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A SHORT HISTORY OF

# RECONSTRUCTION

1863-1877

ERIC FONER

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## The Failure of Presidential Reconstruction

### Andrew Johnson and Reconstruction

At first glance, the man who succeeded Abraham Lincoln seemed remarkably similar to his martyred predecessor. Both knew poverty in early life, neither enjoyed much formal schooling, and in both deprivation sparked a powerful desire for fame and worldly success. During the prewar decades, both achieved material comfort, Lincoln as an Illinois corporation lawyer, Andrew Johnson rising from tailor's apprentice to become a prosperous landowner. And for both, antebellum politics became a path to power and respect.

In terms of sheer political experience, few men have seemed more qualified for the Presidency than Andrew Johnson. Beginning as a Greenville, Tennessee, alderman in 1829, he rose to the state legislature and then to Congress. He served two terms as governor, and in 1857 entered the Senate. Even more than Lincoln, Johnson gloried in the role of tribune of the common man. His speeches lauded "honest yeomen" and thundered against the "slaveocracy"—a "pampered, bloated, corrupted aristocracy." The issues most closely identified with Johnson's prewar career were tax-supported public education, a reform enacted into law during his term as governor, and homestead legislation, which he promoted tirelessly in the Senate.

Apart from the education law, however, Johnson's political career was remarkably devoid of substantive accomplishment. In part, this failure stemmed from traits that did much to destroy his Presidency. If in Lincoln poverty and the struggle for success somehow produced

wit, political dexterity, and sensitivity to the views of others, Johnson's personality turned in upon itself. An accomplished public orator, privately Johnson was a self-absorbed, lonely man. No one could doubt his courage, yet early in his career other less commendable qualities had also become apparent, among them stubbornness, intolerance of differing views, and an inability to compromise. As governor, Johnson failed to work effectively with his legislature; as military governor he proved unable to elicit popular support for his administration. Hardly a political novice, he found himself, as President, thrust into a role that required tact, flexibility, and sensitivity to the nuances of public opinion—qualities Lincoln possessed in abundance, but that Johnson lacked.

When Johnson assumed office on April 15, 1865, his past career led many to expect a Reconstruction policy that envisioned far-reaching change in the defeated South. "Treason must be made odious, and traitors must be punished and impoverished," Johnson had declared in 1864; in the same year he offered himself as a "Moses" to lead blacks to a promised land of freedom. "It was supposed," John Sherman later recalled, "that President Johnson would err, if at all, in imposing too harsh terms upon these states."

In the weeks following Lincoln's assassination, leading Radicals met frequently with the new President to press the issue of black suffrage. Yet Johnson shared neither the Radicals' expansive conception of federal power nor their commitment to political equality for blacks. Despite his own vigorous exercise of authority as military governor, Johnson had always believed in limited government and a strict construction of the Constitution. In Congress, he even opposed appropriations to pave Washington's muddy streets. His fervent nationalism in no way contradicted his respect for the rights of the states. Individual "traitors" should be punished, but the states had never, legally, seceded, or surrendered their right to govern their own affairs.

Logically, as Carl Schurz later commented, Johnson had "a pretty plausible case"—secession had been illegal, the states remained intact, and Reconstruction meant enabling them to resume their full constitutional rights as quickly as possible. The situation actually confronting the nation, however, bore little resemblance to Johnson's neat syllogism. "To say because they had no right to go out therefore they could not," declared California railroad magnate Leland Stanford, "does not seem to me more reasonable than to say

that because a man has no right to commit murder therefore he cannot. A man does commit murder and that is a fact which no reasoning can refute." And did not secession and war imply that the Southern states had sacrificed some of their accustomed rights? If Johnson could appoint provisional governors and lay down terms for reunion, he could also prescribe voting qualifications. In this sense, the Radicals and Johnson disagreed less on a constitutional issue than on a matter of policy: whether black suffrage should be made a requirement for the South's readmission.

Johnson never wavered from the conviction that the federal government could not impose such a policy on the states, and that the status of blacks must not obstruct the speedy completion of Reconstruction. The owner of five slaves before the war, Johnson had sincerely embraced emancipation. But in condemning slavery he dwelled almost obsessively on racial miscegenation as the institution's main evil, and he made no commitment to civil equality or a political role for the freedmen. The President's private secretary, Col. William G. Moore, later recorded that Johnson "has at times exhibited a morbid distress and feeling against the negroes." In his December 1867 annual message to Congress, Johnson insisted that blacks possessed less "capacity for government than any other race of people. . . . Wherever they have been left to their own devices they have shown a constant tendency to relapse into barbarism."

"White men alone," Johnson declared, "must manage the South." Johnson's prejudices are often ascribed to his "poor white" background and his self-defined role as spokesman for the South's yeomanry. This assessment contains considerable truth. Johnson had long believed that the planter aristocracy had dragged a reluctant yeomanry into secession. He had once advocated separate statehood for East Tennessee, to liberate yeomen from the Slave Power's yoke. He assumed that the war had shattered the power of the slaveocracy and made possible the political ascendancy of loyal white yeomen. But the freedmen had no role in his vision of a reconstructed South. When a black delegation visited him at the White House in early 1866, Johnson proposed that their people emigrate to some other country.

Throughout his Presidency, Johnson held the view that slaves had joined with their owners to oppress nonslaveholding whites. "The colored man and his master combined kept [the poor white] in

slavery," he told the black delegation, "by depriving him of a fair participation in the labor and productions of the rich land of the country." The result of black enfranchisement would therefore be an alliance of blacks and planters, restoring the Slave Power's hegemony. As Johnson put it, "the negro will vote with the late master, whom he does not hate, rather than with the non-slaveholding white, whom he does hate."

The definitive announcement of Johnson's plan of Reconstruction came in two proclamations issued on May 29, 1865. The first conferred amnesty and pardon, including restoration of all property rights except for slaves, upon former Confederates who pledged loyalty to the Union and support for emancipation. Fourteen classes of Southerners, however, most notably major Confederate officials and owners of taxable property valued at more than \$20,000, were required to apply individually for Presidential pardons. Simultaneously, Johnson appointed William W. Holden provisional governor of North Carolina, instructing him to call a convention to amend the state's prewar constitution so as to create a "republican form of government." Persons who had not been pardoned under the terms of the first proclamation were excluded from voting for delegates, but otherwise, voter qualifications in effect immediately before secession (when the franchise, of course, was limited to whites) would apply. Similar proclamations for other Southern states soon followed.

The May proclamations reflected Johnson's determination to overturn the political and economic hegemony of the slaveocracy and assure the ascendancy of Unionist yeomen. Indeed, while Johnson claimed that his Reconstruction policy continued Lincoln's, in crucial respects it was very much his own. On the one hand, Lincoln, at the end of his life, favored a limited suffrage for Southern blacks; on the other, he had never suggested exemptions to Presidential amnesty as sweeping as those contained in Johnson's proclamation. The \$20,000 clause, excluding the Confederacy's economic elite from a voice in Reconstruction, gave Johnson's proclamations an aura of sternness quite unlike any of Lincoln's Reconstruction statements. Many in May 1865 believed Johnson intended the clause to "keep these people out in the cold," enabling yeomen to shape Reconstruction. Others, however, believed he planned to use individual pardons to force the "aristocracy" to endorse his terms of Reconstruction. The latter course had its

attractions, especially since it would contribute to Johnson's own reelection, a consideration that could not have been far from the mind of so intensely ambitious a man. Were Presidential Reconstruction successful, Johnson had it in his grasp to create an unassailable political coalition capable of determining the contours of American politics for a generation or more.

Blacks, of course, would remain outside the bounds of citizenship. A Southern Unionist pointed out the contradiction: "You say you believe in democratic government, or *consent* of loyal people. Yet you *dare not* avow with practical effect the right of the colored man to vote. Are you honest?" By the end of his life, Lincoln had moved to recognize some blacks as part of the political nation. Johnson's suggestion that individual states might take the initiative was certainly disingenuous, for not a single state, North or South, had expanded the political rights of blacks since the founding of the republic. It already seemed clear that, as one freedman recalled years afterward, "things was hurt by Mr. Lincoln gettin' kilt."

#### Launching the South's New Governments

Whatever their differences, Northern proposals for Reconstruction took for granted that loyal men must wield political power in the South. But what constituted loyalty? Legally, at least, the Ironclad Oath, an affirmation that an individual had never voluntarily aided the Confederacy, defined loyalty to the Union. And "unconditional" Unionists, who met this stringent requirement, assumed they would reap the political benefits of Reconstruction. Already, such men had come to power in Maryland, West Virginia, Missouri, and Johnson's own Tennessee. Yet outside mountain areas like western North Carolina and some parts of the upper Piedmont, they comprised a small faction, despised by the white majority as "Tories" and traitors. "There is almost no such thing as loyalty here, as that word is understood in the North," a Union officer reported. As Whitelaw Reid observed during a tour of the South, "it remains to be seen how long a minority, however loyal, can govern in a republican country."

An alternative definition of Unionism focused on an individual's position during the secession crisis. A large number of white Southerners had opposed disunion but "went with their states" with the coming of war. They indignantly repudiated the labels seces-

sionist or traitor. Even Alexander H. Stephens, the South's wartime Vice President, claimed membership in Georgia's "Union element." If opposition to secession and willingness to "accept the situation" at war's end were the criteria, nearly everyone in the South appeared to qualify as loyal, for an "original secessionist" proved difficult to find in 1865.

Former Whigs comprised the majority of antisecession Southerners claiming the Unionist mantle, and they "expected to take control of affairs" at war's end. The idea of absorbing a revived Whiggery into the Republican party had influenced Lincoln's Reconstruction policies and beguiled Northern politicians well into the 1870s. But the actual extent of "persistent Whiggery" remains open to question. The slavery issue had killed Southern Whiggery, and by 1860 most of the party's leaders had joined the Democratic camp.

One thing, however, was plain: In 1865, Southern Unionism, of whatever kind, did not imply a willingness to extend civil and political equality to the freedmen. For most, Reconstruction meant the proscription of "rebels," not rights for blacks. Jealous of their local autonomy, upcountry Unionists resented the presence of black troops and Freedmen's Bureau agents. They also shared President Johnson's assumption that blacks would vote with their former owners. As for Old Line Whigs, many were confirmed elitists who had never accepted the democratizing trends of the antebellum era. Those who believed too many whites enjoyed the franchise were hardly likely to favor extending it to blacks.

For a man bent on making treason odious and displacing the South's traditional leadership, Andrew Johnson displayed remarkable forbearance in choosing provisional governors. Two appointments did appear provocative to many white Southerners: Andrew J. Hamilton of Texas, a Union Army veteran who had been appointed his state's military governor by Lincoln, and William W. Holden, outspoken champion of North Carolina's yeomanry and leader of the 1864 peace movement. Elsewhere, however, Johnson selected men acceptable to a broader segment of white public opinion. In Georgia, the President chose James Johnson, an obscure former Whig Congressman who sat out the war without taking sides. In Alabama, Johnson selected Lewis E. Parsons, a former Whig Congressman tied to the state's mercantile and railroad interests. Mississippi's new governor was William L. Sharkey, a prominent Whig planter; Florida's was William Marvin, a New York-born busi-

nessman who spent most of the war as a judge behind federal lines. The South Carolina post, of great symbolic importance in Northern eyes, went to Benjamin F. Perry. His main qualification, apart from Unionism, was that he lived in the upcountry and had long opposed planters' domination of the state's politics.

Taken together, these men were assuredly loyal, although not all could take the Ironclad Oath. All, however, faced the identical task: building political support for themselves and the President in the aftermath of Johnson's proclamation. With both black suffrage and widespread white disenfranchisement excluded, the governors had little choice but to conciliate the majority of voters who had aided the Confederacy.

In nineteenth-century America, patronage oiled the machinery of politics, and Johnson's governors possessed unprecedented patronage powers, for every state and local office stood vacant. By mid-August, Holden alone had named over 4,000 officials, ranging from mayors to judges and constables. Rather than fill these positions with unconditional Union men, the governors used patronage to attract the support of a portion of the South's antebellum and Confederate political leadership. Even Hamilton, who relied heavily on wartime Unionists, appointed prominent pro-Confederate citizens in plantation counties. And Holden used patronage primarily to reward political friends and expand his personal following. All in all, the new governors' appointment policies sounded the death knell of wartime Unionists' hopes that Reconstruction would bring to power "a new class of politicians from the *plain* people." At the same time, the new governors moved to reassure whites that emancipation did not imply any further change in the freedmen's status. Florida Governor Marvin advised blacks not to "delude themselves" into believing that abolition meant civil equality or the vote. Freedmen should return to the plantations, labor diligently, and "call your old Master—'Master.'"

To the bulk of white Southerners, these policies came as an unexpected tonic. In the immediate aftermath of defeat, many were ready to acquiesce in whatever directives emerged from Washington. Northern correspondent Whitelaw Reid probed the white South's mood in May and concluded that any conditions for reunion specified by the President, even black suffrage, would be "promptly accepted." By June, as Johnson's policy unfolded, Reid discerned a change in the Southern spirit. Relief at the mildness of Johnson's

terms for reunion now mingled with defiant talk of states' rights and resistance to black suffrage. By midsummer, prominent whites realized that Johnson's Reconstruction empowered them to shape the transition from slavery to freedom and define blacks' civil status. Harvey M. Watterson, a Tennessee Unionist dispatched in June on a Southern tour by the President, found the implications of Johnson's policies well understood—the President favored "a white man's government."

Events in the summer and fall of 1865 further encouraged white Southerners to look upon the President as their ally and protector. Fearing the force would be composed of Confederate veterans who would not deal fairly with freedmen and Unionists, Maj. Gen. Henry W. Slocum prohibited the formation of a state militia in Mississippi, only to see Johnson countermand his order. In the fall, Johnson acquiesced in pleas for the removal of black troops, whose presence, "besides being a painful humiliation," was said to destroy plantation discipline. Within two years nearly all had been mustered out of the service.

Johnson's pardon policy reinforced his emerging image as the white South's champion. Despite talk of punishing traitors, the President proved amazingly lenient. No mass arrests followed the collapse of the Confederacy. Jefferson Davis spent two years in federal prison but was never put on trial; his Vice President, Alexander H. Stephens, served a brief imprisonment, returned to Congress in 1873, and ended his days as governor of Georgia. Some 15,000 Southerners, a majority barred from the general amnesty because of their wealth, filed applications for individual pardons. Soon they were being issued wholesale, sometimes hundreds in a single day. By 1866, over 7,000 had been granted.

Why the President so quickly abandoned the idea of depriving the prewar elite of its political and economic hegemony has always been something of a mystery. Most likely, Johnson came to view cooperation with the planters as indispensable to two goals—white supremacy in the South and his own reelection. Blacks' unexpected militancy in 1865 may well have hardened Johnson's prejudices and caused him to reevaluate his traditional hostility to the planter class. After conversations with Johnson and Secretary of State William H. Seward, British ambassador Sir Frederick Bruce recorded their belief that blacks needed to be kept "in order" while receiving "the care and civilizing influence of dependence on the white man."

Only planters could supervise and control the black population, but once entrusted with this responsibility, they could hardly be barred from a role in politics.

The white South's identification with Johnson as a protector against the "ultra fanatics" of the North quickly rendered serious discussion of alternatives to a "white man's government" impossible. A few prominent Southerners departed from the regional consensus to advocate some form of black suffrage based on property and educational qualifications. Imprisoned Confederate Postmaster General John H. Reagan's public letter urging limited black suffrage created a situation in which, as a former governor of the state informed him, "every man in Texas who expects to be a candidate for anything from governor to constable seems to regard it as his duty to denounce you morning, noon, and night." Had Johnson lent his support, the opinions of men like Reagan might have carried considerable weight; in the absence of presidential backing, their suggestions went unheeded.

If Presidential Reconstruction were to bring to power a new Unionist political leadership, the election of convention delegates in the summer of 1865 provided the opportunity. Few high Confederate officials or men of wealth had yet received individual pardons, and the politically discredited architects of secession did not seek election. As a result, over two-thirds of those elected had opposed secession in 1860. Most were former Whigs, many of whom had held office before the war, but the top level of the antebellum political leadership was conspicuous by its absence. If the elections repudiated the South's prewar secessionist leadership, they did not herald the coming to power of those who had actively opposed the Confederacy, or of previously subordinate social classes.

For the Unionist Whigs who dominated the conventions, Johnson's conditions for Reconstruction ought to have appeared mild indeed. Initially, delegates had only to acknowledge the abolition of slavery and repudiate secession; in October, the President also directed them to void state debts incurred in aid of the Confederacy. These measures merely confirmed Confederate defeat. Yet, although conscious that their every action received careful scrutiny in the North, the conventions became embroiled in "petty and rancorous" disputes that undermined confidence in the President's policy and cast doubt on the willingness even of self-styled Unionists to abandon prewar beliefs and prejudices.

First to assemble, in mid-August, was Mississippi's convention, composed almost entirely of former Whigs. It immediately embarked on what one delegate called "ceaseless wrangling over an immaterial issue"—the precise wording of a constitutional amendment prohibiting slavery. In the end, the convention adopted a simple acknowledgment of abolition. Most conventions adopted language declaring secession null and void, although in Mississippi "repeal" failed by only two votes. As for the repudiation of Confederate state debts, totaling some \$54 million, wartime Unionists rather than the President initially raised this demand. Only when South Carolina took no action on its debt and North Carolina strongly resisted this "humiliating act" did Johnson publicly require the voiding of "every dollar."

In other ways the conventions seized the opportunities for change created by the Confederacy's defeat. Upcountry delegates pressed for long-desired changes in the region's political structure. They were most successful in South Carolina, where state officials and Presidential electors had previously been chosen not by popular vote but by a legislature dominated by the coastal parishes. The convention provided for the popular election of the governor, abolished property qualifications for membership in the legislature, and adjusted the system of representation so as to "give the power to the upper counties almost entirely." In Alabama, too, the convention adopted the "white basis" of legislative apportionment, a victory for the upcountry in its campaign to reduce the political power of the plantation region. These debates revealed that longstanding divisions in the Southern polity had survived the Civil War. Yet when it came to the status of the freedmen, there appeared to be little difference between the views of upcountry and lowcountry, Democrat and Whig. Even among unconditional Unionists, the demand for democratic reform meant enhancing the political power of those counties where whites predominated, a goal that would be fatally subverted were blacks included in the electorate. A Mississippi delegate expressed the prevailing opinion: "'tis nature's law that the superior race must rule and rule they will."

With Johnson's requirements fulfilled, the South in the fall of 1865 proceeded to elect legislators, governors, and members of Congress. In a majority of the states, former Whigs who had opposed secession swept to victory. Of seven Southern governors



ected in 1865, six had been antisecessionist Whigs, and the same group dominated the new legislatures and Congressional delegations. Southerners believed they had met the last prerequisite for reunion, choosing loyal men to direct their state governments and represent them in Washington. A closer look at the 1865 elections, however, discloses a striking difference between the results in the Upper South states where wartime Reconstruction governments had survived into 1865 and those that had experienced only Presidential Reconstruction. Of twenty-five men sent to Congress from Arkansas, Tennessee, and Virginia, five had served in the Union Army, many others had aided the federal war effort, and nearly all could take the Ironclad Oath. Farther south, despite the victories of former Whigs, Confederate service emerged as a prerequisite for success. The vast majority of the new Senators and Congressmen had opposed secession, yet nearly all had followed their states into the rebellion. Active Unionists were resoundingly defeated. Probably the most closely watched contest occurred in North Carolina, where Jonathan Worth, a Unionist Whig and Confederate state treasurer, defeated Governor Holden. Once in office, Worth quickly restored the old elite, whose power Holden had to some extent challenged, to control of local affairs. The result confirmed the power of wartime political leadership in a state with a large population of nonslaveholding yeomen.

All in all, the 1865 elections threw into question the future of Presidential Reconstruction. Johnson himself sensed that something had gone awry: "There seems, in many of the elections," he wrote at the end of November, "something like defiance, which is all out of place at this time." The stark truth was that outside the Unionist mountains, Johnson's policies had failed to create a new political leadership to replace the prewar slaveocracy. If the architects of secession had been repudiated, the South's affairs would still be directed by men who, while Unionist in 1860, formed part of the antebellum political establishment. Their actions would do much to determine the fate of Johnson's Reconstruction experiment.

### The Anatomy of Presidential Reconstruction

One problem took precedence as the new Southern legislatures assembled. As William H. Trescott explained to South Carolina's governor in December 1865, "you will find that this question of the

control of labor underlies every other question of state interest." The ferment in the countryside and ideologies and prejudices inherited from slavery together convinced the white South that coerced labor was necessary to resume the production of plantation staples. With their personal authority over blacks destroyed, planters turned to the state to reestablish labor discipline. Laws regarding labor, property rights, taxation, the administration of justice, and education all formed part of a broad effort to employ state power to shape the new social relations that would succeed slavery.

As the new legislatures prepared to convene, the Southern press and the private correspondence of planters resounded with calls for what a New Orleans newspaper called "a new labor system . . . prescribed and enforced by the State." The initial response to these demands was embodied in the Black Codes, a series of state laws crucial to the undoing of Presidential Reconstruction. Intended to define the freedmen's new rights and responsibilities, the codes authorized blacks to acquire and own property, marry, make contracts, sue and be sued, and testify in court in cases involving persons of their own color. But these provisions were secondary to the attempt to stabilize the black work force and limit its economic options. Henceforth, the state would enforce labor agreements and plantation discipline, punish those who refused to contract, and prevent whites from competing for black workers.

Mississippi and South Carolina enacted the first and most severe Black Codes toward the end of 1865. Mississippi required all blacks to possess, each January, written evidence of employment for the coming year. Laborers leaving their jobs before the contract expired would forfeit wages already earned, and, as under slavery, be subject to arrest by any white citizen. A person offering work to a laborer under contract risked imprisonment or a fine of \$500. To limit the freedmen's economic opportunities, they were forbidden to rent land in urban areas. Vagrancy—a crime whose definition included the idle, disorderly, and those who "mispend what they earn"—could be punished by fines or involuntary plantation labor; other criminal offenses included "insulting" gestures or language, "malicious mischief," and preaching the Gospel without a license. South Carolina's Code required blacks to pay an annual tax from \$10 to \$100 if they wished to follow any occupation other than farmer or servant (a severe blow to the free black community of Charleston and to former slave artisans).

The Northern uproar caused by these laws led other Southern states to modify the language, if not the underlying purpose, of early legislation regarding the freedmen. Virginia included within the definition of vagrancy those who refused to work for "the usual and common wages given to other laborers." Louisiana and Texas, seeking to counteract the withdrawal of black women from field labor, mandated that contracts "shall embrace the labor of all the members of the family able to work." Louisiana empowered the employer to settle all labor disputes. Unlike the Mississippi and South Carolina codes, many subsequent laws made no reference to race. But, as Alabama planter and Democratic politico John W. DuBose later remarked, everyone understood that "the vagrant contemplated was the plantation negro."

Although blacks protested all these measures, their most bitter complaints centered on apprenticeship laws that obliged black minors to work without pay for planters. These laws allowed judges to bind to white employers black orphans and those whose parents were deemed unable to support them. The former owner usually had preference, and the consent of the parents was not required. Blacks pleaded with the Freedmen's Bureau for help in releasing their own children or those of deceased relatives. "I think very hard of the former owners," declared one freedman, "for Trying to keep My blood when I kno that Slavery is dead." As late as the end of 1867, Bureau agents and local justices of the peace were still releasing black children from court-ordered apprenticeships.

The statutes regulating labor and apprenticeship, as Northern reporter Sidney Andrews noted, "acknowledge the overthrow of the special servitude of man to man, but seek . . . to establish the general servitude of man to the commonwealth." The same was true of new criminal laws designed to enforce the property rights of landowners. Legislators sharply increased the penalty for petty larceny. Virginia and Georgia in 1866 made the theft of a horse or mule a capital crime. South Carolina required blacks employed in agriculture to present written authorization from their "masters" before selling farm produce. And North Carolina, at the urging of former Gov. William A. Graham, made "the *intent* to steal" a crime.

Simultaneously, Southern lawmakers moved to limit rights such as hunting, fishing, and the free grazing of livestock, which whites took for granted and many blacks had enjoyed as slaves. Planters

opposed hunting and fishing because they allowed blacks to subsist while avoiding plantation labor; they also often involved trespass, thus flouting whites' property rights. Several states made it illegal for blacks to own weapons, or imposed taxes on their dogs and guns. Meanwhile, efforts were made to restrict livestock from ranging freely on unfenced land, a tradition deeply valued by both upcountry yeomen and the freedmen. Laws required livestock owners to fence in their animals, making it impossible for the landless to own pigs or cattle. Many of these "fence laws" applied only to black belt counties.

The entire complex of labor regulations and criminal laws was enforced by an all-white police and judicial system. Although disorder was hardly confined to blacks, virtually all the South's militiamen patrolled plantation counties. Often composed of Confederate veterans still wearing their gray uniforms, they frequently terrorized the black population, ransacking their homes to seize shotguns and other property and abusing those who refused to sign plantation labor contracts. Nor did the courts offer impartial justice. By mid-1866, most of the Southern states allowed blacks to testify on the same terms as whites, although not to serve on juries. The result, one British barrister noted after observing Richmond's courts early in 1867, was that "the verdicts are always for the white man and against the colored man."

Sheriffs, justices of the peace, and other local officials rarely prosecuted whites accused of crimes against blacks. When civil authorities or Bureau agents brought such cases to court, "it seldom results in anything but the acquittal of the criminal," complained South Carolina Bureau head Robert K. Scott. If convictions did follow, judges imposed sentences far more lenient than blacks received for the same crimes. Texas courts indicted some 500 white men for the murder of blacks in 1865 and 1866, but not one was convicted. "No white man in that state has been punished for murder since it revolted from Mexico," commented a Northern visitor. "Murder is considered one of their inalienable state rights." Arrested by white sheriffs and tried before white judges and juries, blacks understandably had little confidence in the courts of the Johnson governments. Blacks, a Bureau official concluded, "would be *just as well* off with no law at all or no Government," ~~as~~ with the legal system of Presidential Reconstruction.

Taxation provided yet another example of the inequitable turn



taken by public policy. Before the war, landed property in most Southern states had gone virtually untaxed, while poll taxes and levies on slaves, luxuries, commercial activities, and professions provided the bulk of revenue. As a result, white yeomen paid few taxes, planters paid more, although rarely an amount commensurate with their wealth and income, and urban and commercial interests bore an excessive tax burden. In Presidential Reconstruction, tax policy was intended, in part, to reinforce the planter's position vis-à-vis labor. Freedmen faced heavy poll taxes, while those unable to pay were deemed vagrants, who could be hired out to anyone meeting the tax bill. Meanwhile, minuscule levies on landed property (one-tenth of one percent in Mississippi, for example) shielded planters and yeomen from the burden of rising government expenditures. As a result, "the man with his two thousand acres paid less tax than any one of the scores of hands he may have had in his employ who owned not a dollar's worth of property." In addition, localities added poll taxes of their own. Mobile levied a special tax of \$5 on every adult male "and if the tax is not paid," reported the city's black newspaper, "the chain-gang is the punishment."

Not surprisingly, blacks resented a highly regressive revenue system from whose proceeds, as a North Carolina Bureau agent reported, "they state, and with truth, that they derive no benefit whatever." Even though taxes on blacks as well as whites helped fill their coffers, states and municipalities barred blacks from poor relief, orphanages, parks, schools, and other public facilities, insisting that the Freedmen's Bureau provide blacks with the services they required. The few state efforts to provide for the freedmen's needs were funded by special taxes levied on blacks, rather than from general revenues.

The fate of public education in North Carolina illustrates the astonishing lengths to which the leaders of Presidential Reconstruction went to avoid recognizing blacks as part of their common constituency. Gov. Jonathan Worth, elected in 1865, had earlier in his career sponsored the bill establishing public education in North Carolina, but he now persuaded the legislature to abolish the state school system. The governor feared that if white children were educated at public expense, "we will be required to educate the negroes in like manner." Instead, Worth and his legislature authorized localities to establish tax-supported private academies, destroying the South's only extensive system of public education.

These efforts to bar blacks from equal access to the courts and full participation in the marketplace flagrantly violated the free labor ideology. For this reason, many Southern laws never went into effect. Gen. Daniel E. Sickles, who insisted "all laws shall be applicable alike to all inhabitants," suspended South Carolina's Black Code, and Gen. Alfred H. Terry overturned Virginia's vagrancy law as an attempt to reestablish "slavery in all but its name." By the end of 1866, most Southern states had repealed those laws applying only to blacks. Yet Southern courts continued to enforce vagrancy, breach of contract, and apprenticeship statutes that made no direct reference to race, and tax policies, the militia system, and the all-white judiciary remained unchanged.

No one can claim that the legal structure erected in 1865 and 1866 succeeded fully in controlling the black laborer or shaping the evolution of the Southern economy. The "labor shortage" persisted, as did black efforts to resist plantation discipline. The law is an inefficient mechanism for compelling people to work in a disciplined manner. As a South Carolina plantation physician put it, "they can be forced by law to *contract*, but how to enforce their labor is not yet determined." Nonetheless, the legal system of Presidential Reconstruction had profound consequences, limiting blacks' options, reinforcing whites' privileged access to economic resources, shielding planters from the full implications of emancipation, and inhibiting the development of a free market in land and labor.

The aim of resurrecting as nearly as possible the old order governing black labor, moreover, contradicted a second purpose of the new governments: reshaping the economy to create a New South. With abolition accomplished and King Cotton apparently dethroned, the prospect beckoned of a South more fully attuned to nineteenth-century "progress." Northern investment would spur the growth of railroads and factories, immigration would introduce a new spirit of enterprise, and farmers would no longer see their capital frozen in the labor force. The Southern press extolled the idea of expanding the small prewar textile industry to utilize cotton locally and employ those widowed and orphaned by the war. "Our large plantations," declared a South Carolina newspaper in 1866, "must be carved up into respectable farms; our water power must be made available in the erection of manufactories; . . . our young men must learn to work."

This vision of economic change never commanded majority

support during Presidential Reconstruction. But governors like James L. Orr, James Johnson, and Robert Patton preached the virtues of a New South and found a receptive audience among the former Whigs who dominated politics. A "railroad fever" swept the region. Cities like Charleston and Vicksburg saw railroads as panaceas for economic stagnation, while upcountry towns hailed them as a means of bypassing older port cities and trading directly with the North. Railroads, declared a Mississippi newspaper, would "revive the energies of the people, open up the resources of the State, and put us in the way of growth and general prosperity."

Although the policy of lending the state's credit to promote railroad construction is usually associated with Radical Reconstruction, it in fact originated under the Johnson governments. Simultaneously, legislatures chartered manufacturing, mining, banking, and insurance corporations. And to promote investment in agriculture, states gave the force of law to credit arrangements guaranteeing a first lien on crops to persons advancing loans or supplies for farming. But the economic policies of Presidential Reconstruction failed. Programs of railroad aid accomplished virtually nothing—in the 11 states of the Confederacy, only 422 miles of track were laid in 1866 and 1867. The appointment of commissioners of immigration failed to divert immigrants southward—the number of foreign-born residents of the Confederate states was lower in 1870 than in 1860. Industrial development remained insignificant. A few establishments, like Richmond's Tredegar Iron Works, attracted enough Northern investment to resume production, but most Southern entrepreneurs seeking capital returned home empty-handed. With lucrative opportunities available in the West, investors declined to risk their funds in the South's unstable political climate.

The stillbirth of this early New South program had many causes, some far beyond the power of Southern politicians to affect. The disastrous economic consequences of the Civil War and the legacy of decades of plantation dominance could not be erased in two short years. But the failure also reflected the divided mind and contradictory aims of those advocating economic change. Genuine postwar modernization required an assault on the plantation. Throughout the world, plantation societies are characterized by persistent economic backwardness. Geared to producing agricultural staples for the world market, they have weak internal markets, and planter classes use their political power to prevent the emergence of

alternative economic enterprises that might threaten their control of the labor force. The leaders of Presidential Reconstruction failed to come to grips with the plantation system. They wanted economic development but would not accept its full implications—an agrarian revolution and a free labor market. Newspapers that called for breaking up the plantations in the same breath demanded strict laws immobilizing the plantation labor force. Taxes on property remained so low that the establishment of public schools or other forward-looking social services became impossible.

At least the planter class possessed the virtue of consistency: It had no intention of presiding over its own dissolution. It wanted railroads, factories, and Northern investment so long as these supplemented and invigorated the plantation and did not threaten the stability of the black labor force. Those who spoke of dismantling the plantations had no idea what to do with the black population. The entire New South program, in fact, assumed that substitutes would replace black labor. Scientific agriculture and the introduction of machinery would enable large estates to "dispose with the services of freedmen." Family labor would suffice for small farms. Reformers spoke of factories employing white laborers, and of small farms tilled by white newcomers replacing black belt plantations, without making any provision for the former slaves, apart from morbid predictions that they would conveniently "die out." Certainly, spokesmen for a New South had no intention of seeing the finest land in the region fall into black hands.

The experience of Presidential Reconstruction underscores how profoundly attitudes toward the place of the emancipated slaves in the new social order affected efforts to reshape the Southern polity and economy. Andrew Johnson's obsession with keeping blacks in order led inevitably to abandonment of the idea of destroying planters' economic and political hegemony. And the inability of the governments he created to conceive of blacks as anything but plantation laborers doomed any real economic reform. In the end, their policies envisioned less a New South than an improved version of the old.

The outcome typified the failure of vision that marked the South's attempt at "self-reconstruction" from beginning to end. As Presidential Reconstruction drew to a close, Southern whites recognized that an opportunity had slipped away. Lawmakers were castigated by the press in language later turned upon Radical governments:

They were inept, lazy, and unable to deal effectively with the region's problems. "Probably the best thing the Legislature can do," remarked a correspondent of South Carolina Governor Orr, "will be to go home." Thoughtful observers would later acknowledge that the white South brought Radical Reconstruction upon itself. "We had, in 1865, a white man's government in Alabama . . .," declared Johnson's Provisional Governor Lewis E. Parsons, "but we lost it." The "great blunder" was not to "have at once taken the negro right under the protection of the laws."

### The North's Response

When first announced, Andrew Johnson's Reconstruction policy enjoyed overwhelming Northern support. Along with numerous Northerners who, for one reason or another, favored the rapid restoration of the Southern states to the Union, Presidential Reconstruction won the backing of Democrats who hoped to revive their party's fortunes after its "most disastrous epoch," Republicans of Democratic antecedents who shared Johnson's states' rights orientation and racial prejudices, and Republicans who hoped to enhance their position within the party by identifying themselves with the new President.

No less committed to the President's program were influential Northerners who believed the speedy revival of cotton production essential for the nation's economic health. King Cotton may have been dethroned, but as the nation's leading export it remained, as the *New York Times* put it, "a magnet of the very first rank." The trade in the "white gold" was crucial to the wealthy merchants who dominated the economic life of Boston, Philadelphia, New York, and other commercial centers, and to a wide range of businessmen and professionals such as lawyers, bankers, insurance brokers, and shipowners. Without a speedy revival of cotton production, they believed, Southerners could never repay their prewar debts, New England textile factories would have to close, and the nation would be unable to earn enough foreign exchange to resume specie payments and pay its overseas indebtedness. Without cotton, declared Rhode Island textile manufacturer and Republican Sen. William Sprague, America would be "bankrupt in every particular." Thus, powerful Northern economic interests had a stake in speedy reunion and the resumption of staple agriculture and believed

Johnson's policies could accomplish these goals. "If the entire interests of the colored race," declared the *New York Journal of Commerce*, "were remanded where they belong, to the several states, there would be . . . vastly more productive labor."

Against the natural tendency among Northerners to support the new President and the range of interests that united behind him, only one group openly opposed Johnson's program. Radical Republicans were stunned by the May proclamations, believing that on the question of black suffrage, Johnson had misled them. During the summer and fall of 1865, Radicals and abolitionists embarked on a campaign to convince the North that suffrage was "the logical sequence of negro emancipation." To some Radicals, black suffrage formed only one part of a broader program of federal intervention to remake Southern society; others found it appealing because it offered an alternative to permanent national responsibility for the freedmen. Once blacks had the vote, declared *Harper's Weekly*, "the 'Negro question' [would] take care of itself." These differences of emphasis portended later divisions over Reconstruction policy and the eventual breakup of the Radical coalition. In 1865, however, all Radicals could unite on the principle that without black suffrage there could be no Reconstruction.

Throughout these months letters passed back and forth among leading Radicals, lamenting Johnson's policies and promising to organize against them. But an unmistakable note of gloom pervaded this correspondence. "I hope you will do all that can be done for the protection of the poor negroes," Sen. Henry Wilson wrote Freedmen's Bureau Commissioner Howard, since "this nation seems about to abandon them to their disloyal masters."

The question of black suffrage, commented New York diarist George Templeton Strong, was "full of difficulties and conflicting rights. No statesman ever had a more knotty problem set him by destiny." Despite the easing of some racial proscriptions in 1864 and 1865 and the agitation of Northern blacks for the suffrage, only five states, all in New England, allowed blacks to vote on the same terms as whites. The majority of Republicans were not Radicals but moderates and conservatives who resented the "element that seem to have the negro on the brain all the time" and feared the issue of black rights would prove fatal to the party's electoral prospects.

The potential danger quickly became apparent in three referenda on constitutional amendments extending the franchise to the North's

tiny black population. In Minnesota, where the Republican convention endorsed voting rights for the state's few hundred black residents, an amendment failed by 2,600 votes even though a Republican was elected governor. Wisconsin gubernatorial candidate Gen. Lucius Fairchild, who personally favored black voting, refused to commit himself on the issue until late in the campaign, preferring, as he put it privately, defeat on the suffrage question to "losing the ticket and the amendment." Fairchild won a 10,000-vote majority, but the amendment fell 9,000 votes short of passage. Equally disheartening for the Radicals was the outcome in Connecticut, where black suffrage was defeated by 6,000 votes.

If they gazed long enough, Radicals could discern a silver lining in these results. Black suffrage had attracted forty-three percent of the vote in Connecticut, forty-five in Minnesota, and forty-seven in Wisconsin. Moreover, while nearly all Democrats opposed the policy, most Republicans voted in favor, an indication that the party's attitude toward black rights had indeed changed during the Civil War. Yet the 1865 referenda helped convince the President's supporters that his critics formed a tiny "radical and fanatic element" and deepened Johnson's commitment to his own course. When Congress reassembled in December, the issue of black suffrage was, for the moment, politically dead.

Yet despite the apparent triumph of Johnson's policies, a certain uneasiness pervaded broad sectors of Northern public opinion and influential Republican leaders. News of violence against the freedmen and the passage of the Black Codes aroused an indignation that spread far beyond Radical circles. Virtually all Republicans agreed, as Edward Atkinson put it, that the Civil War had been "a war for the establishment of free labor, call it by whatever other name you will." Thus, efforts by state legislation to "restore all of slavery but its name" were anathema. Johnson never quite understood that to mainstream Republicans the freedmen had earned a claim upon the conscience of the nation. Many Northerners who did not share the Radicals' commitment to black political rights insisted that the freedmen's personal liberty and ability to compete as free laborers must be guaranteed or emancipation would be little more than a mockery.

Reports also circulated of hotels and restaurants refusing to serve Northerners and steamboats denying them passage. But probably the most damaging accounts were those describing a revival of

"rebel" political power. "As for negro suffrage," declared Chicago editor Charles A. Dana in September, "the mass of the Union men in the Northwest do not care a great deal. What scares them is the idea that the rebels are all to be let back . . . and made a power in the government again, just as though there had been no rebellion." Slowly, Southern events reshaped the thinking of such influential moderates as Sen. Lyman Trumbull of Illinois, who had at first strongly supported Johnson's policies. Hardly an advocate of black suffrage, Trumbull became convinced that further federal measures to protect blacks' civil rights, encourage Southern Unionism, and suppress violence must precede the South's return to national life.

When the Thirty-Ninth Congress convened early in December, Johnson's position remained impressive. The President sincerely claimed to have created a new political order in the South, controlled by men loyal to the Union. He simply could not believe, one suspects, that Northern Republicans would jettison his program over so quixotic an issue as the freedmen's rights. The door stood open for Johnson to embrace the emerging Republican consensus that the freedmen were entitled to civil equality short of the suffrage and that wartime Unionists deserved a more prominent role in Southern politics.

Those close to Johnson, however, knew he was not prone to compromise. Indeed, they relished the prospect of a political battle over Reconstruction. "A fight between the Radicals and the Executive is inevitable," declared Harvey Watterson. "Let it come. The sooner the better for the whole country."

## The Making of Radical Reconstruction

It was a peculiarity of nineteenth-century politics that more than a year elapsed between the election of a Congress and its initial meeting. The Thirty-Ninth Congress, elected in 1864 in the midst of war, assembled in December 1865 to confront the crucial issues of Reconstruction: Who would control the South? Who would rule the nation? What was to be the status of the emancipated slave? In both houses, Republicans outnumbered Democrats by better than three to one. The interaction between the Republican party's distinctive factions would effectively determine the contours of Congressional policy.

### The Radical Republicans

On the party's left stood the Radical Republicans, a self-conscious political generation with shared experiences and commitments, a grass-roots constituency, a moral sensibility, and a program for Reconstruction. At the core of Congressional Radicalism were men whose careers had been shaped by the slavery controversy: Charles Sumner, Benjamin Wade, and Henry Wilson in the Senate; Thaddeus Stevens, George W. Julian, and James M. Ashley in the House. With the exception of Stevens they represented constituencies centered in New England and the belt of New England migration that stretched across the rural North through upstate New York, Ohio's Western Reserve, northern Illinois, and the upper Northwest. Here lay rapidly growing communities of family

farms and small towns, where the superiority of the free labor system appeared self-evident, antebellum reform had flourished, and the Republican party commanded overwhelming majorities.

The preeminent Radical leaders, Thaddeus Stevens and Charles Sumner, differed in personality and political style. The recognized floor leader of House Republicans, Stevens was a master of Congressional infighting, parliamentary tactics, and blunt speaking. One contemporary called him "a rude joustier in political and personal warfare." Sumner, disliked by Senate colleagues for egotism, self-righteousness, and stubborn refusal to compromise, acted as the voice, the embodiment, of the New England conscience. Unconcerned with the details of committee work and legislative maneuvering, his forte lay in lengthy, erudite speeches in which he expounded the recurrent theme of his political career: equality before the law. Abolitionists considered him *their* politician. So too did ordinary blacks, North and South, who deluged him with requests for advice and accounts of their grievances. "Your name," wrote a black army veteran in 1869, "shall live in our hearts for ever."

Uniting Stevens, Sumner, and the other Radicals in 1865 was the conviction that the Civil War constituted a "golden moment" for far-reaching change. The driving force of Radical ideology was the utopian vision of a nation whose citizens enjoyed equality of civil and political rights secured by a powerful and beneficent national state. For decades, long before any conceivable political benefit derived from its advocacy, Stevens, Sumner, and other Radicals had defended the unpopular cause of black suffrage and castigated the idea that America was a "white man's government" (a doctrine, Stevens remarked, "that damned the late Chief Justice [Roger B. Taney] to everlasting fame; and, I fear, to everlasting fire"). There was no room for a legally and politically submerged class in the "perfect republic" that must emerge from the Civil War.

To Radical egalitarianism, the Civil War wedded a new conception of the powers and potentialities of the national state. More fully than other Republicans, the Radicals embraced the wartime expansion of national authority, determined not to allow federalism and states' rights to obstruct a sweeping national effort to define and protect the rights of citizens. For Stevens, the war had created its own logic and imperatives. "We are making a nation," he told the House: The vanquished Southern states had sacrificed their consti-



tutional standing and could be treated by Congress as conquered provinces. Yet Stevens's disregard for constitutional niceties denied him broad support. Other Radicals turned to a different reservoir of federal power, the Constitution's clause guaranteeing to each state a republican form of government. Sumner called the provision "a sleeping giant . . . never until this recent war awakened, but now it comes forward with a giant's power. There is no clause in the Constitution like it. There is no other clause which gives to Congress such supreme power over the states." A government that denied any of its citizens equality before the law and did not rest fully on the consent of the governed, he insisted, ceased to be republican.

Reconstruction Radicalism was first and foremost a civic ideology, grounded in a definition of American citizenship. On the economic issues of the day no distinctive or unified Radical position existed. Stevens, himself a small iron manufacturer, favored an economic program geared to the needs of aspiring entrepreneurs, including tariff protection, low interest rates, plentiful greenback currency, and promotion of internal improvements. On the other hand, Radicals like Charles Sumner and *Nation* editor E. L. Godkin, men attuned to orthodox laissez-faire economic theory, favored a low tariff, the swift resumption of specie payments, and minimal government involvement in the economy. Generally, Congressional Radicals viewed economic issues as secondary to those of Reconstruction. "No question of finance, or banks, or currency, or tariffs," declared Illinois Sen. Richard Yates, "can obscure this mighty moral question of the age." Nor did capitalists agree among themselves on Reconstruction. Bostonian John Murray Forbes, a leading investor in Midwestern railroads, viewed black suffrage as essential to creating the political conditions necessary for Northern investment in a reconstructed South. Radicals also won support among manufacturers who saw upwardly mobile blacks as a new market for their products. But other businessmen, especially those with ties to the cotton trade or who hoped to invest in the South, feared Radical policies would "disrupt the cheap Southern labor force" and interfere with the resumption of cotton production.

Radical Republicanism did possess a social and economic vision, but one that derived from the free labor ideology rather than from any one set of business interests. The South, Radicals believed, should be reshaped in the image of the small-scale competitive

capitalism of the North. "My dream," one explained in 1866, "is of a model republic, extending equal protection and rights to all men. . . . The wilderness shall vanish, the church and school-house will appear; . . . the whole land will revive under the magic touch of free labor." In such a society, the freedmen would enjoy the same economic opportunities as white laborers. A correspondent of Sumner's, describing how New York City hotels denied his black servant accommodations, strikingly articulated the Radical ideal of equal opportunity regardless of race:

Is not this state of things a disgrace to America, as a land of liberty and freedom? Must the black man—as free—be insulted and humiliated at every step? . . . The white servant is deemed not on an equality with his employer—yet recognized in the right to rise to that equality. Neither is the black servant on an equality with his employer—yet has an equal right with the white servant to gain it.

The idea of remaking Southern society led a few Radicals to propose that the federal government overturn the plantation system and provide the former slaves with homesteads. In a speech to Pennsylvania's Republican convention in September 1865, Stevens called for the seizure of the 400 million acres belonging to the wealthiest ten percent of Southerners:

The whole fabric of southern society *must* be changed, and never can it be done if this opportunity is lost. . . . How can republican institutions, free schools, free churches, free social intercourse exist in a mingled community of nabobs and serfs? If the South is ever to be made a safe republic let her lands be cultivated by the toil of the owners.

Confiscation, Stevens believed, would break the power of the South's traditional ruling class, transform the Southern social structure, and create a triumphant Southern Republican party composed of black and white yeomen and Northern purchasers of planter land.

Even among the Radicals, however, only a handful stressed the land question as uncompromisingly as did Stevens. Most deemed land for the freedmen, though commendable, not nearly as crucial to Reconstruction as black suffrage. In a free-labor South, with civil and political equality secured, black and white would find their own level, and, as Benjamin Wade put it, "finally occupy a platform



according to their merits." The key was that all must be given "a perfectly fair chance."

Yet whatever Radicals' indecision as to the economic future of the postwar South, the core of their ideology—that a powerful national state must guarantee blacks equal political standing and equal opportunity in a free-labor economy—called for a striking departure in American public life. As Congress assembled, no one knew how many Republicans were ready to advance this far. The growing perception of white Southern intransigence, and President Johnson's indifference to the rights of blacks, helped propel the party's center of gravity to the left. Radicalism, however, possessed a dynamic of its own, based above all on the reality that in a time of crisis, Radicals alone seemed to have a coherent sense of purpose. The "one body of men who had any positive affirmative ideas," Texas Senator-elect Oran M. Roberts discovered upon arriving in Washington, was "the vanguard of the radical party. They knew exactly what they wanted to do, and were determined to do it." Repeatedly, Radicals had staked out unpopular positions, only to be vindicated by events. Uncompromising opposition to slavery's expansion; emancipation; the arming of black troops—all these had, at first, little support, yet all finally found their way into the mainstream of Republican opinion. "These are no times of ordinary politics," declared Wendell Phillips. "These are formative hours: the national purpose and thought grows and ripens in thirty days as much as ordinary years bring it forward."

### Origins of Civil Rights

From the day the Thirty-Ninth Congress assembled, it was clear the Republican majority viewed Johnson's policies with misgivings. Clerk of the House Edward McPherson omitted the names of newly elected Southern Congressmen as he called the roll, and the two houses proceeded to establish a Joint Committee on Reconstruction to investigate conditions in the Southern states and report on whether any were entitled to representation.

Some of Johnson's supporters considered these steps a direct challenge to Presidential authority, but Johnson's annual message to Congress took a conciliatory approach. Essentially, the President insisted, "the work of restoration" was now complete—all that remained was for Congress to admit Southern representatives. On

the other hand, he conceded that Congress had the right to determine the qualifications of its members, apparently offering it some role in judging Reconstruction's progress. Most Republicans appear to have accepted the message as an acceptable starting point for discussions of Reconstruction. Radical proposals to overturn the Johnson governments and commit Congress to black suffrage fell on deaf ears. "No party, however strong, could stand a year on this platform," one Republican newspaper commented.

With the Radical initiative in abeyance, political leadership in Congress passed to the moderates. Politically, ideologically, and temperamentally, moderate leaders like James G. Blaine and John A. Bingham in the House and Lyman Trumbull, John Sherman, and William Pitt Fessenden in the Senate differed markedly from their Radical colleagues. While fully embracing the changes brought about by the Civil War, moderate Republicans viewed Reconstruction as a practical problem, not an opportunity to impose an open-ended social revolution on the South. Nor did they believe a break with Johnson inevitable or desirable. If "Sumner and Stevens, and a few other such men do not embroil us with the President," Fessenden insisted, "matters can be satisfactorily arranged . . . to the great bulk of Union men throughout the States." Nor were moderates enthusiastic about the prospect of black suffrage, seeing it as a political liability in the North and less likely to provide a stable basis for a new Republican party in the South than a political alliance with forward-looking whites.

Nonetheless, moderate Republicans believed Johnson's Reconstruction policies required modification. Alarmed by the numerous "rebels" holding office in the South, they insisted on further guarantees of "loyalty" and hoped Johnson would repudiate talk of party realignment and stop meeting so openly with "obnoxious Democrats." Equally important, while rejecting black suffrage, mainstream Republicans had embraced civil equality for blacks. The moderates' dilemma was that most of the rights they sought to guarantee for blacks had always been state concerns. Federal action to protect these rights threatened an undue "centralization" of power. Rejecting talk of "conquered provinces" or states reverting to territories, moderates adopted a constitutional position not unlike the President's. While indestructible, the states had forfeited some of their rights by attempting secession; for the moment, they remained in the "grasp of war." Johnson had used similar reasoning

to appoint provisional governors and require states to ratify the Thirteenth Amendment. Moderates believed the same logic empowered Congress to withhold representation from the South until the essential rights of the freedmen had been guaranteed.

Two bills reported to the Senate in January 1866 by Lyman Trumbull, chairman of the Judiciary Committee, defined the moderates' policy. The first extended the life of the Freedmen's Bureau and authorized agents to take jurisdiction of cases involving blacks and punish state officials denying blacks the "civil rights belonging to white persons." The bill represented a radical departure from traditional federal policy, but as Trumbull assured the Senate, the Bureau was "not intended as a permanent institution." More far-reaching was his second measure, the Civil Rights Bill, which Henry J. Raymond, editor of the *New York Times* and a Congressman from New York, called "one of the most important bills ever presented to this House for its action." This defined all persons born in the United States (except Indians) as national citizens and spelled out rights they were to enjoy equally without regard to race—making contracts, bringing lawsuits, and enjoying the benefit of "all laws and proceedings for the security of person and property." No state law or custom could deprive any citizen of what Trumbull called these "fundamental rights belonging to every man as a free man."

In constitutional terms, the Civil Rights Bill represented the first attempt to give meaning to the Thirteenth Amendment, to define in legislative terms the essence of freedom. The bill proposed, one Congressman declared, "to secure to a poor, weak class of laborers the right to make contracts for their labor, the power to enforce the payment of their wages, and the means of holding and enjoying the proceeds of their toil." If states could deny blacks these rights, another Republican remarked, "then I demand to know, of what practical value is the amendment abolishing slavery?" But, beyond these specific rights, moderates, like the Radicals, rejected the entire idea of laws differentiating between black and white in access to the courts and penalties for crimes. The shadow of the Black Codes hung over these debates, and Trumbull declared his intention "to destroy all these discriminations."

As the first statutory definition of the rights of American citizenship, the Civil Rights Bill embodied a profound change in federal-state relations and reflected how Radical ideas had entered the

party's mainstream. Before the Civil War, James G. Blaine later remarked, only "the wildest fancy of a distempered brain" could envision an act of Congress conferring upon blacks "all the civil rights pertaining to a white man." And although primarily intended to benefit the freedman, the bill invalidated many discriminatory laws in the North. "I admit," said Maine Sen. Lot M. Morrill, "that this species of legislation is absolutely revolutionary. But are we not in the midst of a revolution?"

In fact, however, the bill combined elements of continuity and change, reflecting Republican opinion in early 1866. It honored the traditional presumption that the primary responsibility for law enforcement lay with the states, while creating a latent federal presence to be triggered by discriminatory state laws. Nor did Congress create a national police force or permanent military presence to protect the rights of citizens. Instead it placed the burden of enforcement on the federal courts. And despite its intriguing reference to the role "custom" played in depriving blacks of legal equality, the bill was primarily directed against public, not private, acts of injustice. Moderates perceived discriminatory state laws as the greatest threat to blacks' rights, a questionable assumption when the freedmen faced rampant violence as well as unequal treatment by sheriffs, judges, and juries, often under laws that made no mention of race. And, as Trumbull insisted, the bill contained nothing "about the political rights of the Negro."

Thus, by February 1866, Republicans had united on Trumbull's Freedmen's Bureau and Civil Rights Bills as necessary amendments to Presidential Reconstruction. Meanwhile, the persistent complaints of persecution forwarded to Washington by Southern blacks and white loyalists persuaded Congress that the Southern states could not be trusted to manage their own affairs without federal oversight. Particularly alarming was the testimony gathered by the Joint Committee on Reconstruction. Army officers, Bureau agents, freedmen, and Southern Unionists repeated tales of injustice. Early in February, North Carolina Senator-elect John Pool concluded that Southern members would not gain admission for some time and that the South faced "conditions that would never have been thought of, if a more prudent and wise course had been adopted" by the Johnson governments.

To the surprise and dismay of Congress, the President vetoed the Freedmen's Bureau Bill. Moreover, rejecting a conciliatory draft

written by Secretary of State William H. Seward, which criticized the bill's specifics while acknowledging a federal responsibility for the freedmen, Johnson's message repudiated the Bureau entirely, describing it as an "immense patronage" unwarranted by the Constitution and unaffordable given "the condition of our fiscal affairs." Congress, he pointed out, had never provided economic relief, established schools, or purchased land for "our own people"; such aid, moreover, threatened the "character" and "prospects" of the freedmen by implying that they did not have to work for a living. These matters, Johnson added, should not be decided while eleven states remained unrepresented, and at any rate the President—"chosen by the people of all the States"—had a broader view of the national interest than members of Congress, elected "from a single district."

This was a remarkable document. In appealing to fiscal conservatism, raising the specter of an immense federal bureaucracy overriding citizens' rights, and insisting self-help, not dependence on outside assistance, offered the surest road to economic advancement, Johnson voiced themes that to this day have sustained opposition to federal aid for blacks. At the same time, he falsely accused Congress of intending to make the Bureau "a permanent branch of the public administration" and showed no sympathy whatever for the freedmen's plight. As for Johnson's exalting himself above Congress, this, one Republican remarked, "is modest for a man . . . made President by an assassin." The veto ensured a bitter political struggle between Congress and the President, for, as Fessenden accurately predicted, "he will and must . . . veto every other bill we pass" concerning Reconstruction.

Why did Johnson choose this path? The President had been remarkably successful in retaining support among Northerners and Southerners, Republicans and Democrats, but the Freedmen's Bureau Bill forced him to begin choosing among his diverse allies. Johnson knew Southern whites disliked the Bureau and Northern Democrats clamored for its destruction. He seems to have interpreted moderate Republican efforts to avoid a split as evidence that they feared an open breach in the party. And he was convinced the Radicals were conspiring against him.

Johnson, reported William H. Trescott, hoped the Republican mainstream would "form a new party with the President," excluding the Radicals. Unfortunately for this strategy, Johnson's belief that only the Radicals were concerned about the freedmen's rights caused

him to misconstrue divisions within Republican ranks. The Senate vote on overriding his veto ought to have given him pause, for although the bill fell two votes short of the necessary two-thirds, thirty of thirty-eight Republicans voted for repassage. Trescott now recognized that Republicans might well unite against the President, inaugurating "a fight this fall such as has never been seen." But Johnson refused to believe that the majority of Republicans would insist on federal protection for the freedmen. The day after the Senate vote, the President continued his assault upon the Radicals. In an impromptu Washington's Birthday speech, he equated Stevens, Sumner, and Wendell Phillips with Confederate leaders, since all were "opposed to the fundamental principles of this Government." He even implied that they were plotting his assassination.

Attention now turned to the Civil Rights Bill. Republican opinion, Johnson's supporters warned him, insisted that the freedmen must have "the same rights of property and person" as whites. But this premise Johnson rejected. His veto message repudiated both the specific terms of the Civil Rights Bill and its underlying principle. The assertion of national power to protect blacks' civil rights, he insisted, violated "all our experience as a people" and constituted a "stride towards centralization, and the concentration of all legislative powers in the national Government." Most striking was the message's blatant racism. Somehow, the President had decided that giving blacks full citizenship discriminated against whites—"the distinction of race and color is by the bill made to operate in favor of the colored and against the white race." Johnson even invoked the specter of racial intermarriage as the logical consequence of Congressional policy.

For Republican moderates, the Civil Rights veto ended all hope of cooperation with the President. In a biting speech, Trumbull dissected Johnson's logic, especially the notion that guaranteeing blacks civil equality impaired the rights of whites. Early in April, for the first time in American history, Congress enacted a major piece of legislation over a President's veto. A headline in one Republican newspaper summed up the political situation: "The Separation Complete."

Johnson's rejection of the Civil Rights Bill has always been viewed as the most disastrous miscalculation of his political career. If the President aimed to build a new political coalition without the Radicals, he could not have failed more miserably. Whatever their dif-

ferences, all Republicans agreed with the editorial response of the Springfield *Republican*: Protection of the freedmen's civil rights "follows from the suppression of the rebellion. . . . The party is nothing, if it does not do this—the nation is dishonored if it hesitates in this."

Yet despite the veto's outcome, Johnson's course cannot be explained simply in terms of insensitivity to Northern public opinion. Given the Civil Rights Act's astonishing expansion of federal authority and blacks' rights, it is not surprising that Johnson considered it a Radical measure against which he could mobilize voters. When, during one April speech, Johnson asked rhetorically, "What does the veto mean?" a voice from the crowd shouted: "It is keeping the nigger down." Johnson chose the issue on which to fight—federal protection for blacks' civil rights—and it was an issue on which he did not expect to lose.

### The Fourteenth Amendment

As the split with the President deepened, Republicans grappled with the task of embedding in the Constitution, beyond the reach of Presidential vetoes and shifting political majorities, the results of the Civil War. At one point in January, no fewer than seventy constitutional amendments had been introduced. Not until June, after seemingly endless debate and maneuvering, did the Fourteenth Amendment, the most important ever added to the Constitution, receive the approval of Congress. Its first clause prohibited the states from abridging equality before the law. The second provided for a reduction in a state's representation proportional to the number of male citizens denied suffrage. This aimed to prevent the South from benefiting politically from emancipation. Before the war, three-fifths of the slaves had been included in calculating Congressional representation; now, as free persons, all would be counted. Since Republicans were not prepared to force black suffrage upon the South, they offered white Southerners a choice—enfranchise the freedmen or sacrifice representation in Congress. The third clause barred from national and state office men who had sworn allegiance to the Constitution and subsequently aided the Confederacy. While not depriving "rebels" of the vote, this excluded from office most of the South's prewar political leadership, opening the door to power, Republicans hoped, for true Unionists.

The Amendment also prohibited payment of the Confederate debt and empowered Congress to enforce its provisions through "appropriate" legislation.

Because it implicitly acknowledged the right of states to limit voting because of race, Wendell Phillips denounced the amendment as a "fatal and total surrender." Susan B. Anthony, Elizabeth Cady Stanton, and others in the women's suffrage movement also felt betrayed, because the second clause introduced the word "male" into the Constitution. Alone among suffrage limitations, those founded on sex would not reduce a state's representation.

Ideologically and politically, nineteenth-century feminism had been tied to abolition. Feminists now turned Radical ideology back upon Congress. If "special claims for special classes" were illegitimate and unrepugnant, how could the denial of women's rights be justified? Should not sex, like race, be rejected as an unacceptable basis for legal distinctions among citizens? Rather than defining Reconstruction as "the negro's hour," they called it, instead, the hour for change: Another generation might pass "ere the constitutional door will again be opened." The dispute over the Fourteenth Amendment marked a turning point in nineteenth-century reform. Leaving feminist leaders with a deep sense of betrayal, it convinced them, as Stanton put it, that woman "must not put her trust in man" in seeking her rights. Women's leaders now embarked on a course that severed their historic alliance with abolitionism and created a truly independent feminist movement.

The Fourteenth Amendment, one Republican newspaper observed, repudiated the two axioms on which the Radicals "started to make their fight last December: dead States and equal suffrage." Yet it clothed with constitutional authority the principle Radicals had fought to vindicate: equality before the law, overseen by the national government. For its heart was the first section, which declared all persons born or naturalized in the United States both national and state citizens and prohibited the states from abridging their "privileges and immunities," depriving any person of life, liberty, or property without "due process of law," or denying them "equal protection of the laws."

For more than a century, politicians, judges, lawyers, and scholars have debated the meaning of this elusive language. But the aims of the Fourteenth Amendment can be understood only within the political and ideological context of 1866: the break with the

President, the need to find a measure able to unify all Republicans, and the growing party consensus in favor of strong federal action to protect the freedmen's rights, short of the suffrage. During many drafts, changes, and deletions, the Amendment's central principle remained constant: a national guarantee of equality before the law. This was "so just," a moderate Congressman declared, "that no member of this House can seriously object to it." In language that transcended race and region, the Amendment challenged legal discrimination throughout the nation and changed and broadened the meaning of freedom for all Americans.

On the precise definition of equality before the law, Republicans differed among themselves. Even moderates, however, understood Reconstruction as a dynamic process, in which phrases like "privileges and immunities" were subject to changing interpretation. They preferred to allow both Congress and the federal courts maximum flexibility in implementing the Amendment's provisions and combating the injustices that confronted blacks in much of the South. Indeed, as in the Civil Rights Act, Congress looked to an activist federal judiciary to enforce civil rights—a mechanism preferable to maintaining indefinitely a standing army in the South or erecting a national bureaucracy empowered to oversee Reconstruction.

In establishing a national citizenship whose common rights no state could abridge, Republicans carried forward the nation-building process born of the Civil War. The states, declared Michigan Sen. Jacob Howard, who guided the Amendment through the Senate, could no longer infringe upon the liberties the Bill of Rights protected against federal violation; henceforth, states must respect "the personal rights guaranteed and secured by the first eight Amendments." The Freedmen's Bureau had already tried to protect such basic rights as freedom of speech, the right to bear arms, trial by impartial jury, and protection against cruel and unusual punishment and unreasonable search and seizure, and the Amendment was deemed necessary, in part, precisely because every one of these rights was being systematically violated in the South in 1866.

When Congress adjourned in July, two divisive questions remained unresolved. One was precisely how the Southern states would achieve readmission. Tennessee quickly ratified the Fourteenth Amendment and regained its right to representation, but without Congress explicitly acknowledging that this established a binding precedent. And, for the moment, the vexing question of

black voting rights had been laid aside. Henry M. Turner, the black minister and political organizer who had been sent to Washington to lobby for black rights by Georgia's statewide black convention, reported: "Several Congressmen tell me, 'the negro must vote,' but the issue must be avoided now so as 'to keep up a two thirds power in Congress.' " Even conservative Republican Sen. John B. Henderson of Missouri believed black suffrage inevitable: "It will not be five years from today before this body will vote for it. You cannot get along without it."

### The Campaign of 1866

On May 1, 1866, two horse-drawn hacks, one driven by a white man, the other by a black, collided on a street in Memphis. When police arrested the black driver, a group of recently discharged black veterans intervened, and a white crowd began to gather. From this incident followed three days of racial violence, with white mobs, composed in large part of the mostly Irish policemen and firemen, assaulting blacks on the streets and invading South Memphis, an area that included a shantytown housing families of black soldiers stationed in nearby Fort Pickering. Before the rioting subsided, at least forty-six blacks and two whites lay dead, five black women had been raped, and hundreds of black dwellings, churches, and schools were pillaged or destroyed by fire.

Twelve weeks later, a similar outbreak rocked New Orleans, although this time the violence arose directly from Reconstruction politics. The growing power of former Confederates under the administration of Gov. James M. Wells had long dismayed the city's Radicals and eventually alarmed Wells himself. Wells now endorsed a Radical plan to reconvene the Constitutional Convention of 1864 in order to enfranchise blacks, prohibit "rebels" from voting, and establish a new state government. On the appointed day, July 30, only twenty-five delegates assembled, soon joined by a procession of some 200 black supporters, mostly former soldiers. Fighting broke out in the streets, police converged on the area, and the scene quickly degenerated into what Gen. Philip H. Sheridan later called "an absolute massacre." By the time federal troops arrived, thirty-four blacks and three white Radicals had been killed, and well over 100 persons injured. Even more than the Memphis riot, the events in New Orleans discredited Presidential Reconstruction. Many



Northerners agreed with Gen. Joseph Holt that Johnson's leniency had unleashed "the barbarism of the rebellion" in its renaissance.

The New Orleans riot could not have occurred at a worse time for the President—only two weeks before the National Union convention, a gathering of his supporters, was to assemble in Philadelphia. On the surface, harmony prevailed at the convention. The 7,000 spectators cheered wildly as South Carolina's massive Gov. James L. Orr marched down the main aisle arm-in-arm with the diminutive Gen. Darius N. Couch of Massachusetts, leading a procession of the delegates. Yet behind the scenes, dissension reigned. *New York Times* editor Henry J. Raymond had been persuaded to deliver the convention's main address, but his draft of the platform included guarded praise of the Fourteenth Amendment and oblique criticism of slavery. This proved too much for the Resolutions Committee, which omitted the offending passages. In the end, the convention did not try to establish a new national party, but called for the election of Congressmen who would support Johnson's policies.

The President now decided to take his case to the Northern people. On August 28, accompanied by Ulysses Grant, Adm. David Farragut, and other notables, he embarked on the "swing around the circle," an unprecedented speaking tour aimed at influencing the coming elections. At first things went well, for New York and Philadelphia men of commerce and finance welcomed him with enthusiasm. Then the party traveled through upstate New York and on to the West. When they reached Ohio, Johnson, interrupted by hecklers, responded in kind. At Cleveland, when a member of the audience yelled "hang Jeff Davis," the President replied, "Why not hang Thad Stevens and Wendell Phillips?" Johnson also indulged his unique blend of self-aggrandizement and self-pity. On one occasion, he intimated that Providence had removed Lincoln to elevate Johnson himself to the White House. At St. Louis, he blamed Congress for instigating the New Orleans riot and unleashed a "muddled tirade" against his opponents: "I have been traduced, I have been slandered, I have been maligned. I have been played the Judas Iscariot. . . . Who has been my Christ that I have played the Judas with? Was it Thad Stevens?" Even Johnson's partisans were mortified. "Thoroughly reprehensible," exclaimed the *New York Journal of Commerce*. The President, former Georgia Gov. Herschel V. Johnson declared, had sacrificed "the moral power of his position, and done great damage to the cause of Constitutional

reorganization." In mid-September, Andrew Johnson returned to Washington from what one admirer called "a tour it were better had never been made."

Johnson's supporters subsequently contended that a small band of fanatics secured Republican victory by demagogic attacks against "rebels" and "Copperheads" that obscured the real issues, such as the tariff, on which a pro-Johnson majority could ostensibly have been forged. Yet both parties remained divided on economic questions, and voters displayed little interest in them in 1866. More than anything else, the election became a referendum on the Fourteenth Amendment. Seldom, declared the *New York Times*, had a political contest been conducted "with so exclusive reference to a single issue." And the President's supporters went down to a disastrous defeat. In the next Congress, Republicans would possess well over the two-thirds majority required to override a veto.

"This is the most decisive and emphatic victory ever seen in American politics," exclaimed *The Nation*. In its aftermath, the course of prudence seemed plain. The South, warned the *Times*, must ratify and comply with the Fourteenth Amendment and the President must cease to oppose it; otherwise, black suffrage was inevitable. Johnson, however, refused to alter his opposition to the Amendment. Southern newspapers, moreover, consistently misinformed their readers about Northern politics, portraying Johnson's opponents as a band of Radical fanatics who lacked broad popular support and predicting Congress could not possibly do things it then proceeded to do. The election returns came as a shock, but produced no political reassessment. Between October 1866 and the following January, ten Southern legislatures overwhelmingly repudiated the Amendment. All told, only thirty-three Southern lawmakers braved public opposition to vote for ratification. Not for the first time, Southern intransigence played into the Radicals' hands. For, as Benjamin S. Hedrick of North Carolina had warned, "If the Northern people are forced by the South to follow Thad Stevens or the Copperheads, I believe they will prefer the former."

### The Coming of Black Suffrage

The Republicans who gathered in December 1866 for the second session of the Thirty-Ninth Congress considered themselves "masters of the situation." Johnson's annual message, pleading for the



immediate restoration of the "now unrepresented States," was ignored. The President, declared the New York *Herald*, his erstwhile supporter, "forgets that we have passed through the fiery ordeal of a mighty revolution, and that the pre-existing order of things is gone and can return no more—that a great work of reconstruction is before us, and that we cannot escape it."

Black suffrage, it soon became clear, was on the horizon. In mid-December, Trumbull told the Senate that Congress possessed the authority to "enter these States and hurl from power the disloyal element which controls and governs them," an important announcement that moderates intended to overturn the Johnson governments. In January 1867, a bill enfranchising blacks in the District of Columbia became law over the President's veto. Then, Congress extended manhood suffrage to the territories. Even more radical proposals were in the air, including widespread disenfranchisement, martial law for the South, confiscation, the impeachment of the President. A *Herald* editorial writer apologized to Johnson for the paper's advocacy of his removal: Its editor always went with the political tide, and the tide now flowed toward the Radicals.

Congress, however, found it difficult to agree on a program, a situation not all Republicans regretted. Late in January, George W. Julian warned against precipitous action. What the South needed was not "hasty restoration" or oaths that invited men to commit perjury, but "government, the strong arm of power, outstretched from the central authority here in Washington." Only a prolonged period of federal control would enable loyal public opinion to sink deep roots and permit "Northern capital and labor, Northern energy and enterprise" to venture south, there to establish "a Christian civilization and a living democracy." The South, he proposed, should be governed directly from Washington and readmitted only at "some indefinite future time" when its "political and social elements" had been thoroughly transformed.

Julian's speech struck a chord in Congress. The Joint Committee quickly approved a bill to impose military rule on the South. But even as moderates accepted military rule as a temporary expedient, they insisted on clearly specifying how the South could establish new civil governments and regain its standing within the Union. The military bill passed the House, but in the Senate the Republican caucus appointed a committee to lay down conditions of readmission for the entire South. The main point of dispute concerned black

suffrage: All agreed it must operate in elections for constitutional conventions, but not on whether to require new constitutions to incorporate it as well. To Sumner, this was crucial, and when the committee failed to mandate black suffrage in the new documents, he appealed to the full caucus. The question of black voting, he said, must be settled, or "every State and village between here and the Rio Grande would be agitated by it." By a margin of two, the Republican caucus overturned the committee's decision. Exclaimed Radical Sen. Henry Wilson: "This is the greatest vote that has been taken on this continent."

And so Republicans decided that blacks must enter the South's body politic. But when the amended bill returned to the House, it touched off a storm of Radical protest. Rebels, charged George Boutwell, had been handed "the chief places in the work of reconstruction," for while establishing military rule, the bill failed to remove the Johnson governments immediately or disenfranchise former Confederates. Two amendments, intended to place the Reconstruction process in the hands of loyal men, made the bill more palatable to its critics. The first barred anyone disqualified from office under the Fourteenth Amendment from electing, or serving as, constitutional convention delegates. The second declared the Johnson governments subject to modification or abolition at any time and prohibited individuals disqualified under the Fourteenth Amendment from voting or holding office under them. No one knew how many "leading rebels" these eleventh-hour changes affected. But for Southern Unionists, they represented a major victory. The larger part of a political generation, men of local influence ranging from prewar postmasters and justices of the peace to legislators and Congressmen, had been temporarily excluded from office and voting. "This Amendment . . . will prove of vital importance in the work of reconstruction . . .," declared the *Raleigh Standard*. "We rejoice that there is to be an end to rebel rule."

Throughout these deliberations, Johnson remained silent. Toward the end of February, New York *Evening Post* editor Charles Nordhoff visited the White House. He found the President "much excited," certain "the people of the South . . . were to be trodden under foot to protect niggers." Nordhoff had once admired the President; now he judged him a "pig-headed man" governed by one idea: "bitter opposition to universal suffrage." Gone was the vision

of a reconstructed South controlled by loyal yeomen. "The old Southern leaders . . ." declared the man who had once railed against the Slave Power, "must rule the South." When the Reconstruction bill reached his desk on March 2, Johnson returned it with a veto, which Congress promptly overrode. Maryland Sen. Reverdy Johnson was the only member to break party ranks. Whatever its flaws, he declared, the bill offered the South a path back into the Union, and the President should abandon his intransigence and accede to the plainly expressed will of the people. Reverdy Johnson's was the only Democratic vote in favor of any of the Reconstruction measures of 1866-67.

In its final form, the Reconstruction Act of 1867 divided the Confederate states, except Tennessee, into five military districts under commanders empowered to employ the army to protect life and property. And without immediately replacing the Johnson regimes, it laid out the steps by which new state governments could be created and recognized by Congress—the writing of new constitutions providing for manhood suffrage, their approval by a majority of registered voters, and ratification of the Fourteenth Amendment. Simultaneously, Congress passed the Habeas Corpus Act, which greatly expanded citizens' ability to remove cases to federal courts.

Like all the decisions of the Thirty-Ninth Congress, the Reconstruction Act contained a somewhat incongruous mixture of idealism and political expediency. The bill established military rule, but only as a temporary measure to keep the peace, with the states assured a relatively quick return to the Union. It looked to a new political order for the South, but failed to place Southern Unionists in immediate control. It made no economic provision for the freedmen. Even black suffrage derived from a variety of motives and calculations. For Radicals, it represented the culmination of a lifetime of reform. For others, it seemed less the fulfillment of an idealistic creed than an alternative to prolonged federal intervention in the South, a means of enabling blacks to defend themselves against abuse, while relieving the nation of that responsibility.

Despite all its limitations, Congressional Reconstruction was indeed a radical departure, a stunning and unprecedented experiment in interracial democracy. In America, the ballot not only identified who could vote, it defined a collective national identity. Democrats had fought black suffrage on precisely these grounds. "Without reference to the question of equality," declared Indiana

Sen. Thomas Hendricks, "I say we are not of the same race; we are so different that we ought not to compose one political community." Enfranchising blacks marked a powerful repudiation of such thinking. In some ways it was an astonishing leap of faith. Were the mass of freedmen truly prepared for political rights? Gen. E. O. C. Ord, federal commander in Arkansas, believed them "so servile and accustomed to submit" to white dictation that they would "not dare to present themselves at the polls." Even some Radicals harbored inner doubts, fearing that "demagogues" or their former masters would control the black vote, or that political rights would prove meaningless without economic independence.

In the course of Reconstruction, the freedmen disproved these somber forecasts. They demonstrated political shrewdness and independence in using the ballot to affect the conditions of their freedom. However inadequate as a response to the legacy of slavery, it remains a tragedy that the lofty goals of civil and political equality were not permanently achieved. And the end of Reconstruction came not because propertyless blacks succumbed to economic coercion, but because a tenacious black community, abandoned by the nation, fell victim to violence and fraud.

"We have cut loose from the whole dead past," wrote Wisconsin Sen. Timothy Howe, "and have cast our anchor out a hundred years." His colleague, Waitman T. Willey of West Virginia, adopted a more cautious tone: "The legislation of the last two years will mark a great page of history for good or evil—I hope the former. The crisis, however, is not yet past."