

COMMENTARY

Trump lawsuit has historical roots

By Jeffrey Boutwell

One hundred and fifty years ago, a distant cousin of mine rode with Ulysses Grant up Pennsylvania Avenue to Capitol Hill and began the process that, most recently, has resulted in Donald Trump and others being sued in federal court in connection with the storming of Congress on Jan. 6, 2021. Allow me to explain.

The cousin in question, George Boutwell, secretary of the treasury in the Grant administration, was in his office on the morning of Thursday, March 23, 1871, when he received a note to come to the White House.

President Grant wanted George to go with him to ask Congress for a third enforcement act by which to stem the widespread violence and intimidation of Black Americans taking place throughout the South. Congress had already passed two enforcement acts to protect political and civil equality as called for by the Fourteenth and Fifteenth amendments, but a third was needed. The Ku Klux Klan and other white supremacist groups were murdering and intimidating Black people and their white supporters with impunity, from the Carolinas through the Deep South to Texas and Arkansas.

In the presidential carriage that day, George emphasized to the president the importance of Congress enacting what would become the KKK Act of 1871. At the time, Grant was being widely criticized in both the South and the North for continued interventions by the federal government to protect Black voters and their white supporters. Boutwell would recall the president saying how “the public mind is already disturbed by the charge that I am exercising despotic powers in the South.” It was a sentiment that future presidents Dwight Eisenhower and John F. Kennedy would share when they employed federal marshals

and troops to enforce school integration in Little Rock, Arkansas, in 1957 and Oxford, Mississippi, in 1962.

Although Grant remained committed to protecting those rights, he was being denounced by the opposition Democratic Party and even by his own Republican supporters in the North. George Boutwell, who had earlier served in Congress, where he helped frame the Fourteenth and Fifteenth amendments to the Constitution guaranteeing equal protection under the law and Black voting rights, was the perfect person to be with Grant that day.

Following an hour-long discussion with others once they were inside the halls of Congress, George would remember with relief how “the President returned to his original position” and issued his message to Congress, calling for legislation that “shall effectually secure life, liberty and property, and the enforcement of law, in all parts of the United States.”

The New York Times reported the next day that work in both the House and the Senate came to a halt upon hearing the president’s message, which described a desperate “condition of affairs ... rendering life and liberty insecure” throughout the South. Just weeks earlier, rampaging white mobs had killed as many as 30 Black people in Meridian, Mississippi. Violence and Klan activity was also widespread in South Carolina, enough so that Grant issued a presidential proclamation on March 24, requested by the governor of South Carolina, ordering “combinations of armed men” organized by the Klan and other paramilitary groups to disperse within 20 days.

Congress acted swiftly on Grant’s request, and less than a month later, on April 20, the president returned to Capitol Hill to sign the Ku Klux Klan Act, also known as the Third Enforcement Act. It prohibits interference with voting and other civil rights while also

prohibiting the use of “force, intimidation, or threat” to prevent government officials and officeholders from performing the duties of their office.

On Feb. 16, 2021, the KKK Act became the basis for the federal lawsuit filed by the NAACP and Democratic Rep. Bennie Thompson, of Mississippi, charging Donald Trump, Rudy Giuliani and the extremist groups the Proud Boys and Oath Keepers, with conspiring to prevent Congress from carrying out its constitutional duty to certify the 2020 presidential election. Specifically, the lawsuit contends that Mr. Trump and others “conspired to incite an assembled crowd to march upon and enter the Capitol of the United States for the common purpose of disrupting” the counting of Electoral College votes on January 6, 2021.

Ten other members of Congress have since signed on to the lawsuit, and it remains to be seen if Mr. Trump and others will be held accountable for their actions in undermining the legitimacy of America’s electoral process.

One hundred and fifty years ago this spring, Ulysses Grant and George Boutwell drove to Capitol Hill to seek ways of protecting our democracy. Three months ago, Donald Trump’s supporters stormed the Congress to overturn that democracy. It is sobering to think how little has changed, in a century and a half, and how fragile our democracy remains.

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