

Reconstruction of the Union

POSTWAR PLANS BEGIN *DURING* THE WAR

When the war broke out in 1861 most northerners, including President Lincoln, believed “victory” for the North would mean the restoration of the Union. Lincoln himself refused to acknowledge that the southern states had left the union. (This would come back to haunt him later when the Southern states claimed that since they had never left the Union, there should be no conditions imposed on them to “re-enter” it.)

Restoring the Union did not necessarily mean the abolition of slavery (though Lincoln and other Republicans did oppose the *expansion* of slavery into new states and territories).

Most Democrats who supported the war and the restoration of the Union did not support the abolition of slavery. Even many Republicans opposed making the abolition of slavery one of the North’s war aims.

In fact, many whites in the north assumed the slaves were incapable of surviving without white “protection” or “oversight.” This implied that even if slavery were abolished, the enslaved African Americans in the South would not be “equal” to white Americans and would not be granted full rights of citizenship, such as voting.

The Port Royal Experiment, which began in 1862, challenges this racist assumption.

When white planters flee their rice plantations to escape the war, black slaves work small farms in coastal South Carolina.

They not only succeed in raising rice, they establish schools with white and black teachers from the North.

They establish a black church that becomes a quasi-government. Residents prosper, but they have no legal rights.

When the war ends, the white planters returned to claim their land and force the freedmen off their property. Some Republicans take notice of the African Americans’ success, however, and suggest that the Port Royal Experiment could be a model for the postwar South – that planters’ land should be carved into smaller farms and given to those who had been enslaved.

LINCOLN’S WAR AIMS CHANGE

Meanwhile, by late 1862, President Lincoln concludes that the restoration of the Union cannot be accomplished without the abolition of slavery. The Union and slavery cannot co-exist. To maintain one, the other must go.

This conclusion has military implications. Freeing the slaves (or at least freeing some of them) can be used as a tactic to bring the North closer to victory. Lincoln acts on this insight by drafting...

The Emancipation Proclamation

1863 – Emancipation Proclamation frees all slaves in areas held by the Confederacy (but *not* slaves in areas held by the Union.)

The Emancipation Proclamation did not mark the end of slavery. Rather, it can be seen as a military tactic. By granting freedom to the slaves in the Confederate States, Lincoln hoped to force the Confederate army to divert resources to keeping the slaves on the plantations.

The Emancipation Proclamation did not free slaves in the states that remained in the Union. Lincoln feared that if he freed slaves in these states, the so-called “border” states might defect to the Confederacy.

A secondary motivation for the Emancipation Proclamation dealt with Lincoln's concern that European nations, particularly England, might sign formal alliances with the Confederacy.

British textile mills bought significant amounts of cotton from planters in the US, and so they had a financial stake in the American Civil War. They hoped the Confederacy would give them a better deal on cotton if the British government intervened on the side of the Confederacy, and so they lobbied Parliament to explore an alliance.

The British population, however, was anti-slavery. (The British had freed the slaves throughout its Empire in 1834.) Once Lincoln had explicitly made the abolition of slavery a war aim of the Union, British politicians were reluctant to risk public disapproval by throwing their lot with the Confederacy. Lincoln's Emancipation Proclamation, then, was issued with this in mind.

The 13th Amendment

Once he was committed to ending slavery, Lincoln realized that simply passing a law would not suffice. There was always the chance that some future Congress could repeal the law by a majority vote and reinstitute slavery. This would have meant that the war and all the sacrifices it demanded would have been for nothing.

Drafting a constitutional amendment was a better solution. It was harder to repeal an amendment than a law. In fact, another amendment would have to be introduced and ratified to repeal an already existing amendment. Since it was far more difficult to ratify an amendment than pass a law, there seemed little chance that an amendment

repealing the amendment that abolished slavery would ever pass. (In fact, this has happened only one in US history when the 21st amendment repealed the 18th amendment – Prohibition.)

Therefore, in order to ensure the abolition of slavery in the US was *permanent*, Lincoln supported the drafting and passage of the 13th Amendment, which prohibited slavery. The Amendment passes Congress on January 31, 1865, but the war rages on.

Even beyond the Emancipation Proclamation and the 13th Amendment, Lincoln was already making plans for Reconstruction and grappling with the problems the nation would face once the war ended.

THE CHALLENGE OF RECONSTRUCTION

As the war ended, the main problems facing the federal government in Washington included:

- 1) How to bring the seceded Confederate states back into the union?
- 2) Who – Congress or the President – would be in charge of formulating Reconstruction policies and implementing them?
- 3) How harsh or lenient would the policies be?
- 4) What would be the status of the newly freed slaves?

Conflicting plans for Reconstruction Emerge

Though a small minority of Radical Republicans hoped that land redistribution from planters to the freed slaves would be part of the reconstruction process, the more immediate issue concerned how the Confederate states who had seceded would be readmitted to the Union. During the war, the President and the Congress developed plans regarding the process for re-admitting states.

President Lincoln announces a lenient plan called the 10% plan; if 10% of voters in a Confederate state pledge loyalty to the Union, agree to abolish slavery, and repudiate Confederate debt, the state can re-enter the Union.

The President hopes to convince southern states to give up the fight if they could get back in the Union easily, and so, like the Emancipation Proclamation, this plan can be seen as a military tactic. Whether Lincoln would have agreed to back a “tougher” plan once the war had ended cannot be known.

Republicans in Congress pushed back against Lincoln’s lenient 10% plan.

Why, they ask, does the President get to decide how the process will work? Congress should determine the course by which states are readmitted to the Union.

In particular, many Congressmen are concerned that Lincoln, as President, has accrued too much power by justifying his actions based on the wartime state of emergency. As a result, Congress has lost power and does not wish to lose any more.

Radical Republicans in Congress support a tougher policy intended to punish rebels. In addition to the stipulations regarding slavery and Confederate debt present in Lincoln's plan, Congress's plan, the Wade-Davis Bill, states that 50% (not 10%) of the voters in a state must pledge loyalty to the Union before the state can be readmitted.

At first, it appears public opinion is willing to follow President Lincoln's lead and prefers a lenient approach to Reconstruction. So, Lincoln refuses to sign the bill (a "pocket veto").

Congress and the President are loggerheads. Lincoln decides a "cooling off" period may be in order, so he takes a break....and goes to the theater.

Lincoln assassinated, April 1865

John Wilkes Booth, a southerner, is the assassin. It comes to light that Booth's associates had planned to kill Vice-president Andrew Johnson and Secretary of State William H. Seward.

To northerners, these coordinated attacks appeared to be a coup d'état – an attempt on the part of the Confederacy to overthrow the federal government and reverse the outcome of the war.

In fact, this was a misreading of the situation as the assassins acted without the approval of the Confederate government or military.

Nonetheless, an outraged public demanded a harsher approach to Reconstruction. This was exactly the opening the Radical Republicans in Congress had hoped for.

Though they were in the same political party as Lincoln, they objected to what they considered his lenient approach to the South. The new President, Andrew Johnson of Tennessee, like Lincoln, supported the 13th Amendment, but he was also known to hate the Southern planter class. His initial comments upon ascending to the presidency suggested he might even support taking away the planters' lands.

This led the Radicals to believe he shared their vision for a thoroughly reconstructed social order in the South in which the planters would be harshly punished and removed from their positions of dominance over southern politics and society. Perhaps, the Radicals mused, the new President would be a closer ally to them than Lincoln had been.

Johnson did hate the planters and liked to see them grovel – he personally issued 13,000 pardons to individual planters over the course of two years.

But Johnson mistakenly believed the Confederates had learned their lesson and that the planter elite would be replaced in leadership positions by people like himself – small business men and small farmers who are looking to make money and put the war behind them.

Nonetheless, and despite the setbacks of the war, the planter leadership was determined to remain in power. During the spring and summer of 1865, newly constituted southern legislatures issue Black Codes that essentially dusted off all the old laws governing slaves and simply replaced “slave” with “freedman.” In reality, African Americans are “free” in name only.

Johnson also had contempt for the freedmen, seeing them as a fundamental part of a system that had kept poor whites in the South (like himself) from prospering. Defending or expanding the freedmen’s rights, and even using federal power to protect them from violent white southerners was certainly not a priority.

THE STATUS OF THE FREEDMEN

Some African Americans do move after the war --- better to work for a stranger, they reason, than someone familiar who still thought of you as a slave.

But the freedmen can’t buy land – they have no capital; no access to credit (they lacked collateral and few whites in the South would have lent them money even if they had collateral). Their only skills are low wage skills and few employers in the South have the ready cash available to pay even low wages.

Moreover, the freedmen are non-citizens. They can’t vote and therefore lack any political power or leverage; they cannot serve on juries or testify in court against whites. Annual labor contracts tie them to one plantation; in some states, the law allows employers to whip their African American employees. “Vagrants” -- freedmen who can’t demonstrate proof of employment – are given back to their former owners or put to work for the state.

Therefore, despite the ratification of the 13th Amendment in December 1865, Black codes enacted by southern legislatures convened under Johnson’s “presidential restoration” seem to have reimposed slavery, just under another name.

PRESIDENT JOHNSON vs CONGRESS

Most northerners oppose what they see as an attempt by the ex-Confederates – particularly the planter class – to negate the outcome of the Civil War.

The Black Codes and the return of the planter class to political power precipitate an angry reaction from Congressional Republicans.

They soon must face the fact that while Johnson may have hated the planter class, he hates the freedmen even more. The President makes clear that he will oppose any efforts on the part of Congress to provide the freedmen with further rights (such as the right to vote) or to use federal power and resources to protect them. In the coming months, this would precipitate a split between Congress and the White House.

Making things worse, Johnson's plan for reconstruction allows leaders of the Confederacy to be elected and returned to Congress. It also does nothing to address the reality that the South's population has now shot up by over 4 million (the freed slaves) and therefore the returning states are entitled to MORE representatives in Congress than they had had before the war and thus more political power.

This infuriates the Republicans in Congress who fear losing their power to traitors. They deny the ex- Confederates entry into the House and Senate chambers. Under the constitution, it is their right to do so.

They announce that they will develop their own plan of Congressional Reconstruction.

In essence, Johnson wants "restoration" – to restore the South to the way it had been before the war, absent slavery.

Radical Republicans in Congress want "reconstruction" – to rebuild the South in such a way that its social and economic structure are totally different than what had existed before the war.

The Radicals' desire for a fundamental shift in how southern society is constituted and how power is distributed makes them *radical*. They want to take power from the planter elite and give it to those at the bottom of society – the freedmen.

Some Radicals even call for redistribution of land – from the planters to the freedmen. They also realize that if their plans for reconstructing the south are to be fulfilled, they will need to keep an occupying military force in the region to enforce the new laws and constitutional amendments.

Both Radical Republicans and more moderate Republicans believe that Andrew Johnson's plans for "restoration" of the South are unacceptable. Their complaints concern TWO ISSUES:

- 1) The status of the freedmen
- 2) The process by which states will be re-admitted to representation in Congress.

According to Republicans in Congress, the new state governments in the ex- Confederate states do not adequately protect the rights and safety of the freedmen; in fact, the Black Codes these governments introduce amount to a reintroduction of slavery by another name.

Also, Johnson's willingness to fast-track ex-Confederates back into Congress threatens to undermine the political power of the north, the winning side in the recent war.

Once the 13th amendment abolishing slavery was ratified in late 1865, the Radical Republicans push forward, introducing the 14th amendment.

The 14th amendment grants citizenship to all persons born in the US (thereby making all of the freedmen citizens and entitled to the rights that come with citizenship).

The 14th amendment guarantees due process of law and equal protection of the laws – one's race does not determine how the law will be applied. Laws cannot treat one race differently than the other. (This invalidates, for example, the provisions of the Black Codes passed by the southern state governments.)

If southern states mistreat freedmen, the federal government can intervene, with military force if necessary, to guarantee the freedmen's rights.

If the vote is denied to blacks, the state gets reduced representation in Congress (this addresses the concern that the South could increase its representation in Congress while still denying the freedmen the right to vote. Tellingly, this provision of the 14th amendment is never enforced).

The Radicals then stipulate that southern states may only rejoin the Union if they ratify the 14th amendment; most states wait to see what happens in the 1866 midterm election. If the Radical Republicans lose support, the states may be able to demand more favorable terms for re-entering the Union from the next Congress.

The southerners' hopes are dashed, however, when candidates supporting the Radical position win in a landslide. In fact, while campaigning for those who supported "presidential restoration," President Johnson embarrasses himself by appearing drunk in public and bickering with hecklers in the crowd, harming his own case against the Radicals.

Johnson's inflexibility and his willingness to let the southern leadership "ignore" the results of the Civil War also end up benefiting the Radicals. People reject Johnson and his pro-southern positions (perhaps more than they embrace the Radicals.)

Now in control, Radical Republicans want to Reconstruct the South (and not just restore it).

With two-thirds majorities in both houses of Congress, the Republicans are confident they can ignore Johnson and push through their own agenda. Even if Johnson vetoes the laws they pass, they can override his veto.

Accordingly, they pass the 1867 Reconstruction Act which establishes a military

occupation of the South (5 military districts; 20,000 troops.)

The troops will compel white southerners to obey the laws that protect the freedmen.

One problem, however... Johnson is commander-in-chief of the military and can appoint the officials who will be in charge of enforcing the Radicals' laws. He chooses men who do not actively enforce the law.

To get around this, Radicals in Congress conclude they need to get rid of Johnson. They pass the Tenure of Office Act, which keeps a President from firing a cabinet officer he has appointed without the consent of Congress. (They do this knowing Johnson is ready to fire Secretary of War Edwin Stanton, who sympathizes with the Radicals.)

Once Johnson fires Stanton, he can be impeached for violating the Tenure of Office Act. But Stanton is not a Johnson appointee (he was appointed by President Lincoln) so is Johnson actually violating the law by firing him?

The case against Johnson proceeds. The House impeaches him, but the Senate – by one vote – acquits him. Johnson remains in office, but is weakened. Congress, it appears, will now get its way.

But this is not the case.

In the presidential election later that year (1868), the Republican Ulysses S. Grant barely wins. He owes his victory to his fame as a Civil War general, more so than to his support for the Radicals' Reconstruction policies. As evidence of how his victory was not a mandate for Radical policies, his opponent, the Democrat Horatio Seymour, receives the majority of white vote.

This signals that the Radicals' policies are not popular with white voters, even white voters in the North.

Radicals fear losing power and push successfully for 15th amendment (1870) which makes it illegal to prevent someone from voting based on their race.

(Note that this does not guarantee black the right to vote, only that race not be the reason why they are kept from voting. As it happens, southern whites find other ways of keeping them from voting and a sympathetic Supreme Court rules that such methods do not violate the 15th amendment.)

But VIOLENCE and TERROR trumps all.

Assassinations, lynching, riots, intimidation, and arson become increasingly common throughout the South. This means the troops must stay – perhaps for years to come – to enforce the laws.

The newly elected Grant Administration tries to protect blacks and their white allies in

the South, but sending more federal troops to the South is politically unpopular.

Northern voters don't want federal funds used to protect blacks. Taxes should benefit northern whites – through railroad subsidies, land grants, and other initiatives. And the military should be used to fight the Indians and clear land for western settlement.

THE END OF RECONSTRUCTION

The attempt to redistribute power, though supported at first, begins to lose favor among northern voters and among the small independent farmers of the South who had initially welcomed the Republicans' cracking down on the planter class.

Most Americans were not ready for such radicalism. In particular, they oppose the seizing of land from planters and the redistribution of it to the freedmen.

If the federal government can take land away from planters and give it to freedmen, what's to stop the government from taking away others' land in the future?

Perhaps more importantly, the permanent military occupation of the South costs a lot of money. And northern tax payers are footing the bill.

By the 1870s, most northerners are tired of "the Negro question." Never completely committed to defending the rights of the freedmen, they are now willing to leave this issue to the southerners to work out on their own.

If they are going to pay taxes to support the military, they want something for their money. Many ask: Why should I pay taxes to help the freedmen?

Meanwhile, the Republican-led state governments in the South lose the support of poor whites who might have been willing to support economic policies that helped African Americans because the whites might benefit from them as well. The issue was that Republican policies were *not* benefiting poor whites.

This was due to the Republican governments' tax policies. Prior to the Civil War, most states derived the majority of their revenue from taxes on slaves (as opposed to taxes on land). Poor whites who did not own slaves and who did not own enough land to be subject to land taxes, were not heavily taxed.

After the war, and the liberation of the slaves, state governments had to look elsewhere for revenue. Most instituted higher land taxes. This meant poor whites who owned land saw an increased tax burden.

Additionally, states needed more revenue to provide social services to four million freedmen. With this increased demand for services and the limited revenue available, most white southerners received fewer services while paying higher taxes.

It is not surprising, then, that they turned against Republican policies, not *only* because

of their racial animus against the freedmen who the Republicans were trying to protect, but *also* because the Republican policies were eroding their economic status in real terms.

As a result, in both the South and the North, support for Radical Reconstruction quickly evaporates. White racism, high taxes, and the fear of enhanced government power combine to kill it.

The financial panic of 1873 and the subsequent economic depression only accelerates the retreat from Republican-led reconstruction. Voters demand that government shift its priorities from protecting African American civil rights to restoring economic prosperity.

When the 1876 presidential election results are unclear, a standoff between the Republicans and Democrats ensues. Though not exactly an official compromise, the outcome is that the Republicans get the White House, but, in exchange, the new Republican president must agree to remove the remaining troops from the South. In fact, most of the troops were already gone. The compromise simply gave official recognition to the end of Reconstruction as first envisioned by the Radicals.

At the time, the majority of voters – and likely the majority of citizens – saw this as a welcome development. “Democracy,” if defined narrowly as “majority rule,” seemed to have triumphed.

Today, many see the abandonment of Radical Reconstruction as a tragic missed opportunity to create a more inclusive and equitable society. In the years after 1877, race relations in the South grew increasingly worse and persecution of blacks grew more widespread. Strict segregation of the races had become the norm by the mid-1890s and was even institutionalized by the Supreme Court in its acceptance of the doctrine of “separate but equal” in the *Plessy vs Ferguson* case of 1896.

Perhaps, however, it is more accurate to consider the failure of Radical Reconstruction less as a “missed opportunity” than a “missing opportunity.” The forces stacked against the Radicals were formidable and, arguably, insurmountable. Racism, economic insecurity, and ideologically-based fears of enhancing the power of the federal government proved more powerful than the Radicals’ vision of a “reconstructed” society in the South. In this light, one comes to respect the Radicals’ small victories rather than lament their failure to achieve total victory.

That said, the legacy of Reconstruction’s failure remains with us today.