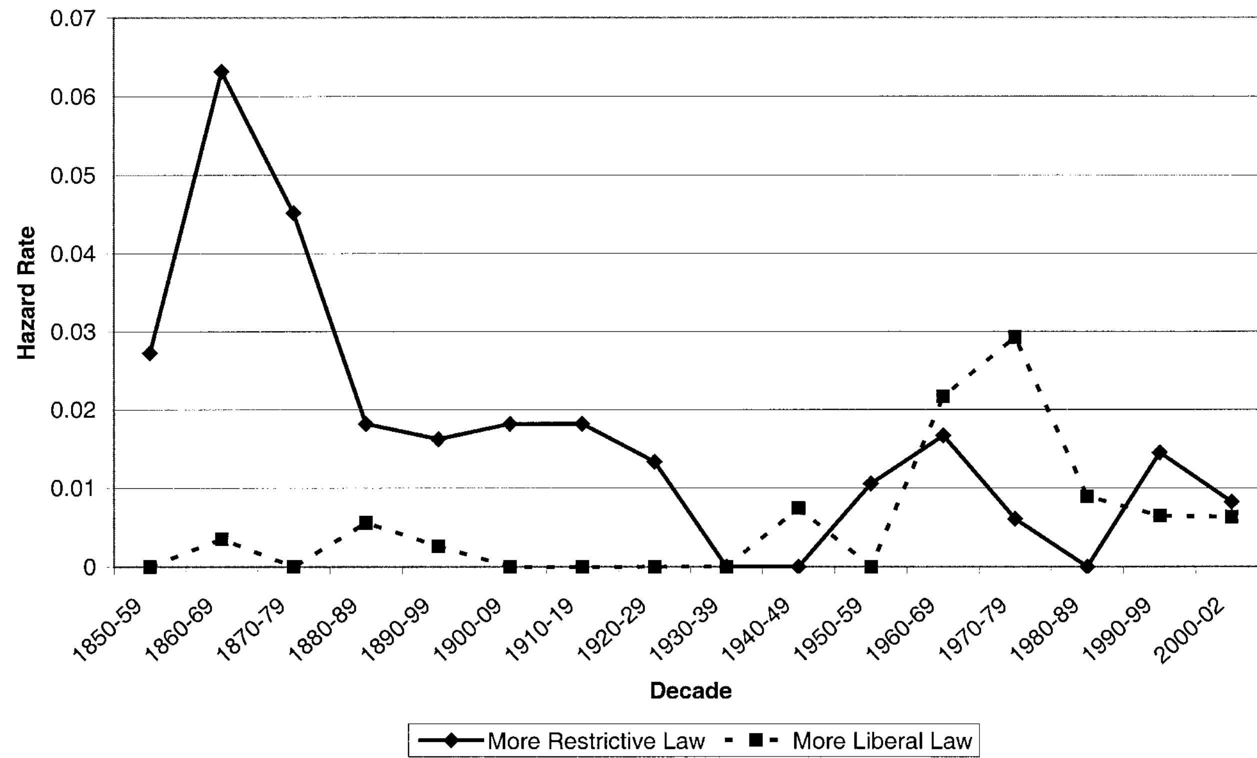

FIG. 2.—Hazard plots for restrictive and liberal changes to state felon disenfranchisement laws, 1850–2002

1870s, represents predominantly restrictive changes whereas the second peak, occurring 100 years later, is comprised of liberal legal changes. Until the 1930s, the rate of restrictive changes exceeded the rate of liberal changes in each decade. From the 1960s to the 1980s, this trend reversed and the hazard of liberalizing changes to felon disenfranchisement laws surpassed the hazard of restrictive changes until the 1990s. Many of these liberal changes involved the repeal of laws that disenfranchised ex-felons, as states shifted to less restrictive regimes. In the 1960s and 1970s combined, 17 states repealed ex-felon disenfranchisement laws.[13] Although recent history suggests a general trend toward liberalization, most changes in the 1990s were once again restrictive rather than liberal.

First State Felon Disenfranchisement Law

Bivariate analysis.—We next examine the state-level predictors of these laws. Table 5 presents the results of 26 separate discrete-time logistic event history models predicting the passage of states' *first* restrictive felon disenfranchisement law. These models do not include statistical controls for other independent variables, except for time. The first column shows the relation between each predictor and passage of the first restrictive law while controlling for time as a set of dummy variables for each decade. The second column shows coefficients from similar models that represent time as a single linear variable measured in years.

The bivariate results in table 5 show that racial threat, as measured by the percentage of nonwhite prisoners, is associated with restrictive changes to state felon disenfranchisement laws in both models. Since Blalock hypothesized a curvilinear relationship between minority group size and discrimination under some conditions (1967, pp. 148–49), we also fit models with both linear and quadratic terms. Although the squared term is not statistically distinguishable from zero in these models, a positive linear effect and negative second-order effect are consistent with the idea that the odds of disenfranchisement may diminish as the percentage of nonwhite prisoners reaches very high levels. The relative size of the nonwhite male population and nonwhite population and the absolute size of the African-American population also approach significance ($P < .10$).

[13] In 2000, Delaware abandoned its requirement of a pardon to restore voting rights, though offenders must still wait five years after completion of sentence to vote. Since July 1, 2001, New Mexico has automatically restored voting rights to felons upon completion of sentence. As of January 1, 2003, Maryland requires a three-year waiting period before restoring the franchise to most recidivists, liberalizing its former law that permanently disenfranchised recidivists. Similarly, Nevada liberalized its law in 2003 and now restores voting rights to nonviolent first-time felons upon completion of sentence.

TABLE 5

BIVARIATE PREDICTORS OF FIRST FELON DISENFRANCHISEMENT LAW

Variable	Model	Dummy Decade	Linear Year	Events	Cases
Racial threat:					
% nonwhite prison	1	.091***	.088***	42	160
		(.019)	(.017)		
% nonwhite prison	2	.119***	.115***	42	160
		(.041)	(.038)		
% nonwhite prison^2	2	−.001	−.001		
		(.001)	(.001)		
% nonwhite males	3	.045*	.041*	42	159
		(.025)	(.022)		
% nonwhite population	4	.021*	.019*	44	162
		(.012)	(.011)		
Black population (100,000s)	5	.233	.251*	44	162
		(.149)	(.135)		
Nonblack population (100,000s)	5	−.011	−.010		
		(.016)	(.016)		
Economic competition:					
% idle white males age 15–39	6	.066	.067	44	162
		(.060)	(.051)		
National recession	7	1.007	.789	45	163
		(.711)	(.625)		
Region (vs. South):					
Northeast	8	−1.314**	−1.665***	48	277
		(.571)	(.562)		
Midwest	8	.408	.297		
		(.512)	(.461)		
West	8	2.122***	.931		
		(.767)	(.595)		
State punitiveness:					
Incarceration rate (per 100,000)	9	.004	.006*	42	160
		(.004)	(.003)		
Political partisanship (vs. other):					
Democratic governor (DG)	10	−.042	−.270	44	162
		(.405)	(.371)		
DG pre-1870	11	−.027	−.255	44	162
		(.555)	(.465)		
DG 1870–1959	11	.248	−.249		
		(.685)	(.574)		
DG 1960–present	11	−.991	−.440		
		(1.277)	(1.195)		
Timing:					
Time since statehood	12	−.022***	−.025***	48	277
		(.006)	(.005)		
Time:					
1860s (vs. 1850)	13	2.320***		48	277
1870s	13	2.407***			
1880s	13	1.531**			

TABLE 5 (*Continued*)

Variable	Model	Dummy Decade	Linear Year	Events	Cases
1890s	13	.972			
1900s	13	1.126			
1910–49	13	−.260			
1950s	13	1.126			
1960–89	13	.433			
1990s	13	1.126			
2000s	13	1.531			
Linear year only	14		.007**	48	277

NOTE.—Nos. in parentheses are SEs; authors will supply SEs for time dummies on request. Results of 26 separate discrete-time event history models predicting the timing of passage of the first felon disenfranchisement law. Region and timing models span the period from 1780 to 2002 rather than 1850 to 2002.
* $P<.10$.
** $P<.05$.
*** $P<.01$.

Regionally, Northeastern states are less likely to pass punitive felon disenfranchisement laws than Southern states, whereas Western states are more likely to pass such laws relative to Southern states. Democratic state governors have only a marginal impact on the likelihood of felon ballot restrictions in any of the three periods (two- and four-period models yielded similar results). Finally, state incarceration rates have a modest positive effect on passage of disenfranchisement laws in models with a linear time trend.

We observe timing effects consistent with other models of legal diffusion (Edelman 1990; Grattet, Jenness, and Curry 1998; McCammon et al. 2001). First, states are most likely to adopt restrictive laws with statehood or in the years immediately thereafter. Second, in models that treat time as a single linear variable, the positive effect of year indicates that restrictive changes have become somewhat more likely since 1850. Finally, when time is modeled as individual decade dummy variables, we again note that many states passed their first restrictive law in the Reconstruction and Redemption eras following the Civil War—the 1860s, 1870s, and 1880s (see Keyssar 2000, pp. 105–16, on Southern redemption and the right to vote). The Depression and World War II eras had no restrictive changes and are coded as part of the immediately preceding interval (e.g., the 1930s are considered within the 1910–49 period), following Allison (1995, p. 226). Although we estimated all models with both a linear time trend and separate dummy variables for each decade, a likelihood-ratio test established that the full set of time indicators improves the fit of the models. Therefore, all subsequent tables are based on the more conservative dummy variable specification.

Multivariate analysis.—Building upon the racial threat arguments outlined above and the observed bivariate relationships, table 6 presents discrete-time logistic regression models predicting passage of states' first felon disenfranchisement laws. Model 1 considers regional effects, relative to the Northeast, on a first restrictive change while controlling for time. All regions are significantly more likely to pass a felon disenfranchisement law than the Northeast. Model 2 tests one version of the racial threat hypothesis by introducing the nonwhite prison population. The observed bivariate effect remains positive and significant after statistically controlling for the effects of state racial composition, region, incarceration rate, and time. Each 1% increase in the percentage of prisoners who are nonwhite increases the odds by about 10% that a state will pass its first felon disenfranchisement law ($100[e^{.094} - 1] = 9.86$).

Note that the Midwest and the West retain their positive effects in model 2, but the South effect diminishes when controlling for the nonwhite prison population, implying that the restrictiveness of Southern states may be linked to racial composition. Net of the other independent variables, state incarceration rates are not strongly associated with passage of disenfranchisement laws. This suggests that while felon disenfranchisement is closely tied to the racial composition of the incarcerated population, it is not a simple product of rising punitiveness.[14] The effects of race and region remain robust in models 3 and 4 after adding economic competition and political partisanship variables. In contrast to their more modest effects in the bivariate analysis, indicators of national recession years and gubernatorial partisanship emerge as stronger predictors in the multivariate models, with restrictive changes most likely during times of economic recession and least likely during times of Democratic political control. We model Democratic control as a single variable in table 6, in contrast to the periodization shown in table 5, because the sign of each period indicator is negative in the full model and because few states have passed restrictive disenfranchisement laws in the recent 1960–2002 period. Finally, time since statehood is a strong negative predictor in model 5, suggesting that the likelihood of states adopting felon disenfranchisement provisions declines precipitously with time. Because of their mutual association, the addition of the time-since-statehood indicator produces instability in estimates of time, region, and recession effects (and inflates their standard errors). The key nonwhite prison effect is robust, though

[14] It is difficult to estimate the independent effects of racial composition, prison racial composition, and region because these variables are closely correlated (a complete correlation matrix is available from the authors). Nevertheless, with the exceptions noted below, the estimates reported in tables 6–9 are generally robust under alternative specifications.

TABLE 6
PREDICTORS OF FIRST FELON DISENFRANCHISEMENT LAW, 1850–2002
(Discrete-Time Logistic Regression)

	MODELS				
VARIABLE	1	2	3	4	5
Racial threat:					
% nonwhite prison		.094***	.093***	.098***	.108***
		(.024)	(.024)	(.025)	(.028)
Black population (100,000s)		−.012	.033	.140	.428
		(.282)	(.287)	(.298)	(.347)
Nonblack population (100,000s)		−.004	−.001	−.011	−.012
		(.027)	(.028)	(.029)	(.032)
Region (vs. Northeast):					
South	1.222**	.193	.324	.497	−1.530
	(.552)	(1.015)	(1.032)	(1.049)	(1.355)
Midwest	1.595***	1.268*	1.254*	1.350**	−.612
	(.568)	(.651)	(.671)	(.688)	(1.019)
West	3.158***	2.432**	2.708**	2.796***	−.315
	(.684)	(.975)	(1.053)	(1.050)	(1.625)
State punitiveness:					
Incarceration rate/100,000		.002	.003	.004	.003
		(.005)	(.005)	(.005)	(.006)
Economic competition:					
Idle/unemployed white males ages 15–39			.019	.008	.068
			(.119)	(.119)	(.121)
National recession			2.033**	2.186**	1.476
			(.898)	(.937)	(1.035)
Political power:					
Democratic governor				−1.006*	−1.192**
				(.585)	(.603)
Timing:					
Time since statehood					−.037**
					(.015)
Time (vs. 1850):[a]					
1860s	2.260***	.435	.615	.536	.582
1870s	2.412***	.900	.325	−.133	.886
1880s	1.130	.346	.728	.456	.864
1890s	−.160	−.826	−1.463	−1.833	−.585
1900s	.647	−.370	−.328	−.414	.835
1910–49	−.983	−2.331	−2.552*	−2.528*	−.762
1950–2002	.550	−1.703	−1.234	−1.144	2.132
	−3.264***	−2.875***	−4.173***	−3.804***	−1.337
Constant	(.500)	(.677)	(1.240)	(1.264)	(1.565)
−2 log likelihood	193.80	117.14	111.505	108.368	101.480

TABLE 6 (*Continued*)

Variable	Models 1	2	3	4	5
χ^2 (*df*)	61.63***	61.65***	67.283***	70.420***	77.308***
	(10)	(14)	(16)	(17)	(18)
Events	48	40	40	40	40
N	277	158	158	158	158

Note.—Nos. in parentheses are SEs.
[a] Authors will supply SEs for time variables on request.
* $P < .10$.
** $P < .05$.
*** $P < .01$.

somewhat larger in magnitude in the final model, with respect to the bivariate and multivariate specifications in tables 5 and 6.

Laws Disenfranchising Former Felons

Table 7 shows the effects of the same independent variables upon the passage of a state's first *ex-felon* disenfranchisement law, the most severe ballot restriction. The results in table 7 again reveal a positive and significant effect of the nonwhite prison population. In model 4, for example, a 10% increase in a state's nonwhite prison population raises the odds of passing an ex-felon disenfranchisement law by almost 50% ($10[100(e^{.048} - 1)]$). Moreover, we find greater evidence of a curvilinear relation between the percentage of racial minorities in prison and ex-felon disenfranchisement, net of population composition and the other independent variables. Taken together, tables 5, 6, and 7 show a strong and consistent relationship between racial threat as measured by the percentage of nonwhite state prisoners and laws restricting felon voting rights. States in the Midwest, the South, and the West are also more likely to pass felon disenfranchisement laws than states in the Northeast. The effect of the Southern region, however, again diminishes when controlling for the nonwhite prison population, indicating that race is particularly important in the South. Again, none of the region indicators are statistically significant in models that include time since statehood, and racial threat effects are more pronounced in the final model.

Piecewise Specifications

The preceding analysis has shown the average effect of selected racial threat indicators and other characteristics, measured over a long historical period. We next examine the robustness of these findings in a piecewise

TABLE 7

Predictors of First Law Disenfranchising Ex-Felons, 1850–2002 (Discrete-Time Logistic Regression)

Variable	Models 1	2	3	4	5
Racial threat:					
% nonwhite prison		.048***	.049***	.048***	.130***
		(.016)	(.017)	(.017)	(.045)
Nonwhite prison^2					−.001*
					(.001)
Black population (100,000s)		−.055	−.076	−.035	.552*
		(.258)	(.267)	(.268)	(.294)
Nonblack population (100,000s)		−.044	−.040	−.043	−.063
		(.038)	(.038)	(.037)	(.039)
Region (vs. Northeast):					
South	1.188**	.211	.145	.334	−1.922
	(.603)	(.981)	(1.029)	(1.047)	(1.329)
Midwest	1.621**	1.413*	1.273*	1.331*	−.133
	(.643)	(.759)	(.768)	(.780)	(1.092)
West	3.417***	2.361**	2.491**	2.490**	−.177
	(.813)	(1.064)	(1.095)	(1.090)	(1.572)
State punitiveness:					
Incarceration rate (per 100,000)		−.001	−.002	−.001	−.001
		(.004)	(.004)	(.004)	(.004)
Economic competition:					
Idle/unemployed white males 15–39			.059	.046	.034
			(.086)	(.088)	(.116)
National recession			1.089	1.104	.521
			(.782)	(.793)	(.854)
Political power:					
Democratic governor				−.582	−.643
				(.573)	(.591)
Timing:					
Time since statehood					−.030*
					(.016)
Time:[a]					
1860s	1.355**	.161	.145	−.106	−.314
1870s	1.667***	.311	.024	−.336	.197
1880s	.262	−.723	−.481	−.647	−.066
1890s	−.159	−.807	−.874	−1.136	−.125
1900s	−1.153	−1.513	−1.232	−1.416	−.713
Post-1910	−2.500***	−3.591***	−3.649***	−3.658***	−2.823**
Constant	−3.335***	−2.182***	−3.104***	−2.775***	−.841
	(.556)	(.750)	(1.030)	(1.078)	(1.600)
−2 log likelihood	189.355	122.853	120.468	119.421	110.348
χ^2 (*df*)	53.60***	62.13***	64.511***	65.559***	74.631***
	(9)	(13)	(15)	(16)	(18)
Events	38	31	31	31	31
N	361	241	241	241	241

Note.—Nos. in parentheses are SEs.
[a] Authors will supply SEs on request.
* $P < .10$.
** $P < .05$.
*** $P < .01$.

model that considers additional indicators of racial threat and allows effects to vary across historical periods. States were free to impose racial suffrage requirements until passage of the Fourteenth and Fifteenth amendments, such that many nonwhite citizens were already disenfranchised regardless of whether they had committed felonies (Foner 1988; Kousser 1974; Keyssar 2000). We therefore expect the effects of racial threat on felon disenfranchisement to increase after 1868 when states could lose representation if they denied suffrage based on race. Because there are relatively few events to predict, we are limited to two-period models, using the passage of the Fifteenth Amendment in 1870 as a historical cutpoint. We consider the influence of several racial threat indicators across these periods in table 8, including nonwhite population, nonwhite male population, nonwhite prison population, and the idle and unemployed white male population.

Table 8 shows the results for the piecewise models, divided into two time periods: before 1870 and 1870–2002. For each indicator we report a trimmed model that controls only for individual decades and a full model that controls for the effects of region, gubernatorial partisanship, idle or unemployed white males, population, incarceration rate, and time since statehood. In the earlier period, only the nonwhite prison population is a significant predictor of passage of a felon disenfranchisement law. In fact, the other models generally provide a poor fit to the data in the pre-1870 period. As expected, however, each racial threat coefficient is stronger in magnitude and significance after the passage of the Fifteenth Amendment. The nonwhite population, the nonwhite male population, and the nonwhite prison population are all significant positive predictors. The indicator of idle and unemployed white males is not statistically significant (nor is the national recession measure, in analyses not shown), though it is positive in sign, as theories of economic threat would predict.

Consistent with our expectations, racial threat has more pronounced and consistent effects in the post-1870 period. Yet the nonwhite prison population remains a strong predictor in the earlier period. This is perhaps not surprising in models predicting *felon* disenfranchisement, since the racial composition of state prisons likely represents the most proximal measure of racial threat. Though racial challenges to political power were much more visible during and after Reconstruction, it is important to note that they predated 1870. For example, several state provisions allowed for nonwhite suffrage prior to the Reconstruction amendments. When Rhode Island passed its first felon disenfranchisement law, for example, it had no race requirement for voting, and Indiana and Texas excluded African-Americans from the ballot but not other nonwhites. It is also likely that racial threat played an important role in the brief period

between the adoption of the Fourteenth and Fifteenth amendments, when six states passed their first felon disenfranchisement law.

The Reenfranchisement of Ex-Felons, 1940–2002

As figures 1 and 2 make clear, many states have reconsidered felon disenfranchisement in the past four decades and have repealed restrictions on ex-felons in whole or in part. The 1960s and 1970s, in particular, were periods of relative liberalization. Since 1947, 23 states have repealed ex-felon disenfranchisement altogether, 5 additional states have partially repealed their bans for some categories of ex-felons, and a total of 30 states have liberalized their laws to some degree. For example, North Carolina passed an ex-felon voting ban in 1876, liberalized this law in 1971, by permitting ex-felons to vote after a two-year waiting period, and completely repealed ex-felon disenfranchisement in 1973 by providing for automatic restoration of voting rights upon completion of sentence.

To identify the determinants of these liberalizing trends, we again use a discrete-time logistic event history procedure. Since no state completely repealed ex-felon disenfranchisement until the 1940s, we begin the analysis in 1940. As opposed to the decennial analysis of the passage of disenfranchisement laws from 1850 to 2002, the reenfranchisement analysis is based on an annual data set of 3,112 state-years (48–50 states over 63 years), approximately 1,600 of which were at risk of repealing ex-felon disenfranchisement. States with no history of ex-felon disenfranchisement are thus excluded from this analysis and states are censored for all years following repeal because they are no longer at risk of rescinding an ex-felon ban.

Paralleling the analysis of disenfranchisement, we again consider the effects of racial threat, region, economic competition, political power, timing, and punitiveness. In this case, we expect a negative relationship between the proportion of prisoners who are African-American and the likelihood of reenfranchising ex-felons. We take advantage of the greater availability of data in recent years to refine measures of racial composition, economic conditions, and partisan political strength. We measure Democratic power as the percentage of state legislators that are Democratic multiplied by an indicator variable for the presence of a Democratic governor, coded "1" if Democrat and "0" otherwise. We measure racial threat by the percentage of prison inmates who are African-American and by the number of African-Americans and non-African-Americans in the general population.[15] Economic conditions are indexed by the state unem-

[15] Annual data on prison racial composition are taken from Bureau of Justice Statistics publications, including *Correctional Populations in the United States* and the *Source-*

TABLE 8

Racial and Economic Threat and Passage of First Felon Disenfranchisement Law

	Trimmed	Full	Trimmed	Full	Trimmed	Full	Trimmed	Full
Before 1870:								
% nonwhite population	.001	−.023						
	(.013)	(.029)						
% nonwhite males			.003	−.049				
			(.028)	(.059)				
% nonwhite prison					.070***	.108***		
					(.023)	(.033)		
% idle/unemployed white males							.102	.097
							(.075)	(.089)
−2 log-likelihood	83.27	75.77	81.25	75.108	65.58	57.53	81.37	76.44
χ^2	5.37	12.87	4.36	10.504	18.49***	26.54***	7.27*	12.20
df	3	10	3	10	3	10	3	9
Events	23	23	22	22	21	21	23	23
N	70	70	68	68	68	68	70	70

1870–2002:								
% nonwhite population	.585***	1.579***						
	(.163)	(.557)						
% nonwhite males			1.123***	4.44***				
			(.290)	(1.69)				
% nonwhite prison					.118***	.195**		
					(.031)	(.094)		
% idle/unemployed white males							.010	.287
							(.106)	(.175)
−2 log likelihood	50.61	26.52	47.59	24.83	63.87	43.93	88.81	54.61
χ^2	48.23***	66.25***	48.26***	64.79***	34.97***	48.85***	10.03	38.17***
df	6	13	6	13	6	13	6	12
Events	21	21	20	18	21	19	21	19
N	92	90	91	89	92	90	92	90

NOTE.—Nos. in parentheses are SEs. Trimmed models include only decade dummy variables (1850s, 1860s, 1870s, 1880s, 1890s, 1900s, 1910–49, and 1950–2002) while full models additionally control for region, Democrat governor, idle or unemployed white males, state population, incarceration rate, and time since statehood.

* $P < .10$.

** $P < .05$.

*** $P < .01$.

ployment rate as well as by the national recession indicator discussed above.[16]

Table 9 presents results of the reenfranchisement analysis. Model 1 shows that the southern and western regions have been slow to repeal disenfranchisement laws. In model 2, the percentage of African-American prison inmates is a negative predictor of repeal, net of population composition, region, and punitiveness.[17] In contrast, states with greater numbers of African-American residents evince a greater likelihood of abolishing ex-felon voting bans. Whereas states with a greater proportion of nonwhite prisoners and states with large African-American populations were most likely to disenfranchise, states with fewer African-American prisoners and states with more African-American residents have been quickest to restore voting rights to former felons.[18]

The effects of economic conditions and partisan political control are comparatively modest in models 3 and 4, though states appear somewhat more likely to repeal ex-felon voting bans in years of national recession. We split Democratic power into two periods to reflect the party's stronger and more consistent support for civil rights after 1964. Neither indicator is statistically significant in model 4, although the direction of these partisan effects is consistent with the idea that the Democratic Party may have favored reenfranchisement in the later period. Finally, the time since statehood added little explanatory power to the final model, nor did inclusion of an indicator for the time since passage of a restrictive law (not shown).

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book of Criminal Justice Statistics (1982–2001). For 1940 to 1948, we computed state-specific estimates based on race-specific prisons admission data (U.S. Department of Justice 1991).

[16] State-level unemployment data are taken from the U.S. Census Bureau's *Statistical Abstract* series and the U.S. Department of Labor's *Manpower Report of the President* (1957–75). For 1940 and 1950, we use U.S. Census unemployment figures. Data for 1941–49 and 1951–56, periods of little change in disenfranchisement law, are interpolated based on 1940, 1950, and 1957 information. Data for 2002 were obtained directly from the U.S. Department of Labor's *Regional and State Employment and Unemployment: January 2002* (2002).

[17] In contrast to the disenfranchisement analysis, there is only a modest, nonsignificant bivariate association between prison racial composition and reenfranchisement. We therefore place somewhat less confidence in the findings reported in the complex multivariate model of reenfranchisement, in contrast to the more robust and consistent results found in our analysis of restrictive changes. A full bivariate table for the reenfranchisement analysis, similar to that shown in table 5, is available from the authors.

[18] We used product terms to model the interaction of prison racial composition with population racial composition and Democratic power but found no statistically significant effects for these interactions. In light of the small number of events being predicted, however, the failure to detect such interactions at standard significance levels is perhaps unsurprising.

TABLE 9

Predictors of Repeal of Ex-Felon Disenfranchisement, 1940–2002 (Discrete-Time Logistic Regression)

Variable	Models 1	2	3	4	5
Racial threat:					
% black prison		−.053**	−.055**	−.056**	−.069**
		(.024)	(.024)	(.024)	(.029)
Black population (100,000s)		.003**	.003**	.003**	.003**
		(.001)	(.001)	(.001)	(.001)
Nonblack population (100,000s)		.000	.000	.000	.000
		(.000)	(.000)	(.000)	(.000)
Region (vs. Northeast):					
South	−1.744**	−2.448***	−2.438***	−2.688***	−2.476**
	(.682)	(.951)	(.951)	(1.007)	(1.015)
Midwest	−.434	−.318	−.213	−.217	.236
	(.658)	(.828)	(.849)	(.853)	(.958)
West	−1.125*	−1.454	−1.468	−1.573	−.835
	(.682)	(.985)	(.983)	(.989)	(1.252)
State punitiveness:					
Incarceration rate/100,000		.004	.004	.005	.005
		(.004)	(.004)	(.004)	(.004)
Economic competition:					
State unemployment rate			.053	.056	.052
			(.068)	(.066)	(.066)
National recession			.672	.846*	.862*
			(.449)	(.464)	(.466)
Political power:					
Democratic power (pre-1964)				−.017	−.018
				(.017)	(.017)
Democratic power (1964 or later)				.009	.009
				(.008)	(.008)
Timing:					
Time since statehood					.010
					(.011)
Time (vs. 1940–59):[a]					
1960s	2.087***	2.141***	2.249***	2.049**	1.996**
1970s	3.015***	3.166***	3.145***	2.543***	2.415***
1980s	1.833*	1.779	1.680	1.117	.920
1990s	1.163	.632	.609	.194	.003
2000s	2.446**	1.750	1.364	.886	.629
Constant	−4.952***	−4.284***	−4.958***	−4.746***	−5.987***
	(.838)	(1.091)	(1.209)	(1.238)	(1.836)
−2 log-likelihood	211.25	202.69	199.91	196.47	195.63
χ^2 (*df*)	29.82***	38.38***	41.16***	44.60***	45.45***
	(8)	(12)	(14)	(16)	(17)

Note.—Nos. in parentheses are SEs.

[a] Authors will supply SEs for time variables on request. For all models, events = 23; N = 1,609.

* $P < .10$.

** $P < .05$.

*** $P < .01$.

In recent years, there is some evidence that African-American legislators may play a key role in the passage of reenfranchisement provisions. At the national level, John Conyers, an African-American U.S. representative from Michigan, has unsuccessfully introduced legislation that would permit all ex-felons to vote in federal elections. In Connecticut, the state legislature's Black and Puerto Rican Caucus was instrumental in passage of a 2001 law that reenfranchised probationers (Rapoport 2001). In Maryland, removing ballot restrictions for ex-felons became "a top priority among black lawmakers," in a hard-fought debate between African-American state senators and "tough-on-crime conservatives" (Montgomery and Mosk 2002, p. B2). It therefore seems likely that African-American legislators will be at the forefront of future repeal efforts.

DISCUSSION AND CONCLUSIONS

Our key finding can be summarized concisely and forcefully: the racial composition of state prisons is firmly associated with the adoption of state felon disenfranchisement laws. States with greater nonwhite prison populations have been more likely to ban convicted felons from voting than states with proportionally fewer nonwhites in the criminal justice system. This finding extends and reinforces previous theory and research on the significance of race and group position in the United States (Olzak 1992; Quillian 1996), the racial state (Goldfield 1997; Quadagno 1994), and the impact of racial threat on criminal justice policy (Heimer et al. 1999; Jacobs and Carmichael 2001; Jacobs and Helms 1999, 2001). With the steep increase in citizens disenfranchised by felony convictions in recent years, felon disenfranchisement laws have taken on great significance in contemporary U.S. electoral politics (Fellner and Mauer 1998; Uggen and Manza 2002). Our findings help provide a baseline for understanding the origins and development of these laws that may be relevant to ongoing debates about their merits.

With respect to theories of racial threat, our findings suggest that the racial dynamics of incarceration outweigh other sources of racial threat, at least for the case of felon disenfranchisement. Even while controlling for timing, region, economic competition, partisan political power, state population composition, and state incarceration rate, a larger nonwhite prison population significantly increases the odds that more restrictive felon disenfranchisement laws will be adopted. By contrast, the two other specifications of racial threat we considered—economic competition and demographic composition—had less consistent influence on the likelihood that states would adopt strict felon voting bans. Nevertheless, felon disenfranchisement laws were most likely to be passed in national recession

years, and the economic threat represented by white male idleness is also a positive (though nonsignificant) predictor of disenfranchisement laws in several models. Moreover, state population composition and all other measures of racial threat became much more closely correlated with passage of felon voting restrictions after the passage of the Fifteenth Amendment.

States were particularly likely to pass punitive felon disenfranchisement laws in the Reconstruction period following the Civil War and through the 1870s. During this time, the threats posed by the possible incorporation of African-American men into the political system were ardently debated. In 1868 the Fourteenth Amendment declared that African-Americans born in the United States are indeed citizens of the country, contradicting the U.S. Supreme Court's ruling a decade earlier in the famous Dred Scott decision (*Scott v. Sandford*, 60 U.S. 393 [1856]). In 1870 the Fifteenth Amendment guaranteed these citizens (albeit only males) the right to vote. In this period, explicit racial appeals were common in political campaigns, as the Democratic and Republican parties diverged on the question of enfranchising black voters (see Mendelberg 2001, chap. 2). The contest was not limited to the South: a number of Northern states (including Democrat-controlled New York, New Jersey, and Delaware, along with California and most other Western states) initially refused to ratify the amendment (Southern states were forced to do so as a condition of readmission to the Union). By the 1868 election, only 11 of the 21 Northern states permitted black men to vote (Frymer 1999, chap. 3; Kennedy 2002). Northern support for the two amendments was due in part to a desire to punish the South, and substantive racial equality was not assured in any region (cf. Mendelberg 2001, chap. 2).

During Reconstruction (ca. 1867–75), the Democratic Party's ability to win elections in the South often hinged on outright intimidation of African-American voters (for details, see, e.g., Foner [1988, pp. 424–35], who described the 1868–71 backlash against black civil rights as a "counterrevolutionary terror"). Although federal authorities could block explicit legal restrictions on African-American suffrage—and the full battery of disenfranchisement measures implemented around the turn of the century were not yet in play—state governments under Democratic control during Reconstruction did move to disenfranchise felons. All nine of the Southern states that restricted felon voting rights in the 10 years following the Civil War were governed by Democrats (with the two non-Southern states adopting restrictive laws in this period, Illinois and Nebraska, governed by Republicans).[19] The historiography of Reconstruction

[19] The Democratic states are Alabama, Arkansas, Florida, Georgia, Mississippi, Missouri, South Carolina, Tennessee, and Texas.

has not generally focused on this important precursor to the later legal strategy of disenfranchisement (see, e.g., Perman 2001).

The expansion of citizenship to racial minorities, and the subsequent extension of suffrage to all citizens, threatened to undermine the political power of the white majority. By restricting the voting rights of a disproportionately nonwhite population, felon disenfranchisement laws offered one method for states to avert "the menace of negro domination" (Alabama 1901, p. 12). The sharp increase in African-American imprisonment goes hand-in-hand with changes in voting laws. In many Southern states, the percentage of nonwhite prison inmates nearly doubled between 1850 and 1870. Whereas 2% of the Alabama prison population was nonwhite in 1850, 74% was nonwhite in 1870, though the total nonwhite population increased by only 3% (U.S. Department of Commerce 1853, 1872). Felon disenfranchisement provisions offered a tangible response to the threat of new African-American voters that would help preserve existing racial hierarchies.

Of course, racial threat and felon disenfranchisement are not solely Southern phenomena directed against African-Americans. Several Western states had larger nonwhite populations than the Midwest and Northeast throughout the observation period, since much of the West was a part of Mexico until 1848 and many Asian immigrants settled in the West. As in the South, new Western states struggled to sustain control "under conditions of full democratization" and a changing industrial and agricultural economy (Keyssar 2000, p. 169; see also Glenn 2002). Racial and ethnic divisions thus led to similar attempts to limit suffrage of the nonwhite population, although Western states were among the first to extend voting rights to women (McCammon and Campbell 2001). With the exception of Montana and Utah, every Western state adopted a felon disenfranchisement law within a decade of statehood. The rapid diffusion of restrictive voting bans across the West and the strong effects of the timing of statehood suggest that felon disenfranchisement law offered a "timely model" for addressing racial threats in the political realm (Eyestone 1977, p. 441; see also Grattet, Jenness, and Curry 1998).

Our results suggest that one of the reasons that felon disenfranchisement laws persist may be their compatibility with modern racial ideologies. The laws are race neutral on their face, though their origins are tainted by strategies of racial containment. Felon disenfranchisement laws have historically found support from both political parties and today reflect the convergence of political agendas around crime in the late 20th century (Beckett 1997). A strong anticrime consensus allows contemporary political actors to disenfranchise racial minorities without making explicit the implications for minority suffrage. Indeed, although the Democratic Party stands to gain when voting rights are restored to ex-felons (Uggen and

Manza 2002), we find only weak effects of political partisanship in our reenfranchisement analysis. States with a small proportion of African-American prisoners are most likely to abolish ex-felon voting restrictions, though the absolute size of the African-American population base has an independent *positive* effect on repeal in multivariate models. The latter finding suggests an important difference between the pre–World War II period and afterward, when blacks were incorporated into the polity and could thus exercise important political leverage.

Felon disenfranchisement, like racial threat, takes a different form in the United States than in other nations, with the United States maintaining the most restrictive rules in the democratic world (Fellner and Mauer 1998). Felon voting bans impose a "shadowy form of citizenship" (*McLaughlin v. City of Canton*, 947 F. Supp. 954, 971 [S.D. Miss. 1995]) as punishment for criminal behavior. Racial threat theories predict that such shadows may be intentionally cast to dilute the voting strength of minority groups, and our event history analysis of felon disenfranchisement laws offers general support for this view. We conclude that racial threat is reflected in the composition of state prisons and find that such racial disparities in punishment drive voting restrictions on felons and ex-felons.

EPILOGUE

Although we have focused on the long history of felon disenfranchisement laws, we should note that this is an ongoing, dynamic political contest. Indeed, Connecticut, New Mexico, Nevada, and Maryland have all liberalized their felon voting laws since 2001, and laws in New York and Florida currently face legal challenges. At the national level, pressure for a nationwide ban on ex-felon restrictions garnered enough adherents to push a reenfranchisement bill to the floor of the U.S. Senate in February 2002 (where it was defeated 63–31). Recent opinion polls show that the American public is generally supportive of allowing probationers and parolees the right to vote, while even greater numbers favor allowing all ex-felons to vote—even those convicted of violent crimes (Manza, Brooks, and Uggen 2003). Still, it is a striking historical fact that while some states have liberalized their provisions, no state has ever completely abolished a felon disenfranchisement law.

APPENDIX

Legal cases cited in this article are listed below.

Hunter v. Underwood, 471 U.S. 222 (1985)

Farrakhan v. Locke, 987 F. Supp. 1304 (E.D. Wash. 1997)
McLaughlin v. City of Canton, 947 F. Supp. 954 (S.D. Miss. 1995)
Pippin v. State, 197 Ala. 613 (1916)
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Richardson v. Ramirez, 418 U.S. 24 (1974)
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Scott v. Sandford, 60 U.S. 393 (1856)
Washington v. State, 75 Ala. 582 (1884)
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