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"Andrew Johnson's veto of the first reconstruction act"
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ANDREW JOHNSON'S VETO OF THE FIRST RECONSTRUCTION ACT

ABSTRACT

The purpose of this study is to analyze and clarify Andrew Johnson's reasons for the veto of the First Reconstruction Act. Previous historical explanations of this veto have been superficial and inadequate, usually limited to Johnson's attitude toward Congressional Reconstruction.

The months of February and March, 1867, encompassed some of the most important moments in American history. In early March, Congress sent President Johnson the First Reconstruction Act, which provided a procedure for restoring the ex-Confederate states to the Union. Johnson's differences with Congress were well known, for he had previously vetoed the Freedmen's Bureau Bill on February 19, 1866, and the Civil Rights Act on March 27, 1866. The nation therefore expected that he also would veto the First Reconstruction Act. But a new Congress, dominated by Radicals, and many leaders of the Republican Party put pressure on Johnson to approve the legislation. Andrew Johnson was not a man to be intimidated by a difficult situation. He vetoed the bill on March 2, 1867.

American historians have differed in their evaluation of Andrew Johnson and his role during Reconstruction. However, in spite of such differences, they can be classified roughly into three groups: earlier historians, the Dunning school, and revisionists of the Dunning school.

Earlier historians,--those writing mainly before 1900--had in common the principal aim of justifying a sectional point of view. They also analyzed the period and evaluated Johnson superficially. Of these the most prominent were James F. Rhodes and Ellis P. Oberholtzer. Rhodes believed that Johnson's

unreasoning obstinacy and stubbornness motivated his vetoes. Oberholtzer, on the other hand, created the stereotype of Johnson as a demagogue who hated gentlemen.

Between 1898 and 1904, a new interpretation of the Reconstruction Period took shape. William A. Dunning, professor at the University of Columbia, provoked this interpretation through his books and lectures. Dunning, his students and followers, along with his colleague John W. Burgess, presented a picture of the evil and corruption manifested in Northern Republicans' reconstruction policies in the South. They emphasized the harm done to the South by such policies. This school was also distinguished by its professionalism. It represented part of the first generation of academic historians in the United States, who went to original sources, interpreted them and reached conclusions. As one consequence, their interpretation enjoyed great prestige.

The interpretation of the Dunning school passed almost unchallenged until the 1930's, when the so-called revisionists appeared. The revisionists started looking at the issues from a variety of other points of view. Consequently they pointed out the weaknesses of both Johnson and the Radicals. They began to retell the story of Reconstruction in terms of the economic and social forces at work in the nation without the preconceptions that limited the earlier groups. W.E.B. Du Bois, John Hope Franklin, Harvey Wish, David Donald, C. Vann Woodward, Hodding Carter and James G. Randall are some of these revisionist historians.

However, except for quoting or referring to Johnson's veto message, none of these historians contributes any additional analysis of reasons for the veto. Moreover, scholars like David DeWitt, Robert Winston, and Eric L.

McKitrick showed their confusion about this topic by stating mistakenly that Andrew Johnson might have defeated the First Reconstruction Act with a pocket veto.

The findings of this study show that previous historical explanations of Johnson's veto of the First Reconstruction Act, which stressed that Johnson was stubborn, anti-Negro, conservative, and a believer in a states' rights doctrine, have much validity. Yet these explanations need to be examined in detail to see how they apply to the veto of the First Reconstruction Act. In addition, Johnson had other reasons for his veto, among which were that the Act conflicted with his belief that order prevailed in the South, violated his desire for economic retrenchment, conflicted with his distrust for army men, and disrupted his pardon policies. Moreover, he was politically motivated, expecting that the veto would win him conservative support. This study discusses all of these factors which entered into Johnson's decision to veto the Act.

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INTRODUCTION

The months of February and March, 1867 encompassed some of the most important moments in American history. In early March, Congress sent President Andrew Johnson the First Reconstruction Act, which provided a procedure for restoring the ex-Confederate states to the Union. Johnson's differences with Congress were well known for he had previously vetoed the Freedmen's Bureau Bill on February 19, 1866 and the Civil Rights Act on March 27, 1866. The nation, therefore, expected that he also would veto the First Reconstruction Act. But excitement mounted for Americans wanted to know the President's reasons in support of his veto, Congress's reaction to his veto, and Southerners' response to military rule.

Andrew Johnson was not a man to be intimidated by a difficult situation. He vetoed the bill on March 2, 1867, even though his veto had little chance of being sustained. In the 1866 Congressional elections, his Republican opponents had won more than a two-thirds majority in both houses. In addition, the bill had passed the House by a vote of 126-46, and the Senate by 35-7, giving the Republicans a clear victory. As expected, Congress over-rode the veto on March 2nd by a vote of 138-51 in the House and

38-10 in the Senate.[1] Why had Johnson vetoed the bill? How did his personality influence his action? How consistently had he opposed the issues stated in the bill? How have American historians dealt with the Presidential veto? These questions--and others--are interesting to any person researching the Reconstruction Period. However, before analyzing factors which might shed light on their answers, it is proper to consider the significance of the First Reconstruction Act.

Although no historian denies the importance of Johnson's vetoes of the Freedmen's Bureau Bill on February 19, 1866 and of the Civil Rights Bill on March 27 of the same year, his veto of the First Reconstruction Act remains the most significant action of his Presidency. In the first place, the First Reconstruction Act was broader in scope than the previous bills. In addition, it implied a more significant reform of American political and social institutions. With this Act, the United States tried to enforce equal rights in a bi-racial society, and the Northern Republicans tried to remold Southern society. It challenged the democratic institutions then operating in America. Among other factors, the First Reconstruction Act helped perpetuate social and racial controversies in

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[1]Edward McPherson, ed., The Political History of the United States of America During the Period of Reconstruction, Washington, Salomons and Chapman, 1875, pp. 172-173; Congressional Globe, 39th Cong., 2nd Sess., pp. 1399-1400, 1625-1645.

the nation. In addition, the manner in which it was enforced and in which it was opposed helped discredit the ideal of color-blind democracy because it illustrated that the majority of the American public did not want integration. This occurred in spite of the support of federal troops for its enforcement. Lastly, the act reinforced the resolution of the South to resist national authority.

The Reconstruction Period, which covers the years 1865-1877, was one of the most controversial and dramatic periods in the history of this country. Because of the nature of the reconstruction issues, federal authority, which had held together during the war, appeared to be coming apart. The President, the Congress, and to a lesser degree the Supreme Court--the three basic institutions of American democracy--were involved in a controversy among themselves. The aspirations of the first two were to overshadow its rival. The Supreme Court on the other hand was trying to protect its constitutional authority. For this reason, Milton concluded that the twenty years after Lincoln's death were marked by the heaviest political attack ever made on either the person, the office, or the power of the President. He added that not until Grover Cleveland's first term, did the President's position recover from the blows leveled by the Radicals during the period.[2]

During the Reconstruction Period, America was passing through a great and rapid transformation, which most historians agree marked the dominance of industrial

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[2]George F Milton, The Use of Presidential Power: 1789-1943, Boston, Little, Brown, and Co., 1944, p. 137.

over agrarian forces in the economy. These same years saw the eclipse of the theory of states' rights and the emergence of a strongly centralized federal government. With the abolition of slavery, the period also witnessed the temporary elimination of the caste system as the basis for Southern society.[3] Moreover, for the first time in its history, the country was called upon to deal with disaffected people who had aspired to independence and had failed.

The issues and problems of the period were so difficult that William B. Hesseltine considered that there was no "reconstruction" but a new construction, that is, a different thing.[4] Allan Nevins called the period the Emergence of Modern America; George F. Milton, The Age of Hate; Claude G. Bowers, The Tragic Era; William B. Hesseltine, The Tragic Conflict; and Hodding Carter, The Angry Scar. All these titles indicate the level of emotion which this period generated.

The stage for the controversy which followed the Civil War was set on April 14, 1865, when Abraham Lincoln was assassinated. Andrew Johnson, then Vice President, became the chief executive. All the hostility that Congress

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[3]James G. Randall and David Donald, The Civil War and Reconstruction, D. C. Heath and Co., 1961, p. 537.

[4]William B. Hesseltine, The Tragic Conflict: The Civil War and Reconstruction, New York, George Braziller, 1962, p. 24.

had accumulated because of the President's war-time leadership which had overshadowed its own power and initiative, unexpectedly exploded. The nation faced a nightmarish struggle which historians are still trying to explain.

Lincoln's death brought a man without a party to the White House. The former Vice President had to deal with a Congress which had been almost eclipsed during the war and which now was anxious to regain some initiative. The ambitions of Congressmen went out of control when the new President proved to be as stubborn as they. Lincoln, at least, had learned to work with others. This was not true of Andrew Johnson who differed radically in personality from his predecessor. Where Lincoln had learned to cooperate, Johnson had learned only to oppose. While Lincoln had experimented with reconstruction plans, Johnson presented a definite and rigid plan. In addition, Johnson had to live under Lincoln's mythical shadow, which became longer each day.[5] Welles noticed that Johnson's position was going to be injured by extreme attitudes, both in the North and in the South.[6]

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[5]Avery Craven, Reconstruction, The Ending of the Civil War, New York, Holt, Rinehart, and Winston, Inc., 1969, p. 79.

[6]Gideon Welles, Civil War and Reconstruction: Selected Essays, Albert Mordell, ed., New York, Twayne Publishers, 1959, p. 222.

Lincoln himself had begun to feel the Radical pressure before he was killed. As Stryker stated:

> When the larger flames of war were quenched, the lesser fires of this controversy between Lincoln and the Radicals burst into a veritable conflagration. Lincoln was not seared because Booth's bullet found its mark. /Italics mine./

Stryker went to extremes trying to vindicate Johnson by pointing out that: "Abraham Lincoln, had he lived, would have been crucified by the Radicals in Congress. Andrew Johnson suffered that crucifixion for him."[8] This opinion has been rejected by most historians who have dealt with the period.

The fact is that Andrew Johnson was forced to accept and defend Lincoln's Plan of Reconstruction,[9] as he understood it. Johnson, a man of fixed principles, was not fitted to deal with Congress, given its mood in 1867. Johnson suffered a severe handicap because of his inability to compromise, to yield, and to work with others. Had his

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[7]Lloyd P. Stryker, Andrew Johnson: A Study in Courage, New York, The MacMillan Co., 1929, p. vii.

[8]Ibid., p. vii.

[9]Lincoln's best historians maintain that he had different plans of reconstruction and that he was just experimenting. This thesis was maintained by James G. Randall and Richard N. Current in their article "How Lincoln Would Have Rebuilt the Union," American Heritage, VI, No. 4, June 1955, pp. 66-68; and William B. Hesseltine, Lincoln's Plan of Reconstruction, Tuscaloosa, Alabama, Confederate Publishing, Inc., 1960.

temperament been different, he might have been able to win the support of the moderates in Congress and thus have prevented his total political isolation. Johnson's personality was rough, rugged, blunt, and stubborn. Because of his combative nature and his tactless attitude, he collided with Congress over and over. These personality traits made him an easy mark for ridicule. His opponents stereotyped him as a dirty, drunken fellow with squinting, blinking eyes and a coarse, thick voice. In addition, they pictured him as a demagogue who hated gentlemen. Although this portrait was somewhat exaggerated, even Johnson's most sympathetic biographers could not deny that his "neglected and impoverished infancy developed a complex, perhaps an underdog plebeian complex."[10]

This interpretation might explain why he was always telling the world that he was plebeian, a humble-born man. He repeated over and over that "hunger, gaunt and haggard monster /sic/ had driven him from his native state." His "tailor complex" haunted him even after he was President. He could hardly pass a tailor shop without going in and striking up a conversation with his ex-colleagues. As one biographer said, "this complex, call it 'under-dog' or what one likes, appears again and again

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[10]Robert W. Winston, Andrew Johnson: Plebeian and Patriot, New York, Henry Holt and Co., 1928, p. xv.

in Johnson's life."[11] His "common touch," had he exploited it as Lincoln had done, might have been a great political asset. But Johnson lacked the political qualities needed to bring together the two sections of a nation which had just passed through a civil war. In other words, he lacked the political acumen to assume a middle position so that he could please both sides. Also the "common touch" might have appealed to the masses, but not to Stevens, Sumner, Butler, and other Republican leaders. In addition, the Southern masses, who might have supported Johnson, were out of the Union, while the Radicals controlled the North. One of the best descriptions of Johnson's personality is offered by Avery Craven:

> the same conditions that fixed Johnson's personality also fixed his political principles. His fight (and it was always a fight) was with, and for, common men against what he called 'the stuck-up aristocrats' who were running the country. He would be the successor of Andrew Jackson. . . . Isham Harris, one of his opponents, once commented that if Johnson had been a snake, he would lie in the grass to bite the heels of rich men's children.[12]

Such was the personality of the man who had to deal with some of the most complex issues in American history. Once Johnson's personality is outlined, the reader will recognize that the First Reconstruction Act had little opportunity of

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[11] Ibid., p. xv.

[12] Craven, op. cit., p. 82.

receiving his signature.

Any objective historian who analyzes the veto message will have to praise its logic. How could Johnson produce such a tightly reasoned argument? The explanation lies in the fact that possibly the greatest constitutional lawyer of the time--Jeremiah S. Black, Attorney General and Secretary of State under Buchanan--wrote it. Dunning called Black's veto message a "bitter and powerful assault on the policy expressed in the legislation."[13] Ultimate responsibility for the veto message clearly belonged to Johnson, but most historians point to Black's influence which can be seen in the many constitutional arguments against the veto.[14]

Black himself was a melodramatic person. In order to write the veto he locked himself in Johnson's office. He spent hours working on the President's table, not even raising his head when any one entered the room. Even Gideon Welles, Johnson's Secretary of the Navy, could not disturb Black's mental concentration.[15]

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[13]William A. Dunning, Reconstruction, Political and Economic, New York and London, Harper Brothers Publisher, 1907, pp. 96-97.

[14]For the best two accounts of Johnson's ghost writers see Lawanda Cox, "Andrew Johnson and His Ghost Writers," Mississippi Valley Historical Review, XLVIII, December 1961, pp. 460-479, and William A. Dunning, "More Light on Andrew Johnson," American Historical Review, XI, 1905-06, pp. 574-594.

[15]Diary of Gideon Welles, Howard K. Beale, ed., III, Boston and New York, Houghton Mifflin Co., 1960, p. 51.

This was not the first time nor the last that Black intervened in behalf of the President. After the Radicals had gained control of the Congress in 1866, Black wrote to Johnson:

> I am perfectly sure that the public mind of the Nation has not yet gotten possession of the facts or the principles upon which your controversy with Congress depends. . . . I am convinced that you ought to make a solemn appeal to the constituent body which is the ultimate arbiter between you and your adversaries.[16]

Black had wide experience as a pamphleteer. Consequently, he urged Johnson to make a written address to the people of the United States, which he would help prepare on the condition that Johnson would treat it as a confidential secret, not to be known even to the members of his cabinet. Johnson refused Black's offer.

In summary, Johnson's controversy and disagreement with Congress was, among other things, provoked by the lack of communication between the Executive and Legislative branches. Johnson believed that he was right in following his predecessor's reconstruction policies. Congress, on the other hand, insisted that it was responsible for the restoration of the Southern states. Both sides had reached an impasse and refused to compromise. As Craven stated: "Under Andrew Johnson's refusal to cooperate or to yield. . . . the more 'radical,' or 'realistic,' element /was/

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[16]Black to Johnson, January 22, 1867, Andrew Johnson MSS.

permitted to have its way."[17] Consequently, the split between the President and Congress was irreparable.

American historians have differed in their evaluation of Andrew Johnson and his role during Reconstruction. However, in spite of such differences, they can be classified roughly into three groups: earlier historians, the Dunning school, and revisionists of the Dunning school.

Earlier historians--those writing mainly before 1900--had in common the principal aim of justifying a sectional point of view.[18] They also analyzed the period and evaluated Andrew Johnson superficially. Most of these historians were Northerners, although some Southerners can be included in this group. The most prominent were James F. Rhodes and Ellis P. Oberholtzer. Rhodes believed that Johnson's unreasoning obstinacy and stubbornness motivated his vetoes. His opinion of Johnson was that: "Of all the men in public life it is difficult to conceive one so ill-fitted for this delicate work as was Andrew Johnson."

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[17]Craven, op. cit., p. 94.

[18]The dates in which historians wrote are not as important, to be classified in a specific group, as the ideas sustained and the research method utilized in their writings. Rhodes, Oberholtzer, and Hesseltine, who will be mentioned in this study, are the best examples of historians whose writings coincided in ideas with a specific group although the dates of publications of their work overlapped other groups.

Rhodes described Johnson's background as follows: "Born in the midst of degrading influences . . . , brought up in the misery of the poor white class, he had no chance for breeding, none for book education, none for that half-conscious betterment which comes from association with cultivated and morally excellent people." He considered that because Johnson had "a certain jealousy of the memory of Lincoln he made a number of egotistical and commonplace harangues . . . which were regretted by leading Republican senators and representatives. . . . "[19] Oberholtzer, on the other hand, created the stereotype of Johnson as a demagogue who hated gentlemen. He pictured Johnson as follows: "The assassination of the President had brought to his place a singular and ill-proportioned man." He continued: "He was ready of speech and an inflexible people's man. . . . He was rising from the ranks of the 'poor whites,' and came to represent the interests voice the opinions of white men who held not any or but few slaves, because they lacked property of all kinds. . . ."[20]

For a better understanding of these earlier historians

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[19]James F. Rhodes, History of the United States From the Compromise of 1850 . . . , V, London, The MacMillan Co., 1912, pp. 517-520.

[20]Ellis P. Oberholtzer, A History of the United States Since the Civil War, I, New York, The MacMillan Co., 1917, p. 3.

we might look to Howard K. Beale's opinion when he stated:

> For many years both Northerners and Southerners who wrote on Reconstruction were dominated by sectional feelings still embittered by the Civil War. Men of the postwar decades were more concerned with justifying their own position than they were with painstaking search for truth. Thus Hilary Herbert and his corroborators presented a Southern indictment of Northern policies, and Henry Wilson's history was a brief for the North. Few Southerners were writing history. Northern historians long accepted the thesis of Radical Republicans that Radicals had saved the Union by their Reconstruction program, that their Democratic opponents were traitors, and that Andrew Johnson was a drunkard and an incompetent.[21]

Hilary Herbert in his defense of the South considered that "the death of Abraham Lincoln was an appalling calamity--especially to the South. Had the crazy assassin withheld his hand, reconstruction could never have been formulated, as it was, into the Acts of March 2d and March 23d, 1867."[22] On the other hand, Henry Wilson pointed out how Johnson's "defection from the party that elected him, and the sharp and bitter antagonism it engendered, not only disappointed hopes his hitherto patriotic and heroic course had encouraged, but it made darker the prospect, more complicated affairs, and more desperate the situation."[23]

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[21]Howard K. Beale, "On Rewriting Reconstruction History," American Historical Review, XLV, No. 4, July, 1940, p. 807.

[22]Hilary Herbert, Why the Solid South?, Baltimore, R. H. Woodward and Co., 1890, p. 1.

[23]Henry Wilson, History of the Rise and Fall of the Slave Power in America, III, Boston and New York, Houghton Mifflin Co., 1877, p. 591.

Between 1898 and 1904, a new interpretation of the Reconstruction Period took shape. William A. Dunning, Professor at the University of Columbia, provoked this interpretation through his books and lectures. Dunning, his students and followers, along with his colleague John W. Burgess, presented a picture of the evil and corruption manifested in Northern Republicans' reconstruction policies in the South. They emphasized the harm done to the South by such policies. While they exposed the Radicals, these historians, at the same time, vindicated Johnson's position. They credited the President's faults to weakness rather than to wickedness. This school was also distinguished by its professionalism. It represented part of the first generation of academic historians in the United States, who went to original sources, interpreted them and reached conclusions. As a consequence, the school enjoyed great prestige. On the whole, it presented the thesis of a Radical minority controlled by different interests which wanted to impose an unjust and tyrannical rule upon the South. George F. Milton (The Age of Hate: Andrew Johnson and Radicals, 1930), Claude G. Bowers (The Tragic Era: The Revolution After Lincoln, 1929), and Walter L. Fleming (The Sequel of Appomattox, 1919) were three of Dunning's most influential followers. Some of

the historians whose writings reflected Dunning's views were: Lloyd P. Stryker (Andrew Johnson: A Study in Courage, 1929), Robert W. Winston (Andrew Johnson: Plebeian and Patriot, 1928), and Milton Lomask (Andrew Johnson, President on Trial, 1960). In spite of the fact that William B. Hesseltine wrote in 1962, he can be included in this group because of the similar point of view he presented in The Tragic Conflict: The Civil War and Reconstruction, 1962. A prolific writer such as Howard K. Beale presented an example of Dunning's ideas in his book The Critical Years, 1930. Nevertheless in his later writings, Beale clearly switched his position to that of a new school.

The interpretation of the Dunning school passed almost unchallenged until the 1930's when the so-called revisionists appeared. As Lynd pointed out: "It is hardly an exaggeration to say that until the publication of W. E. B. Du Bois' Black Reconstruction in 1935 no other prominent historian had questioned the conclusion that the great mistake of Reconstruction was to give the vote to the unprepared Southern Negro.[24] The revisionists started

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[24]Staughton Lynd, ed., Reconstruction, New York, Harper and Row, 1967, p. 4.

looking at issues from all the possible viewpoints. Consequently they pointed out the weaknesses of both Johnson and the Radicals. They began to retell the story of reconstruction in terms of the economic and social forces at work in the nation without the preconceptions that limited the earlier groups. As a matter of fact, Howard K. Beale, one of Dunning's followers, provided the bridge between the previous school and the revisionists when, in 1940, he noted the inadequacy of previous historical treatments of Reconstruction.[25]

Among the revisionist historians is a group which was heavily influenced by a change in the climate of opinion toward civil rights and the position of Negroes and other minority groups in American life. As a consequence, they reacted so strongly against the Dunning school that they adopted a neo-radical point of view. Among these historians were Du Bois, whose position is well known, John Hope Franklin, Harvey Wish, and W. R. Brock. All of them maintained the thesis that reconstruction failed because it did not go far enough. Franklin, in his book Reconstruction: After the Civil War, Chicago, The University of Chicago Press, 1961, pointed out how "Northerners became convinced that a lenient presidential policy was wrong and that Congress

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[25]See Beale, "On Rewriting Reconstruction History," op. cit., pp. 807-827.

was right when it demanded harsher measures." Franklin also lamented that the "South was back in the Union, with a leadership strikingly like that of the South which had seceded in 1860."[26] Wish assumed a similar position when he stated that: "Jim Crow had become formalized by Southern laws denying public facilities equally to both races, and the Fifteenth Amendment guaranteeing Negro suffrage had been nullified by grandfather clauses, white primaries, literacy tests, and outright intimidation. . . ."[27] Brock was more emphatic in his arguments when he wrote: "The restoration of the Southern States was not enough without a reconstruction of Southern minds."[28] This was the position that Stevens and Sumner had maintained during the whole Reconstruction Period.

Among the revisionists was another group of historians who steered a more middle road. This group carefully pointed out the attributes or faults of any persons or groups involved in the process of reconstruction. C. Vann Woodward, Hodding Carter, and David Donald, for example, saw Johnson as man who could not understand the issues of his time. Even James G. Randall, who began as

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[26]See pp. 55, 217.

[27]Harvey Wish, ed., Reconstruction in the South, 1865-1877, New York, The Noonday Press, 1965, p. xxxix.

[28]W. R. Brock, An American Crisis: Congress and Reconstruction, 1865-1867, London, MacMillan Co., 1963, p. 14.

a follower of Dunning's ideas, directed attention to Johnson's lack of understanding and his inflexible character. According to these historians, Johnson vetoed every measure which did not fit his rigid ideas.

John H. and Lawanda Cox, together with James M. McPherson, explained Johnson's vetoes as a reflection of his Negrophobia. Avery Craven attributed his vetoes to his personality problem and his lack of capacity for consultation and compromise. Kenneth Stampp maintained that Johnson's vetoes of certain bills illustrated his limited comprehension of the issues involved. For him, Johnson was a political failure, a Jacksonian, a romantic cultural lag with a tactless, uncompromising and violent personality. Eric L. McKitrick criticized the overgenerous portrait of Andrew Johnson and described the President as lacking leadership qualities and the ability to compromise.[29]

Another revisionist historian is Robert Franklin Durden. In his biography of James S. Pike, journalist and author of The Prostrate State: South Carolina under Negro Government, New York, 1874, he criticized Pike's research and writing as heavily biased. "Gathering information from men like Wade Hampton and Senator Sprague, Pike had then written a vivid story of the 'deplorable' conditions in

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[29]The books of these authors appear in the bibliography of this dissertation.

the proud Palmetto State." Durden also concluded that "a fundamental clue to Pike's position. . . . is to be found in his constant antipathy toward the Negro race."[30] Durden emphasized that the Negroes' role in the reconstruction governments in the Southern states was not as corrupt as Pike had maintained. Durden's views can be corroborated by the work of Vernon L. Wharton who analyzed the role of the Negro in Mississippi politics.[31]

However, other than quoting or referring to Johnson's veto message, none of these historians contributes any additional reasons for the veto. Moreover, scholars like David Dewitt, Robert Winston, and Eric L. McKitrick showed their confusion about this topic by stating mistakenly that Andrew Johnson might have defeated the First Reconstruction Act with a pocket veto.[32]

Previous historical explanations of Johnson's veto

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[30]Robert Franklin Durden, James Shepherd Pike: Republicanism and the American Negro, 1850-1882, Durham, North Carolina, Duke University Press, 1957, pp. 201, vii-viii.

[31]Vernon L Wharton, "The Negro in Mississippi Politics," Edwin C. Rozwenc, ed., Reconstruction in the South, Boston, D. C. Heath and Co., 1952, pp. 51-62.

[32]David Dewitt, The Impeachment and Trial of Andrew Johnson, New York, The MacMillan Co., 1903, p. 203, Winston, op. cit., pp. 395-396; Eric L. McKitrick, Andrew Johnson and Reconstruction, Chicago, The University of Chicago Press, 1960, p. 482. At the date Johnson received the bill, he had to sign or send a message to Congress vetoing it, according to the Constitution because there were more than ten working days left in the session of Congress.

of the First Reconstruction Act, which stressed that Johnson was stubborn, anti-Negro, conservative, and a believer in a states' rights doctrine, have much validity. Yet these explanations, which apply generally to Johnson's attitudes toward Congressional Reconstruction, need to be examined in detail to see how they apply to the veto of the First Reconstruction Act. In addition, Johnson had other reasons for this veto, among which were that the Act conflicted with his belief that order prevailed in the South, violated his attitude of economic retrenchment, conflicted with his anti-militaristic sentiment and with his distrust for army men, and disrupted his pardon policies. Moreover, he was politically motivated, expecting that the veto would win him conservative support. This study will attempt to discuss explicitly all of these factors which entered into Johnson's decision to veto the Act It will proceed chronologically, examining Johnson's political career in four stages: the years before 1861, the war years, his Presidency from April 1865 to the election in November 1866, and the months from the Radical victory in the election to his veto of the First Reconstruction Act in March 1867.

ANDREW JOHNSON'S CAREER TO 1861

An examination of Andrew Johnson's early life and political career provides a key for understanding his behavior during February and March, 1867, the months during which Congress passed the First Reconstruction Act. This controversial man was born on December 29, 1808 in Raleigh, North Carolina. His family was poor, and their situation deteriorated further when his father, Jacob, died in 1812, while trying to save a drunkard from drowning. His mother, Mary McDonough, a poor woman at best, was known as "Polly the Weaver." In order to provide as best as she could for her family, she apprenticed both Andrew and his older brother, William, to James J. Selby, a Raleigh tailor. There Johnson learned his modest trade, but subsequent differences with Selby encouraged the two brothers to run away.

Johnson decided to move with his family, which now included a stepfather, to Greeneville, Tennessee where he established his own shop. There on May 17, 1827, he married Eliza McCardle, who later bore him five sons. Eliza had some education, even though her father was a shoemaker.[1]

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[1]Contrast Eliza McCardle with Mary Todd, Lincoln's wife, who was the daughter of an aristocratic family with excellent connections.

Eric L. McKitrick writes that "the early life of Andrew Johnson was an incredible struggle against grinding destitution that reads like a chapter first of Dickens and then of Horatio Alger, with perhaps a dash of Al Capp."[2] Stryker points out correctly that in many respects the career of Andrew Johnson "epitomizes the American dream." He not only rose from "abject poverty to comparative affluence, but also held virtually every elective office from alderman to President of the United States."[3]

Johnson was a self-made man. Born into the lowest stratum of Southern society, he came to associate himself with the great and near-great of the nation. Legend would have it that his wife taught him to read and write, but recent historians have pointed out that during his apprenticeship, Johnson learned to read to some degree by perusing the Raleigh Register.[4]

Ideologically, Johnson was a democrat. He was concerned whether the aristocrats or the democrats, the money interests or the laborers were going to govern Greeneville. In 1828, the mechanics and laborers presented

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[2]Eric L. McKitrick, Andrew Johnson and Reconstruction, Chicago, The University of Chicago Press, 1960, p. 86.

[3]Lloyd P. Stryker, Andrew Johnson: A Study in Courage, New York, The MacMillan Co., 1929, p. xix.

[4]Milton I[illegible], Andy Johnson: The Tailor Who Became President, New [illegible]iel Books, 1962, pp. 41-42.

Johnson as their candidate for alderman, which marked the beginning of his political career. He not only won the election, but he served three terms as alderman. While an analysis of his political career lies outside the scope of this study, a brief outline of his public life follows:[5]

1828-1831	Elected alderman, three terms, Greeneville, Tennessee
1831-1834	Elected Mayor, three terms
1835-1837	Elected to the Lower House of State Legislature
1839-1841	Again elected to the Lower House of State Legislature
1841-1843	Elected to the State Senate
1843-1853	Elected U.S. Congressman from State of Tennessee and served five consecutive terms
1853-1857	Elected Governor, State of Tennessee, two terms
1857-1862	Elected U.S. Senator from State of Tennessee
1862-1865	Appointed by President Lincoln as Military Governor of Tennessee
1865	Elected Vice President, March 3
1865	Became President of the United States upon Lincoln's Assassination, April 15
1869	At the end of his term as President returned to Greeneville
1875	Elected United States Senator
1875	Died in Carter County, Tennessee, July 31

The manner of Johnson's rise to prominence is basic to understanding his personality. He developed his political aggressiveness in frontier Tennessee; he confronted and defeated the most prominent politicians of the state; and he quarrelled verbally with crowds. When he became

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[5]Margaret S. Royall, Andrew Johnson: Presidential Scapegoat, New York, Exposition Press, 1958, pp. 167-168.

President, he employed the only political tactics that he knew--those which he learned in Tennessee. His campaign for the Senate in 1845 against William Brownlow, known as "Fighting Parson," illustrates his political style. Brownlow accused Johnson of being a bastard. At the same time, he pointed to William H. Haywood, cashier of the bank in which his father had worked as a porter, as being the young politician's father. Andrew Johnson answered this insult by calling his enemies ghouls and hyenas.[6] Johnson's victory was decisive, and it contributed to his uninhibited political style and sense of confidence.

Johnson's life offers many examples of his ability to antagonize opponents. One such opponent was Landon C. Haynes, who in 1851 challenged Johnson's congressional seat. Haynes was a Democratic lawyer who had been Speaker of the Tennessee House of Representatives and who was considered a good orator. As a consequence, the Johnson-Haynes debates aroused excitement throughout the state. Winston describes those debates as follows:

> For six hours during the days of June and July the antagonists faced each other. Charges and counter-charges, personal, social and political, flew thick and fast; but Haynes, with his rhetoric and imagery, was outclassed. Johnson's barrage of

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[6]Robert W. Winston, Andrew Johnson: Plebeian and Patriot, New York, Henry Holt and Co., 1928, p. 64.

> facts, sledge-hammer blows, and adherence to the main issue put his adversary to flight.[7]

Johnson willingly confronted his opponents in discussions of political issues of the time. He was an aggressive orator and as one biographer stated: "Whoever indeed went against Johnson encountered his oratorial bowie-knife."[8] The Nashville Union, described Johnson's oratory in this way: "'/H/e cut and slashed right and left, /so/ that he tore big wounds and left something behind to fester and be remembered.'" The description continued: "'His phraseology may be uncouth, and there may be many false Anglicisms, but his views are easily understood and he talks strong thoughts and carefully culled facts, in quick succession. . . .'"[9]

Johnson's attitudes toward Negroes deeply influenced his Presidency. Early in his career it was clear that he did not believe in equality between Negroes and whites. Johnson really reflected the attitudes of most American whites living during his time. However, he was more outspoken and less careful in selecting his phrases than his fellow Congressmen who held similar views. In addition,

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[7]Ibid., p. 62.

[8]Ibid., p. 63.

[9]Nashville Union, May 21, 1849, as quoted in ibid., p. 63.

Johnson became President, which made a great difference because of the prestige of the office.

On April 11, 1848, while serving in the House of Representatives, an incident occurred which revealed his feelings about Negroes. John Gorham Palfrey, Representative from Massachusetts, had the floor. He was trying to show that the Negro race was becoming more elevated in character and that Negroes could advance socially. Palfrey noted that the Negro was approaching equality with white men. He pointed out that while serving as Secretary of State in Massachusetts, he had commissioned a Negro to be a judge.[10] When Palfrey compared a Negro to his own son, Johnson interrupted him in order to ask if he were willing to let his daughter marry a Negro. For four days Palfrey had to make personal explanations on the floor of the House, while Johnson harrassed him with such questions as: "/Would you/ be willing . . . to wit /your/ own daughter--to give /your/ consent to her being given to this intellectual, interesting, and charming negro boy in wedlock as her companion through life?"[11] The more Palfrey tried to answer, the more Johnson mocked him.

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[10]This was Robert Moors (1822-1852), a Boston Negro, believed to be the first of his race ever to exercise judicial power in the United States.

[11]Congressional Globe, 30th Cong., 1st Sess., p. 610. See also, Leroy P. Graf and Ralph Haskins, eds., The Papers of Andrew Johnson, 1822-1851, I, Knoxville, The University of Tennessee Press, 1967, pp. 418-421.

His anti-Negro attitudes were also revealed in 1844 during an attempt by Southern Congressmen to introduce a resolution which would have prohibited the House from accepting or discussing abolitionists' petitions. The Rules Committee of the House, however, refused to introduce the so-called 21st rule, which would have legalized Southern wishes. Johnson, who favored the Southerners' resolution, made a speech on January 13, 1844, in which he strongly criticized the Congressmen who opposed the resolution. Johnson recalled bills in which, according to him, his opponents had contradicted themselves. One such bill related to the town of Alexandria, which had been part of the Virginia cession that had formed the District of Columbia, and which was not ceded back until 1846. Consequently, prior to that time, Alexandria was subject to direct rule by Congress. On June 2, 1842, a bill to amend its charter was introduced. During the debates, John Quincy Adams, then a Representative from Massachusetts, proposed that the qualification "white" be eliminated from the suffrage rights.[12] Although his proposition was defeated, Johnson, in 1844, recalled Adams' action when he stated:

> I find a motion, made by the venerable gentleman from Massachusetts, that the bill be recommitted, with instructions to the committee

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[12]Graf and Haskins, op. cit., p. 147, n. 7.

> to strike out the word 'white;' so that, if the bill passed with the amendment, it would place every splay-footed, bandy-shanked, hump-backed, thick-lipped, flat-nosed, woolly-headed, ebon-colored negro in the country upon an equality with the poor white man. /Italics mine./[13]

Leroy P. Graf and Ralph Haskins, Professors at the University of Tennessee, who are scrutinizing Johnson's life through his papers, find that: "More fundamental to the democratic currents of the day was his 'white basis' thinking."[14] That is, his reasoning was always founded upon a bias in favor of the white population. For him, the Negro did not exist as an integral part of the society. Accordingly, as early as 1836, he had suggested, in the lower house of the state legislature, that the federal surplus be distributed to counties according to their white population. Five years later, as chairman of a joint committee to redraw the state's congressional districts, he proposed that whites form the population base without regard for three-fifths of the slaves.[15] When this scheme failed, "Johnson recommended a general ticket system--'put up the whole delegation in one ticket

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[13] Ibid., p. 140.

[14] Ibid., p. xxv.

[15] John Savage, The Life and Public Service of Andrew Johnson . . . , New York, Derby and Miller, Publisher, 1866, p. 140.

and have a Waterloo route /sic/, horse, foot, and dragoons.'"[16] Graf and Haskins asserted: "Such proposals foreshadow/ed/ positions that Johnson would later take as congressman and senator."[17]

What factors contributed to Johnson's attitude toward Negroes? Johnson's biographers claim repeatedly that his later actions were heavily influenced by his early environment. It is well known that Johnson came from a poor, white class which, among other things, strove for economic, political, and social mobility. His family had to struggle with both the upper and lower strata of society; in a small town like Greeneville this was a difficult task.[18] Graf and Haskins described Johnson's environment in this way:

> The village of Greeneville provided both the setting and the opportunity for Johnson to move from the confines of the tailor shop to an ever expanding political stage. A town of five hundred, boasting '2 taverns, 4 stores, 3 physicians, 4 lawyers, 1 Presbyterian and 1 Methodist church, 1 large brick court house, 1 stone jail,' it served as the county seat of agricultural Greene County.[19]

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[16]Graf and Haskins, op. cit., p. xxv. For portions quoted by these authors see the Nashville Whig, November 12, 1842.

[17]Graf and Haskins, op. cit., p. xxv.

[18]Refer to n. 13, quoted above for Johnson's reference to the "poor white man."

[19]Graf and Haskins, op. cit., p. xxii.

Lately Thomas, another of Johnson's biographers, stressed the importance of his early environment on his personality development. Thomas described Johnson's background as follows: "The working class in East Tennessee--the smiths, the masons, and the builders--was numerous but politically ineffective. Both the laws and customs worked in their disfavor, the state constitution imposing disabilities that few manual laborers, however capable, were able to overcome." Thomas then contrasted East and Middle Tennessee and noted that the people in the latter area, "Having come mainly from the lowlands of the South Atlantic states, in their superb mansions . . . reproduced the spacious hospitality of the leisured South." He added: "To those who were excluded from their circle, of course, their pretentions seemed arrogant, and their monopoly of the public service was an obstacle to the attainment of a real democracy."[20] Johnson of course was one of those excluded, and, as this biographer noticed, "East Tennessee's individualists, with their rugged simplicity, suited Andrew Johnson."[21] The point is that the Negro, whether slave or free, was Johnson's rival, and, after struggling so long for success, his emotional

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[20]Lately Thomas, pseud., The First President Johnson, New York, William Morrow and Co., Inc., 1968, p. 25.

[21]Ibid., p. 26.

attitudes toward Negroes became fixed.

Johnson's attitude toward public spending was another of his notable characteristics. He was a strict constructionist who insisted that the government should spend no more money than was needed for a specific action. This attitude can be seen in the rigid honesty he displayed toward fiscal matters. Johnson's constant opposition to inflation of the Army budget illustrated his economic principles. During the Thirty-fifth Congress, on January 21, 1858, Senator Jefferson Davis introduced a bill to reorganize the Army, which would have required increased expenditures. In spite of the fact that Johnson did not have any special Congressional responsibility for military matters, he opposed the bill. He based his criticism on the increased expense of maintaining such an Army. To prove his point, Johnson made a series of speeches in which he supported his arguments with statistics. Savage, a contemporary of the future President, presented Johnson's arguments in the following way:

> Dividing our history into decades, he showed that in 1800, at the end of the first decade, the expenses of our Army was $2,560,000; in 1810 it cost $2,294,000; in 1820, $2,630,000; in 1830, $4,767,000; in 1840, $7,695,000; and in 1850, $9,687,000. 'You will remark,' added the Senator, 'that, at the end of all these decades, in the year for which the calculation is made no war existed, but the sums embraced all the expenditures of the War Department. In 1857 what do we find them to be? They reach the pretty little sum of $19,159,000.'

Savage continued his presentation of Johnson's argument for retrenchment in the Army as follows:

> Taking the aggregate expenditures of the Government, he found that the entire expenses for the year 1800 was $7,411,000; for 1810, $5,592,000; for 1820, $10,723,000; for 1830, $13,864,000; for 1840, $26,196,000; for 1850, $44,049,000. In 1857 the expenses ran up to $65,032,000, and the estimates for 1858 were $74,963,000. He further showed from his statistical researches . . . that two-thirds of the entire revenue collected from the people of the United States have been expended on this army in miniature, and a navy 'not out its swaddling clothes.'[22]

In 1835 he was elected to the Lower house of the State of Tennessee. During that period, the most popular issue throughout the state, and throughout the nation as well, was internal improvements. Consequently, few politicians opposed the trend of the times. Johnson, however, during his term of office, fought every single measure which had anything to do with internal improvements. He opposed laws to construct new roads, reasoning that such measures would squander public funds. In spite of his resistance, the laws passed and Johnson was defeated for reelection in 1837 as a result of his opposition.[23]

Johnson's fears proved to be correct. The state was

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[22]Savage, op. cit., p. 102.

[23]Stryker, op. cit., p. 10, describes Johnson's fight against internal improvements.

defrauded; public works, which were begun, had to be abandoned, and the state's public debt increased. Johnson had learned his lesson, however, even though he knew that he had to be more careful in opposing such measures in the future. In 1839, he regained his post in the House and introduced a cautious and well-prepared scheme to control internal improvements. But he was more clever this time. He wanted to be sure that he knew where the money was going so that funds which were to be spent on the new enterprises would be guarded carefully by an astute board of trustees.[24]

Generally historians picture Johnson as a sincere and honest man in financial matters. An incident involving the sum of $216 illustrates his honesty. Johnson received a fee for his services as a member of a committee which investigated a charge against Thomas J. Corwin of Ohio, who was accused of receiving bribes in 1853 while serving as a Congressman. Johnson received a voucher for $768 of which he accepted only $552. He returned the balance to the government, and, although nobody could verify the amount which he had spent, he insisted that he had earned no mileage and had in fact served only twenty-seven days. He returned the $216 to which he was not entitled.[25]

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[24]Winston, op. cit., p. 34.

[25]Ibid., p. 53.

Throughout his political career, Johnson watched for possible misuses of government budgets. Whenever he had the opportunity, he intervened in matters related to economic appropriations or spending. For example, during the Thirty-fifth Congress when Johnson was a Senator, President Buchanan delivered his Second Annual Message on December 6, 1858, and made the following statement:

> I invite Congress to institute a rigid scrutiny to ascertain whether the expenses in all the Departments can not be still further reduced, and I promise them all the aid in my power in pursuing the investigation. [Italics mine.][26]

This invitation was all that Andrew Johnson needed in order to bring the subject of economic retrenchment before the Senate. On January 4, 1859, he submitted the following resolution for immediate consideration:

> Resolved, That so much of the President's second Annual Message as relates to the expenditures of the Government of the United States [referring to the above quotation], . . . be referred to the Committee on Finance; and that said Committee are [sic] hereby instructed . . . to report a bill, reforming as far as possible, all abuses in the applications of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenditures to an honest, rigid and economical administration of the Government.[27]

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[26]Arthur M. Schlesinger, The State of the Union Messages of the Presidents, Fred L. Israel, ed., I, New York, Chelsea House: Robert Hector Publisher, 1966, pp. 995-996.

[27]Quoted in Savage, op. cit., p. 119.

The Senate never acted on Johnson's resolution. In spite of this failure, however, his policy never changed; he just waited for another opportunity to continue his struggle for economy in government. His obsession with economic retrenchment had no limits; Graf and Haskins called him a "watchdog of the treasury."[28]

Johnson expressed this impulse for economy in different ways. At various times during his early career, he advocated reducing the number of government clerks, who, he believed, were too numerous. He argued that with fewer, but more efficient clerks, the same labor could be done at less expense to the government. He also provoked the enmity of higher-paid federal officeholders by advocating reductions in their salaries. He went so far as to demand, on June 20, 1848, an audit of the funeral expenses for John Quincy Adams. Graf and Haskins recalled the arguments, which he expressed in the House:

> Mr. Johnson said it seemed to him that this thing /House appropriations/ had been persisted /sic/ long enough. When they came to examine the history of monuments, funeral processions, and appropriations, made by the House for purposes of this description, it seemed to him that the great mass of the people, that the laborers, the tax payers, and those who bore the burden and expenses

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[28]Graf and Haskins, op. cit., p. xxix.

> and expenses of the Government ought to be informed how their money was appropriated.[29]

Johnson's near-fanaticism for economy motivated him to oppose approval of a pension for Dolley Madison. For Johnson, the accidental factor that she was the wife of former President James Madison did not qualify her for a pension. He did not take into consideration the fact that Mrs. Madison was in an impecunious situation. No one had helped "Polly the Weaver," Johnson's mother, when she needed assistance in order to survive. Why should he have to help another woman?

Again when Congress decided to acquire the printer's copy of Washington's Farewell Address, Johnson opposed the decision on grounds that it was an "unnecessary purchase." In addition, he was a most persistent opponent of the Smithsonian Institution. He attacked that organization repeatedly with the allegation that it "misused" federal money.[30] In January, 1847, Johnson introduced a resolution in the House addressed to the Secretary of the Treasury. This resolution, besides making inquiries about the fund which John Smithson had bequeathed to the United States, instructed the Secretary:

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[29] Ibid., p. 440.

[30] Ibid., p. xxix.

> To make suggestions in relation to retrenching the expenditures of the Government in any or all of the departments, and particularly in relation to the reduction of salaries of officers, when the salary is over one thousand dollars per annum; and that he further report to this House his opinion of the propriety and practicability of levying and collecting an ad valorem tax of twenty per cent., or any other rate that may be assumed, on gold and silver plate, gold watches, jewelry, pleasure carriages, etc., and the probable amount of revenue which may be raised from the same.[31]

The reader should notice that Johnson suggested taxes for luxurious objects, such as gold and silver plate, gold watches, jewelry, and pleasure carriages. He had no identification with such artifacts; they were things which he had never had. Consequently, for him, they were superfluous. If he and his family had been able to live without them, why not the rest of society? If the wealthy insisted in having them, then they should pay extra taxes which could be used, in the long run, to help the common man.

Andrew Johnson had many fights in his political career, but none equalled his struggle for his Homestead Bill. He introduced this bill over and over again both in the House and in the Senate. The purpose of his bill was to prevent the concession of public lands to such monopolies as the railroads. Johnson believed that public lands should be sold cheaply--for example, $1.25 for a

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[31]Quoted in Savage, op. cit., p. 41.

number of acres--to persons who owned no land. Accordingly, he made a speech in the Senate on May 20, 1858, in which he argued:

> I say that instead of wasting the public lands, instead of reducing the receipts into the treasury, this bill would increase them. . . . Let us take a million families who can now hardly procure the necessaries of life, and place them each on a quarter-section of land. . . . Now, here is soil producing nothing, here are hands producing but little. Transfer the man from the point where he is producing nothing, bring him in contact with a hundred and sixty acres of productive soil, and how long will it be before that man change his condition? As soon as he gets upon the land he begins to make his improvements . . . /Italics mine./[32]

Johnson's conclusion was logical and practical. The nation would benefit from the combination of two natural resources that had previously produced nothing. Not only had the nation neglected to use all of its resources, but it also had to spend money in order to conserve its land and to support its unproductive population. His reasons seemed consistent with his arguments for economy and retrenchment. The bill failed to pass and it was not until May 20, 1862 that a similar measure became law.

The same zeal that he had demonstrated in protecting the treasury from internal forces was also applied to external forces. When he was elected to the national House of Representatives in the summer of 1845, Congress and the nation were involved in a political dispute with

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[32]Frank Moore, Speeches of Andrew Johnson, Boston, Little, Brown and Co., 1866, pp. 27-28.

Great Britain. They were contesting the boundary in Oregon which divided American and British territory. Johnson supported the United States' right to the 54° 40' line, which the American nation demanded. Nevertheless, he made clear that America's real contest was for the territory between 46° and 49°, which included the Columbia River and which offered invaluable military and commercial advantages.[33]

Of the ideas which shaped Johnson's political positions, none was as strong as his belief in the doctrine of states' rights--a belief which he had manifested clearly during his earlier years in politics. This theory was based on the argument that the union of states was indestructible because it had been guaranteed by the Constitution. Naturally those rights could be changed only by an amendment to the Constitution. Nevertheless, the more extreme exponents of the doctrine would have considered such an amendment unconstitutional.[34]

For Johnson, the sovereignty of each state was immutable. Sovereignty resided in the people of the state who could not forfeit it either to other states or to the federal government. It should be remembered, in order to

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[33]Savage, op. cit., pp. 37-38.

[34]W. R. Brock, An American Crisis: Congress and Reconstruction, 1865-1867, London, MacMillan and Co., 1963, p. 63.

understand Johnson's position, that he had spent a lifetime fighting the Southern aristocracy. He was a plebeian and he was proud of it. In his inauguration speech as Vice-President, delivered in the Senate on March 4, 1865, he stated: "Humble as I am, plebeian as I may be deemed. . . . "[35] In addition, he thought of himself as the great guardian of the common man. He viewed the New England aristocracy, based upon Hamiltonian principles of government, as menacing his Jacksonian principles of democracy and welfare for the common man. "He saw in this new type of Hamiltonian centralism a serious menace to the Jeffersonian principles of States' rights upon which his political beliefs were grounded."[36]

However, a great difference existed between Johnson's views of states' rights and those of extreme Southerners such as Jefferson Davis. In 1859 Davis expressed his position to a group of Mississippians in the following manner:

> 'Will you allow the Constitutional Union to be changed into the despotism of a minority? Will you become the subject of a hostile Government? or will you, outside of the Union, assert the equality, the liberty and sovereignty to which you were born? I say, as I said on a former occasion, . . . let

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[35]Moore, op. cit., p. 458.

[36]Howard K. Beale, The Critical Years, New York, Harcourt Brace and Co., 1930, p. 28.

> the Union be dissolved. . . . I love and venerate the Union of these States, but I love liberty and Mississippi more.'[37]

Nor was Johnson's position similar to that of William L. Yancey of Alabama, who in 1858 made a speech in South Carolina "in which he stated it was the duty of the South, in the Charleston Convention, to demand the identical protection plank in the platform /In favor of slavery/ which he did demand, and that a refusal to adopt it should be followed by a secession of the Southern delegates."[38] Yancey believed that this course would probably lead to the election of a Republican President; the South would then have to leave the Union. Still more extreme was J. D. B. DeBow, one of the most influential editors in the South, who argued that the section should build her own ships and conduct her own trade with foreign powers.[39] Andrew Johnson, on the other hand, always saw the rights of the states as a part of the whole that was the Union.

Andrew Johnson's states' rights doctrine came from his faith in the Constitution. Winston said that the Constitution had been his "pole star." "It was too late

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[37]Quoted in Savage, op. cit., p. 175.

[38]Ibid., p. 184.

[39]James G. Randall and David Donald, The Civil War and Reconstruction, Boston, D. C. Heath and Co., 1961, p. 106.

to expect him to break away from the simple, uncomplicated Democratic doctrines of Jackson and take up the complex, paternalistic and federalistic principles of Adams."[40] As late as December 13, 1860, he was making the last hopeless effort to bring peace to the nation by introducing in the Senate a proposal to amend the Constitution. He wanted to prevent any one section from holding a permanent monopoly on the federal executive and judiciary. His plan provided that beginning in 1864, the President would be chosen alternately from a slaveholding and a free state. Senators would be elected by popular vote. One-third of the judges of federal courts would be elected every fourth year for a twelve-year term. All vacancies would be filled, half from the free and half from the slave states. Slavery would be permitted south and prohibited north of a line which would be determined later.[41] Johnson expected to prevent secession and, as a consequence, federal military intervention in the states.

On December 18 and 19, Johnson delivered a speech in the Senate in which he elaborated the Southerners' rationalization of what they called the constitutionality

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[40]Winston, op. cit., pp. 326-327.

[41]For the sources of this discussion see McKitrick, op. cit., p. 9; Royall, op. cit., pp. 36-37; Clifton R. Hall, Andrew Johnson: Military Governor of Tennessee, Princeton, Princeton University Press, 1916, pp. 25-26; and Moore, op. cit., pp. 461-466.

and rightfulness of secession. He reminded that body that three amendments to the Constitution were pending: "One proposes to change the mode of election of President and Vice-President. . . . The second proposes that the Senators . . . shall be elected by the people. . . . The third provides that the Supreme Court shall be divided into three classes. . . . taking the judges of the Supreme Court from the respective divisions of the country." From here on, Johnson reproved the Senate for not showing good faith in respecting the right of each state. Consequently, to some degree, he blamed the Congress for not preventing secession. He stated:

> Mr. President, if these amendments had been made, and the Constitution had been in the shape now proposed, I think the difficulties that are now upon the country would have been obviated. It would have been required that either the President or the Vice-President should be taken from the South, and that would have destroyed . . . the sectional character of our recent election.[42]

How did Johnson deal with the issue of slavery and his states' rights doctrine, during the years 1853 to 1860, without contradicting himself? As long as he could avoid it, Johnson did not touch the issue of slavery. His position moved closer to the popular sovereignty theory expounded by Stephen A. Douglas, but he never defended it explicitly. As a matter of fact, Douglas

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[42]Moore, op. cit., pp. 77-78.

later complained that Johnson did not support him strongly enough, nor did Johnson support John C. Crittenden who was also defending popular sovereignty.[43]

For Johnson, anything which threatened his states' rights doctrine sounded like centralization, and, on this issue, he was uncompromising. His unyielding position can be found as early as 1850, when President Millard Fillmore proposed that Congress use military force in order to dispossess Texas of a piece of New Mexican territory, which she occupied. Johnson made a dramatic speech in the Senate on that proposal in which he stated:

> I want to see no great central power created, like the sun in our solar system, with its satellites revolving around the great central body. I do not look on this Government as a centre of a system, imparting its light, its heat, its motion, to the sovereign States, as so many distant satellites. And wherever this government attempts to encroach upon the powers of the State, the duty of every man who loves the Union, who is faithful to that Government which was formed by the wisdom of the fathers of the Revolution, is to step forward, and enter his protest against such encroachment. /Italics mine./[44]

What do we find when we look at Johnson's early life? If he were our contemporary, he would be called "underprivileged," "poverty-striken," "destitute," or any

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[43]Hall, op. cit., p. 24.

[44]Congressional Globe, 31st Cong., 1st Sess., pp. 1049-1051; Kenneth Rayner, Life and Times of Andrew Johnson, New York, D. Appleton and Co., 1866, p. 28.

of the many terms presently applied to persons with a background similar to his. As Craven indicated: "He was strictly a self-made man, proud of his accomplishments, and intensely dedicated to the democratic institutions that had enabled him to rise from lowly beginning to marked success."[45] His early life showed that he was independent in character and fearless in courage. He learned the art of politics while struggling in an environment, which in the long run formed his personality. His past experiences unavoidably fixed in him certain attitudes which were clearly reflected in his personality and in his political stands by 1861. We have seen how his attitudes toward the Negro race, his belief in economic retrenchment in government expenses, and his belief in states' rights doctrines originated in earlier stages of his life.

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[45]Craven, op. cit., p. 80.

ANDREW JOHNSON DURING THE WAR YEARS (1861-1865)

On April 12, 1861, at 4:30 A.M. South Carolina's shore batteries opened fire against Fort Sumter; the Civil War had begun. Meanwhile, Andrew Johnson was attacking the secession movement in the Senate.[1] His role during the war emphasized the importance of his anti-militaristic attitude. His actions throughout the period illustrated his suspicions of military power.

How do we explain Johnson's attitude? First, we should remember that he was above all a democrat--not because he belonged to a party which bore that name, but because he defended the rights of working class farmers, mechanics, and laborers. In addition, he adhered to a strict interpretation of the Constitution which he considered to be the best instrument for maintaining the Union and protecting the rights of the individuals. These beliefs made Johnson one of the most anti-militarist Presidents that the United States ever had.

Johnson's distrust of military men cut much deeper than just a dislike for the power and authority which they represented. He did not hesitate to question the specific

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[1]See Frank Moore, Speeches of Andrew Johnson, Boston, Little, Brown, and Co., 1866, p. 80, for Johnson's statements regarding secession.

strategy of any officer, regardless of rank. During the siege of Nashville in 1862, Johnson was military governor of Tennessee. When General Braxton Bragg of the Confederate armies threatened Nashville, General D. C. Buell was too slow in confronting Bragg. Moreover, Johnson heard the rumor that Buell planned to surrender the city. Consequently Johnson in an interview with Buell, argued that the city should be held until the last man fell; if defeat was inevitable, the city should be destroyed, but never surrendered. Buell, on the other hand, insisted on conducting his own campaign. Later when Buell was courtmartialed, Johnson testified against him. Buell denied Johnson's story about their interview, but the court believed Johnson, not Buell. Moreover, the credit for saving Nashville went to Johnson alone. Johnson, the strategist in this case, had won one more victory over a military man. Because of his accusations, Buell was relieved from his command. Historians have since pointed out that Buell's plan was correct and that he had been following a wise strategy.[2]

Johnson's arguments were not against Buell as a person, but against an "army man," and for him that was enough. He had problems with any military authority with

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[2]Margaret S. Royall, Andrew Johnson: Presidential Scapegoat, New York, Exposition Press, 1958, p. 46.

whom he came into contact, as his conflict with General William S. Rosecrans, Buell's successor, indicated. In spite of the fact that a war was being fought, Johnson challenged Rosecrans' military authority. Although Johnson had the appointment of military governor with a rank of Brigadier General, the truth is that he did not even believe in such a rank. He preferred to be a civilian. He insisted, therefore, that civilian courts, city marshals, and municipal police prevail over the military tribunals and provost guards.

A conflict between Johnson and Rosecrans followed. As always, Johnson defended his point, and he came out the winner. General Henry W. Halleck, Rosecrans' superior, instructed the latter to keep his hands off the civil authority represented by Johnson. Moreover, he suggested that Andrew Johnson, as Brigadier General, should be put in command of the troops at Nashville.[3] When Rosecrans pretended that Johnson reported to him, Halleck clearly told Rosecrans that Johnson was not any common brigadier general, but governor of a state. Rosecrans surrendered to Johnson's wishes and never disturbed him again.

Rosecrans' experiences with Johnson was just one more of the many that the latter had with military men of

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[3]Clifton R. Hall, Andrew Johnson: Military Governor of Tennessee, Princeton, Princeton University Press, 1916, pp. 80-81.

all ages and of all ranks. He just could not stand them in time of peace and even less so when, in time of war, they were invested with so much authority. He saw in the military a threat to the "common man." He believed that the Constitution, which was the supreme law in the nation, supported the people. The generals, on the other hand, represented the force of the army, something not to be trusted.

Johnson's anti-military attitudes have been confused sometimes with power delirium. Some historians have noted that Johnson not only consistently interfered with the most able military commanders, but he also tried to assume duties that were clearly within the military sphere. To reiterate, one of the most controversial periods in Johnson's relationships with men in uniforms was between 1862 and 1865, while he was Military Governor of Tennessee. Then Johnson made one of his strongest demands for authority--control of the military prisoners. These prisoners were confined not only in Tennessee but in other states as well. Most of them were at Camp Chase, Ohio; Camp Douglas, Illinois; and at Camp Morton, Indiana. As early as 1862, Johnson sent an aide, C. F. Trigg, to Camp Chase in order to explore with the prisoners the possibilities of his intercession on their behalf. His interest in the control of prisoners was so great that on June 4, 1862, Lincoln asked him if he were willing to

direct the whole operation of releasing prisoners in Tennessee. Of course Johnson was glad to comply, so until 1863, when the practice was discontinued, he, together with the army commander, was in charge of enlisting ex-Confederates, who took the oath of allegiance, into the Union Army. According to him, this was a job for a civilian, who, in his opinion, could do it better than any military man.[4]

Johnson always saw army men as part of a bureaucracy that worked behind the people's backs and ignored the Constitution with impunity. He had the idea that the complex machinery of the army could incriminate falsely anyone in order to gain certain aims, because it operated under different moral and legal principles. Two incidents which occurred in 1865 help to clarify this point. One involved the action of the Bureau of Military Justice, which dealt with the case of Abraham Lincoln's assassination. At Stanton's request, Johnson offered a reward of $100,000 for the capture of Jefferson Davis, and smaller sums for Clement Clay, Judah P. Benjamin, and other minor ex-Confederates.[5] Later Johnson learned that Stanton and Joseph Holt, Judge Advocate General, had plotted to

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[4]Hall, op. cit., pp. 192-195.

[5]Diary of Gideon Welles, Howard K. Beale, ed., III, Boston and New York, Houghton Mifflin Co., 1960, p. 300.

implicate Jefferson Davis in Lincoln's murder. He was furious and his distrust of anything related to the army was reinforced.[6]

The affair of Mrs. Mary Surratt illustrated a second example of military intrigue. Mrs. Surratt had been executed in 1865 for her complicity in Abraham Lincoln's murder. However, not until 1866 was her son, John H. Surratt, captured in Italy. He was brought to the United States in order to stand trial for the same offense for which his mother had died. Luckily for him, his trial was not to begin until the summer of 1867. By then the hysteria of Lincoln's assassination was over and the government had dropped the charges against him. During the hearings, however, a fact came out which infuriated Johnson against the whole military bureaucracy. A petition had been signed by five of the ten members of the Military Court which condemned Mrs. Surratt. It had been directed to the President with the recommendation that he commute her death sentence to life imprisonment. Johnson, however, had never seen the petition.

In order to discover the truth, Johnson asked the Bureau of Military Justice to send him every paper related

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[6]Lloyd P. Stryker, Andrew Johnson: A Study in Courage, New York, The MacMillan Co., 1929, p. 332. See also Robert W. Winston, Andrew Johnson: Plebeian and Patriot, New York, Henry Holt and Co., 1928, p. 281.

to Mrs. Mary Surratt's case. In an examination of the papers, he found the petition. Johnson accused Judge Joseph Holt and Stanton of having concealed the petition inside of voluminous papers in such a way that he had never noticed it. Historians agree with Johnson's explanation, which none of the accused ever denied. Johnson never recuperated from this "treason." For the rest of his life, he had to explain over and over that he had never seen the petition.[7]

The question might be asked whether Johnson's behavior, during the time he acted as military commander in Tennessee, was consistent with his anti-military attitude. It is true that Johnson acted arbitrarily, without concern for civil processes, and that he interfered with civil rights--grievances that he had always had about military men. However, Johnson saw himself as an elected officer who was appointed military governor during an emergency for the purpose of restoring the normal functions of a state. In order to benefit the people of the state, he had to use any measure. He always considered himself the tribune of the people as can be seen in his March 18, 1862 Proclamation, in which he appealed to the people of Tennessee. He asserted that "the State government

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[7]For a discussion of this topic see Milton Lomask, Andrew Johnson: President on Trial, New York, Farrar, Straus, and Co., 1960, p. 76.

has disappeared. . . . The great ship of state . . . has been suddenly abandoned by its officers and mutinous crew . . . to be plundered by every rover upon the deep. . . . " Consequently, Johnson called attention to his role, when he stated: "I have been appointed, in the absence of the regular and established State authorities, as Military Governor for the time being, to preserve the public property of the State, to give the protection of law actively enforced to her citizens, and, as speedily as may be, to restore her government to the same condition as before the existing rebellion." In order to clarify his position, he continued: "While it may become necessary, in vindicating the violated majesty of the law, . . . to punish intelligent and conscious treason in high places, no merely retaliatory or vindictive policy will be adopted."[8] Johnson, therefore, thought that he had to use strong measures in order to restore the normal, internal condition of the state.

While Johnson was Military Governor of Tennessee, he had difficulty in enforcing pardon policies. Because Tennessee probably had the highest percentage of citizens loyal to the Union of any confederate state, he had conflicts with loyal union and southern sympathizers. The

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[8]For a copy of the proclamation see Andrew Johnson MSS, March 18, 1862.

loyal citizens were indignant at having to take the oath of allegiance along with those who had been notoriously disloyal. As governor, Johnson considered that Lincoln's 1863 oath was too liberal and lenient. He prepared a more stringent oath for those whom he considered disloyal, but who wanted to participate in the state government. Tennesseeans were required to swear that they would henceforth support and defend the Federal Constitution, that they would freely and faithfully observe all the obligations of citizenship in the United States, and that they desired the success of the Northern armies and of the speedy enforcement of the laws of the United States throughout the country.[9] Almost all sensible politicians thought that Johnson had gone to extremes in demanding such an oath from the people of Tennessee. But he was initiating pardon policies gradually, and he wanted to be sure that loyalty was secured. As time passed, he became increasingly more lenient.

This explanation clarifies the mistake that some historians make when they trace Johnson's pardon policies from the period of his Presidency. His policies went further back than that. Johnson, as military governor of Tennessee, demanded stricter loyalty than he did as

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[9]Hall, op. cit., pp. 113-119; Charles H. McCarthy, Lincoln's Plan of Reconstruction, New York, McClure Phillip and Co., 1901, p. 27.

President. It must be remembered too that while he was military governor, the war was still in progress.[10] Moreover, Lincoln did not interfere in Johnson's attempts to restore Tennessee to the Union.

Meanwhile, President Lincoln was having his own problems. On December 8, 1863, he issued his Proclamation of Amnesty and Reconstruction. It was also called the Ten Per Cent Plan because it gave executive recognition to the governments of those states in which 10 per cent of the 1860 electorate had taken an oath of loyalty and in which the state had agreed to emancipation. Congress rejected Lincoln's plan and reacted, on July 4, 1864, with the Wade-Davis Bill. This bill required that a majority of the electorate in each ex-Confederate state take an oath of past, as well as future, loyalty as a condition for readmission to the Union. Lincoln killed the bill with a pocket veto.

If Andrew Johnson expressed any direct opinion about the Wade-Davis Bill it was lost. Nothing in his papers related to the topic. Nevertheless, from other evidence, it can be inferred that he opposed the bill. On November 24, 1863, he wrote to Montgomery Blair, Postmaster General: "I hope the President will not be

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[10]Hall, op. cit., pp. 143-145.

led to make territories out of the rebellious states."[11]

Continuous Confederate raids handicapped Johnson's efforts to reconstruct Tennessee. However, in December, 1864, the Confederate armies were chased out of Tennessee. At last, on January 9, 1865, a convention met in Nashville. Under Johnson's leadership, it repealed the ordinance of secession and submitted to the people amendments to the Constitution abolishing slavery. William Brownlow was nominated and later elected governor. On February 22, in a statewide referendum, the people accepted Lincoln's Ten Per Cent Plan.[12]

Meanwhile, other events had been taking place, which would change Johnson's life. Since the spring of 1864, the Unionists of Tennessee had been promoting his nomination for Vice-President at the coming National Convention in Baltimore. Lincoln's current Vice-President was Hannibal Hamlin of Maine, but the Republicans knew that theirs was a sectional party. Therefore, the facts that Johnson was a Democrat and a Tennesseean contributed to Lincoln's decision to choose him for his running mate.

During the war years, Johnson displayed, in varying degrees, the personal qualities and political attitudes

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[11]Edward McPherson, ed., The Political History of the United States of America During the Period of Reconstruction, Washington, Salomons and Chapman, 1875, p. 199.

[12]Stryker, op. cit., pp. 163-164.

which were examined in Chapter I. He continued to make clear his belief in racial equality. His opposition to Negro suffrage even exceeded that of Lincoln. Nevertheless, some of Johnson's biographers and supporters have claimed that he was sympathetic to Negro suffrage. As evidence, they cite a telegram Johnson sent to William L. Sharkey, Provisional Governor of Mississippi, on August 15, 1865, in which he gave Sharkey the following advice:

> If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary. . . . This you can do with perfect safety, and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the southern States from renewing their relation to the Union . . . [Italics mine][13]

Yet this document makes clear that Johnson wanted only some type of token suffrage for a very few Negroes which could be used as a weapon against the Radicals. He was willing to lose a battle in order to win the war. Had Sharkey followed his advice, the President would have expected to disarm the Radicals of their best weapon, that

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[13]McPherson, op. cit., pp. 19-20.

is, the issue of Negro suffrage. Nowhere in the telegram did Johnson refer to any good qualities or habits of the colored man. Consequently, a great difference separates Johnson's intentions, as implied in that telegram, from Lincoln's intentions, as expressed in a letter sent to Michael Hahn, Governor of Louisiana, on March 13, 1864. In his letter Lincoln suggested that "some of the colored people . . . be let in, as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks."[14] Obviously Lincoln's letter conveyed a more positive attitude toward Negroes than did Johnson's telegram to Sharkey.

Johnson's main argument against Negroes was that they were unprepared for citizenship. How were persons recently freed from slavery to be enfranchised? However, Johnson did not realize, as statistics from the census of 1850 show, that 434,495 free Negroes lived in the United States and that by 1860 this number increased to 488,070. That is, Johnson ignored almost half a million Negroes who had been free before the Civil War. Of these Negroes, many had advanced in vocational fields and some were literate. Johnson could have worked with this group of "Negro elite." Kenneth Stampp assessed Johnson's uncompromising attitude correctly by stating that whenever the

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[14] Ibid., p. 20.

discussion included the issue of Negroes, Andrew Johnson "ranged himself on the side of the racists." Stampp also noted that Johnson demanded that the South should remain a "white man's country."[15]

Johnson's concern for economy in government, which was subordinated during wartime, reappeared as soon as the war ended. As President, he pursued a vigorous policy of retrenchment beginning with the army. Starting in April and May, 1865, under the direction of the War Department, the military reduction amounted to about one million dollars per day. Although demobilization of a nation's army after a war is normal, in the opinion of Johnson's contemporaries such as Stanton, Stevens, and Grant, he moved too fast. By August of 1865, 640,000 men had been mustered out of the army; by November of the same year, 800,000 additional troops met the same fate. For this reason Grant complained in 1867: "Of the great volunteer army. . . . there then remained in the service but 203 officers, and no enlisted men."[16] Identical reductions were carried out in the Navy Department.

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[15]Kenneth M. Stampp, The Era of Reconstruction, New York, Alfred A. Knopf, 1966, p. 87. See James Randall and David Donald, The Civil War and Reconstruction, Boston, D. C. Heath and Co., pp. 60-61 for the analysis of free Negro statistics.

[16]American Annual Cyclopedia, New York, D. Appleton and Co., 1867, p. 56. For additional information related to this topic see Savage, op. cit., p. 351.

Johnson's resistance to military authorities might be interpreted as a further illustration of his states' rights doctrine. However, he accepted a considerable degree of federal intervention in Tennessee when that intervention came through Lincoln who represented military as well as civilian authority. He could organize militia and close newspapers, but if army men did these things, he considered them wrong. From his point of view, he acted to protect civilians, not to oppress them.

In short, Johnson spent most of the war years in Tennessee where he acted as military governor. During those years, he expressed an anti-military sentiment which later would bother his administration constantly. Although he was a wartime leader and exercised some military authority, interestingly enough, his dislike and distrust of military men and military bureaucracy grew. This attitude can be explained by the fact that Johnson acted as military governor in an emergency, but he always considered himself the tribune of the people. His anti-Negro bias, his strict economic principles concerning the use of public money, and his states' rights doctrine manifested themselves during these years, although to a lesser degree than previously. The explanation for Johnson's more moderate views lies in the fact that during wartime it would have been unwise for him to oppose federal intervention in the states or to deal with any other issue in

a way which might have damaged the Union cause.

JOHNSON AS PRESIDENT: APRIL, 1865-NOVEMBER, 1866

We have examined the development of certain persistent political attitudes and personal traits in Johnson's career up to 1865. As will be seen, these attitudes and traits contributed greatly to the definition of Johnson's Reconstruction policies. More immediate circumstances, which developed during his first eighteen months as President, played perhaps as important a part in shaping those policies. Of these circumstances, the leading ones were Johnson's rapid growth of sympathy and leniency toward defected white Southerners (a somewhat unexpected shift in attitude by a man who had so vehemently denounced the South's leaders), a generous policy of issuing pardons to those same leaders, which was a logical outgrowth of his changed attitude, and increasing estrangement from the Republican Party. The last grew so rapidly that Johnson's hopes for a political future came to rest on a Presidential nomination in 1868 by either the Democrats or by a new coalition party.

These circumstances were related, to some degree, to the status of the ex-Confederate states. Definition of the status was basic because it would determine who had the constitutional right to reconstruct those states. Although Lincoln always considered the Civil War an insurrection,

implying that the states were and always would be in the Union, we should not forget the Congressional opposition to his ideas and policies. For Lincoln, and for Andrew Johnson as well, the states still were in the Union, and they as presidents could restore them. For the presidents, the so-called "right of secession" never existed. This presidential "theory" maintained that the ex-Confederate states remained "asleep" so that the presidents could restore them. Thereupon they would be fully "awakened" in all senses and fully possessed of their former rights.[1]

Andrew Johnson occupied the presidency in April, 1865; Congress would not meet until December of the same year. As Johnson saw the situation, he could "restore" the Southern states to the Union by appointing provisional governors who would call conventions. The conventions, in turn, would draw up new constitutions. Rapidly and with no apparent problem, Johnson appointed William H. Holden as provisional governor of North Carolina on May 29, 1865. Other appointments soon followed: William L. Sharkey for Mississippi on June 13; James Johnson for Georgia and Andrew J. Hamilton for Texas on June 17; Lewis E. Parsons

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[1]See this "theory" developed in Johnson's First Annual Message which appears in James D. Richardson, ed., A Compilation of the Messages and Papers of the Presidents, VI, Washington, Bureau of National Literature and Art, 1903, pp. 353-371.

for Alabama on June 21; Benjamin F. Perry for South Carolina on June 30; and William Marvin for Florida on July 13.[2]

State elections, as we have seen, proceeded under Johnson's plan of reconstruction. The persons chosen to represent the ex-Confederate states worried Johnson's opponents such as Stevens, Benjamin F. Wade, and Henry Winter Davis. Their main concern was that many of the Southern representatives had been leaders of the Confederacy. Johnson, at first, advised the electors to choose only men who could take the prescribed Federal oath. Nevertheless, such candidates as Alexander H. Stephens and Herschel V. Johnson were elected to the Senate. Stephens had been the late Vice President of the Confederacy and had just been paroled from Fort Warren prison. His colleague, Herschel V. Johnson, was not qualified to take the oath either. Other Senatorial candidates included J. C. Alcorn, Benjamin G. Humphreys, and John L. Manning. Alcorn and Humphreys of Mississippi had been Brigadiers in the Confederate Army. Manning of South

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[2]See Edward McPherson, ed., The Political History of the United States of America During the Period of Reconstruction, Washington, Salomons and Chapman, 1875, pp. 18-28 for the details of these appointments. Also refer to Claude G. Bowers, The Tragic Era: The Revolution After Lincoln, Cambridge, The Riverside Press, 1929, p. 12. For the proclamation of Louisiana see Andrew Johnson MSS, October 14, 1865.

Carolina was one of the men on General Pierre G. T. Beauregard's staff. Moreover, James L. Orr, the new governor of South Carolina, had served in the Confederate Senate. As Milton pointed out, for one reason or another, "of the four Provisional Governors--Parsons of Alabama, Marvin of Florida, Sharkey of Mississippi, and Perry of South Carolina--elected to the Senate, Marvin alone could take the oath."[3] As if these appointments had not been disturbing enough, the North Carolina legislature almost unanimously selected William A. Graham, who had been in the Confederate Congress, for the Senate. As Winston pointed out: "To admit into Congress four Confederate generals, five Confederate colonels, six of the Confederate cabinet, and fifty-eight Confederate Congressmen, none of whom was able to take the oath of allegiance, seemed to the North unthinkable."[4]

Johnson assumed the attitude that these selections were inevitable because they were the best men available.[5] By allowing the individual to be elected first and

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[3]George F. Milton, The Age of Hate: Andrew Johnson and the Radicals, Hamden, Connecticut, Archon Books, 1965, pp. 255-256.

[4]Robert W. Winston, Andrew Johnson: Plebeian and Patriot, New York, Henry Holt and Co., 1928, p. 314.

[5]Johnson's idea was later supported by Robert S. Henry, The Story of Reconstruction, New York, Peter Smith Co., 1951, pp. 114-115.

pardoned afterward, he was not, however, being realistic about the epoch in which he lived. In 1865 the war hatred was still alive. The issue was not whether the men were the best qualified, but whether this was the moment to bring them into public life because of their previous loyalty to the Confederacy.

It should be noted that in May, 1865, Johnson's cabinet generally supported his policies of appointing provisional governors who would direct the restoration of Southern governments. The Cabinet was then composed of Edwin M. Stanton, Secretary of War; William Dennison, Postmaster-General; James Speed, Attorney General; Hugh McCulloch, Secretary of the Treasury; John P. Usher, Secretary of Interior; and Gideon Welles, Secretary of the Navy.[6] Of course, Congress did not agree with Johnson's procedures and refused to accept representatives from the states reconstructed under his schemes.

When Congress assembled in December, 1865, all the ex-Confederate states, except Texas, had completed their civil governments and were asking for readmission to the Union. On December 4, 1865, Johnson delivered his First Annual Message and stated that

> if any State neglects or refuses to perform its offices, there is the more need that the General Government should maintain all its authority,

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[6]Diary of Gideon Welles, Howard K. Beale, ed., II, Boston and New York, Houghton Mifflin Co., 1960, p. 301.

> and, as soon as practicable, resume the exercise of all its functions. On this principle I have acted, and have gradually and quietly, and by almost imperceptible steps, sought to restore the rightful energy of the General Government and of the States. To that end, provisional governors have been appointed for the States, conventions called, governors elected, legislatures assembled, and Senators and Representatives chosen to the Congress of the United States. At the same time, the Courts of the United States, as far as could be done, have been reopened, so that the laws of the United States may be enforced through their agency.

Johnson went on with his argument, attempting to convince the Congress that the Southern states were reconstructed. Consequently, he stated:

> The blockade has been removed and the custom-houses re-established in ports of entry, so that the revenue of the United States may be collected. The Post Office Department renews its ceaseless activity and the General Government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post office renews the facilities of social intercourse and of business.

Johnson concluded his reasoning:

> And is it not happy for us all, that the restoration of each of these functions of the General Government bring with it a blessing to the States over which they are extended? Is it not a sure promise of harmony and renewed attachment to the Union that, after all that has happened, the return of the General Government is known only as a beneficence?[7]

Congress paid no attention to Johnson's message. They not only refused to accept Southern representatives, but

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[7]McPherson, op. cit., p. 64; Richardson, VIII, 1897, op. cit., p. 3555.

they also created the Joint Committee on Reconstruction in December, 1865 for the purposes of investigating conditions in the South; receiving all bills and resolutions related to reconstruction, and making recommendations to Congress.[8]

From here on, a progressive struggle between the President and Congress took place, and no one wanted to yield or compromise. Johnson maintained that order prevailed in the South, a position that he defended to the end. A series of reports, which he received during 1865-1866, strengthened his notion of an "orderly South." Harvey Watterson submitted the first of these reports in October, 1865 after he had travelled through the South from July to October of that year. Watterson was a newspaperman and a lawyer from Tennessee. In 1839 and in 1841 he had served in the House as a Democratic Representative from Tennessee. Like Johnson, he had been one of the few Tennessee Democrats who had supported the Union. Watterson reported that all was going well and that the Southern states were loyal without exception. He said: "Everyone considers it is his first and highest interest to get the State in the Union, as the proper and only means of preserving liberty, and his hope is to accomplish it by

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[8]See McPherson, op. cit., pp. 84-101 for the various reports of this committee.

heartily supporting and cooperating with the Executive. . . ."[9]

Johnson's second report on the condition of the South came on December 18, 1865, from Ulysses S. Grant. Grant's views came from a tour that he made through the Southern section during November and December, 1865. He stated: "I am satisfied that the mass of thinking men of the South accept the present situation of affairs in good faith." He continued: "The questions which have heretofore divided the sentiments of the people of the two sections--slavery and States rights, or the right of a State to secede from the Union--they regard as having been settled forever. . . ." Grant made a statement in this report that confirmed Johnson's view even more strongly. He said: "/T/here is such universal acquiescence in the authority of the General Government throughout the portions of the country visited by me, that the mere presence of a military force, without regard to numbers is sufficient to maintain order." He concluded his encouraging report saying " "/M/y observations lead me to the conclusion that the citizens of the Southern States are anxious to return to self-government within the Union as soon as possible . . . that they are in earnest in wishing to do what they think

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[9]Watterson to Johnson, Johnson MSS, October 3, July 8, 1865.

is required by the Government. . . ."[10]

Benjamin C. Truman submitted the third of these reports on April 9, 1866. Truman had worked as a newspaperman for the New York Times in 1859 and for the Philadelphia Press in 1861. Besides, he had been an aide on the staff of Andrew Johnson when the latter was Military Governor of Tennessee. Truman denied emphatically the charge that Northern men were being persecuted in the South. He went farther in confirming Johnson's position, when he said, "for some unknown cause a large number of persons are engaged in writing and circulating falsehoods." He continued, "For some unpatriotic purpose or other, reports of an incendiary character concerning the southern people are /being/ transmitted north." Truman insisted that "the south . . . is more loyal now than it was at the end of the war--more loyal to-day than yesterday, and that it will be more loyal to-morrow than to-day."[11]

As a result of these reports, Johnson considered irresponsible the continued harassment and provocation from the Radicals about the condition of the South. He believed that the reports were valid because the men who submitted

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[10]American Annual Cyclopedia, New York, D. Appleton and Co., 1865, p. 809; McPherson, op. cit., pp. 67-68.

[11]Report of Benjamin C. Truman, transmitted to the Senate on May 7, 1866, Sen. Ex. Doc. No. 43, 39th Cong., 1st Sess., pp. 5-6.

them could be trusted. Consequently, for Johnson, the view of an orderly South would prevail. He just had to carry his fight for the "truth and right."[12]

In reality, the situation in the South during 1865-1866 was very confused. The Army was the agency which administered the reconstruction policies of the national government until the state government could take charge. As Sefton noticed, the Army "was ill prepared for the task." This was so because "American military history offered no precedents for the occupation of eleven states as conquered territory in time of peace."[13] In addition, most Southerners viewed the Army, not as a police force but as a conquering force which had destroyed their property. The presence of the free Negroes complicated the situation. Without a place to go, many of the freedmen gathered near the Army camps. They asked for protection and for economic support. When they decided to participate in politics, white Southerners opposed them bitterly. The situation reached a precarious point in May

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[12]John H. and Lawanda Cox, Politics, Principle, and Prejudice: 1865-1866, New York, The Free Press of Glencoe, A Division of the MacMillan Co., 1963, p. 102.

[13]James E. Sefton, The United States Army and Reconstruction, 1865-1877, Baton Rouge, Louisiana State University Press, 1967, p. 5. Sefton considered that the "Army had gained some experience in military occupation . . . in Mexico . . . twenty years earlier, but that situation and Southern reconstruction were fundamentally different."

and July, 1866 when riots broke out in New Orleans and Memphis respectively.[14] A great number of Negroes and their supporters were killed in these riots, which infuriated Northern public opinion. The point is that although Johnson had been able, with some difficulties, to organize Southern governments by 1865, public order was actually far from normal. It should be noted that the optimistic reports of Watterson, Grant, and Truman were made prior to the riots. That is, the circumstances in 1866 had changed--something which Johnson did not recognize.

How did Johnson explain these and similar incidents to various Congressmen who demanded some type of action for the protection of the freedmen? Defending what he considered the tranquil and normal situation in the states recently in rebellion, Johnson divulged his ideas in a dialogue which he had with Senator Sumner of Massachusetts. Their conversation occurred because at the end of 1865, in addition to General Carl Schurz's report to be discussed in the next chapter, newspapers were publishing stories about Southerners' atrocities against Negroes. In order to discuss these accounts and necessary preventive measures, Sumner asked for and received an interview with the

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[14]These riots will be discussed in detail in the next chapter when arguments against Johnson's conception of an orderly South will be presented.

President on December 2, 1865. The interview lasted three hours and the dialogue was of this character:[15]

The President: Are there no murders in Massachusetts?

Mr. Sumner: Unhappily yes--sometimes.

The President: Are there no assaults in Boston? Do not men there sometimes knock each other down, so that the police is obliged to interfere?

Mr. Sumner: Unhappily yes.

The President: Would you consent that Massachusetts on this account should be excluded from Congress?

Mr. Sumner: No, Mr. President, I would not.

Even after the riots, Johnson never changed his position. He always maintained that the situation in the South was as normal as in any other place in America.

Congress moved slowly toward a total breakdown of communications with the Executive. As Randall pointed out:

> During the twelve months after the assembling of the Thirty-Ninth Congress, in December, 1865, moderate Republicans gradually drifted into an acceptance of a Radical program of reconstruction. The transition was slow and often reluctant, but the inflexibility of the President, the recurrence of violence in the South, and the constant, skillful pressure from Radical leadership compelled the change.[16]

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[15]Quoted in Lloyd P. Stryker, Andrew Johnson: A Study in Courage, New York, The MacMillan Co., 1929, pp. 259-260, as appeared in Charles Sumner, The Works of Charles Sumner, XI, Boston, Lee, and Shepard, 1877, p. 25.

[16]James G. Randall and David Donald, The Civil War and Reconstruction, Boston, D C. Heath and Co., 1961, p. 575.

The first important legislative actions taken by Congress, in pursuing its own path toward a Reconstruction policy, were the passage of two bills designed to provide security, benefits, and civil rights for Southern blacks. The Freedmen's Bureau Bill passed Congress in February, 1866 and was sponsored by moderate senators such as Lyman Trumbull, of Illinois and William Pitt Fessenden of Maine. It extended the duties of the Freedmen's Bureau created by an act on March 3, 1865. The Bureau had been organized in order to relieve the freedmen and refugees. Under the Bill, it would remain under the control of the commissioner, aided by both military and civilian officials, but it would extend military jurisdiction over cases in which any civil rights were violated. As Craven says, "to put teeth into the bill, it was made a misdemeanor - punishable by a fine of $1000 or imprisonment for a year or both - for anyone to deprive another of these rights on account of race, color, or previous condition of servitude."[17]

On February 19, 1866, Johnson vetoed the bill. Almost every reasonable person admitted that the Negro needed some type of instruction and training in order to help him adjust as a free man. Yet Johnson said in this veto:

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[17]Avery Craven, Reconstruction: The Ending of the Civil War, New York, Holt, Rinehart, and Winston, Inc., 1969, p. 144.

> The Congress of the United States has never heretofore thought itself empowered to establish asylums beyond the limits of the District of Columbia, except for the benefit of our disabled soldiers and sailors. It has never founded schools for any class of our own people. . . . It has never deemed itself authorized to expend the public money for the rent or purchase of homes for the thousands, not to say millions, of the white race who are honestly toiling from day to day for their subsistence. A system for the support of indigent persons in the United States was never contemplated by the authors of the Constitution. . . . Pending the war many refugees and freedmen received support from the Government, but it was never intended that they should thenceforth be fed, clothed, educated, and sheltered by the United States.[18]

Johnson's veto and the language he used in order to present his picture of the recently liberated slaves surprised almost every single moderate or Radical politician. Notice that the Freedmen's Bureau Bill did not ask for enfranchisement nor anything similar to it. In this same veto, Johnson insisted, in his stereotyped argument, that the freedmen would be protected by civil authorities, who were of course Southern civil authorities.

A similar situation developed with the Civil Rights Act. It also was introduced by Trumbull and passed Congress in March, 1866. The bill offered the first federal statutory definition of citizenship and asserted the right of the federal government to intervene in state affairs in order to protect the rights of United States

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[18]McPherson, op. cit., p. 70.

citizens. Its main feature was that "all persons born in the United States and not subject to any foreign power, excluding Indians, not taxed, are hereby declared to be citizens of the United States." Those citizens how had the rights to "make and enforce contracts: to sue, be parties and give evidence; to inherit, purchase, lease. . . . and to full and equal benefit of all laws and proceedings for security of person and property. . . ."[19]

Faced with a bill that provided civil equality for blacks in important respects, Johnson again issued a veto:

> In all our history, in all our experience as a people, living under federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish for the security of the colored race safeguards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the distinction of race and color is, by the bill, made to operate in favor of the colored and against the white race. [Italics mine.][20]

This quotation shows how Johnson's bias against Negroes guided him to point out the faults of any measure which favored freedmen over the supremacy of whites. For Johnson, the Negroes should not enjoy something which the whites had not enjoyed before, even if the whites had never needed the help or the guarantee of their rights

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[19]Ibid., pp. 78-80.

[20]Ibid., p. 78.

which the Negroes so desperately needed now.

These two bills, the Freedmen's Bureau and the Civil Rights, contained the great hope for improving the condition of Negroes, because the opposition to Negro education existed everywhere. The old Freedmen's Bureau was handicapped because no one in the South wanted to provide a room or building in which a school could be established for the colored. Worse than that, as General Oliver Otis Howard, Commissioner of the Freedmen's Bureau, pointed out, the education of the Negro was set back, when, during the years 1865, 1866, and 1867, mobs of lower class Southern whites burned school buildings and churches used as schools, and flogged teachers, drove them away or in a number of instances, murdered them.[21] William S. McFeely, Howard's most recent biographer, noticed the lack of civil justice for Negroes when he pointed out:

> The Bureau had been involved in adjudicating disputes between Negroes and whites since the agency was established. The agents, informally, tried to negotiate a settlement, but if the matter was grave, they had recourse to the military provost courts. Howard's three-man courts were started in Virginia in September 1865 to handle minor legal disputes. . . . The Commissioner counted heavily on the re-opening of civil courts in the states to give the Negroes justice. In this, he was

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[21] Autobiography of Oliver Otis Howard, II, New York, The Baker and Taylor Co., 1907, p. 375. For an identical opinion see Samuel W. McCall, Thaddeus Stevens, Boston, Houghton Mifflin Co., 1899, p. 249.

disappointed.

> As soon as the states were reorganized and the courts reestablished, there was a systematic denial of the processes of justice to the freedmen. Congress sought to meet this problem with the Civil Rights Bill of 1866. . . .[22]

Johnson's vetoes of the Freedmen's Bureau Bill on February 19, 1866, and of the Civil Rights Bill on March 27, 1866, represented a decisive breakdown in the relationship between the President and the Republican leadership. As Craven pointed out in referring to the veto of the Freedmen's Bureau: "It revealed the situation as a conflict of two distinct attitudes toward the southern states and, consequently, two differing purposes and procedures in reconstruction. Johnson had been forced to speak out." Of the Civil Rights veto Craven wrote: "This was the silly speech of an excited and wounded man. It served no purpose but to announce a complete break in the Administration, an open war on the Joint Committee of Congress."[23]

Johnson's vetoes indicated that he had decided to

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[22]William S. McFeely, Yankee Stepfather: General O. O. Howard and the Freedmen, New Haven and London, Yale University Press, 1968, pp. 267-268. McFeely criticized the Bureau because "neither ended the threat of starvation nor obtained punishment of individual men who murdered Negroes." He also criticized Howard because "he did not use the /New Orleans/ riot as a weapon to build a Freedmen's Bureau that was truly responsible to the freedmen." See pp. 273 and 286.

[23]Craven, op. cit., pp. 148, 150.

seek support for his Reconstruction policies from the Democrats, Republican conservatives and Southerners, instead of from the main body of the Republican party. He was in fact accepting Southerners' "black codes." As Randall pointed out, "Northerners were outraged when the newly assembled legislatures under the Johnson program adopted 'black codes' for the regulation of the Negro population." Had Johnson signed the Bill he would have kept considerable support from the leaders of the Republican Party, many of whom saw the two bills as representing a compromise between the governments Johnson had restored in the South and the need to protect the ex-slaves. Randall also summarized this point by stating:

> Hoping to avoid a conflict with the President yet unwilling to accept the Southern governments he had created, the Republicans during the first months of the /first/ session /of/ the 39th Congress/ sought to work out some compromise that would guarantee the rights of the Negroes and that would at the same time be acceptable to Johnson.[24]

Johnson's veto of the Freedmen's Bureau Bill on February 19, 1866 did not provoke sufficient antagonism in Congress to drive the Republican moderates into the ranks of the Radicals. Johnson still had the opportunity to make peace with the Republicans. As Randall stated, "Though the breach between the President and his party

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[24]Randall, op. cit., pp. 571, 576.

was now wide, it was not yet irreparable. Continuing to hope that Johnson would approve some measure which would guarantee minimal rights, under federal protection, to the freedmen, moderate Republicans joined with the Radicals in backing the civil rights bill introduced by Trumbull."[25] Significantly it was not until after Johnson vetoed the Civil Rights Bill on March 27, 1866 that both bills (the Freedmen's Bureau Bill now was called the Second Freedmen's Bureau Bill) were passed over his veto. Congress over-rode the veto of the Civil Rights Bill on April 9 and the veto of the Second Freedmen's Bureau Bill on July 16, 1866.

Johnson's political difficulties with Congress grew even more serious by mid-1866 when he showed active opposition to the Fourteenth Amendment. The Joint Committee on Reconstruction formulated the measure because of widespread doubt about the constitutionality of the Civil Rights Act The Amendment passed Congress on June 13, 1866 and was submitted to the states for ratification on the 16th of the same month. It had four major points:

1. To establish a constitutional definition of a citizen.

2. To forbid a state from depriving any person of life, liberty, or property without due process of law. If

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[25] Ibid., p. 579.

a state deprived any citizen of the vote, its Congressional representation was to be reduced.

3. To bar from public office all Southerners who had participated in the Civil War.

4. To forbid the payment of any part of the Confederate debts.

Johnson's opposition to the amendment was predictable in that it violated his states' rights doctrines. But the manner in which he fought the proposal outraged his Congressional opponents. Although a President's signature is not required for a Congressional resolution submitting a Constitutional amendment, Johnson, nevertheless, sent Congress a protest against the amendment. He based his main argument on the idea that it was not a good policy for a Congress in which ten states were unrepresented to propose an amendment.[26] The architects of Congressional Reconstruction were even more angered by executive interference when Johnson privately and publicly advised the Southern states not to ratify the Amendment. This caused David Donald to state: "The President . . . seemed to encourage the Southerners in their attitude of defiance, urging them to reject the Fourteenth Amendment and suggesting that there was doubt of the legality of the Congress itself, since it excluded from its membership representatives

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[26]Congressional Globe, 39th Cong., 1st Sess., p. 3349.

of ten states of the Union."[27]

At first, the Amendment failed to be ratified. By March, 1867, the ten ex-Confederate states plus Delaware and Kentucky had rejected it. Of the states which had seceded only Tennessee had ratified the Amendment. This meant that ratification was defeated since only the negative action of ten states was enough to defeat the Amendment. Thirty-seven states formed the Union at this time, because for purposes of ratification, the ex-Confederate states were considered part of the Union. As Randall and Donald said, "the decisive action of the Southern states was attributable in large measure to President Johnson's hostility toward the amendment." Not until July 28, 1868 would the Amendment be ratified.[28]

Johnson's pardon policies provoked another conflict with Congress. When he became President, many Radicals were delighted because they assumed that he would hang all of the leaders of the former Confederacy. They had reasons to believe so. As soon as Johnson took possession of the Presidential office, he stated to a New Hampshire delegation: "Need I repeat that no heart feels more sensibly than mine this great affliction? . . . Our Chief Magistrate,

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[27]David Donald, The Politics of Reconstruction, 1863-1867, Baton Rouge, Louisiana State University Press, 1965, p. 57.

[28]Randall, op. cit., p. 585.

the beloved of all our hearts, has been assassinated. . . . No one can say that if the perpetrator of this fiendish deed be arrested he should not undergo the extremest penalty the law knows for crime; none will say that mercy should interpose." Then, referring to Lincoln's assassin Johnson added: "Is he alone guilty? The American people must be taught--if they do not already feel--that treason is crime and must be punished; that the Government will not always bear with its enemies; that it is strong not only to protect but to punish."[29] Nevertheless, within a short time Johnson changed his views dramatically.

His reversal in attitude toward ex-Confederate leaders appeared during his first weeks as President, when he often ignored formal procedures and granted pardons freely and swiftly. His policy was not shaped in an official message until his Amnesty Proclamation of May 29, 1865. The policy revealed in that document was, on its face, more severe and more complete than Lincoln's pardons policy, which he had announced in a proclamation on December 8, 1863. In that statement, Lincoln had excluded only six classes, while Johnson now excluded fourteen.[30]

Nevertheless, in reality, Johnson was moving toward

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[29]Frank Moore, Speeches of Andrew Johnson, Boston, Little, Brown, and Co., 1866, pp. 469-470.

[30]For Lincoln's proclamation see Richardson, VII, 1897, op. cit., p. 3515.

a universal amnesty. Great numbers of ex-Confederates, who fell into the fourteen classes excepted under the proclamation, applied for Presidential pardons, and of the more than 16,000 who so applied in 1865, Johnson pardoned more than 13,500.[31]

This leniency toward ex-Confederate leaders appalled Congressional Radicals. Yet Johnson could never understand the Congressional reasons for objecting to a policy that, in his view, was working very well. To placate Congress, he had specifically added the thirteenth class which excluded all persons whose taxable property was over $20,000, and in fact, he refused to pardon many persons under this category.[32] Consequently, in his opinion, although he had been lenient with Southerners, he was still more demanding than Lincoln. In fact, he really was. What Johnson ignored, however, was the timing of both proclamations. When Lincoln issued his proclamation, a state of war existed, and the proclamation helped to demoralize the strong Confederate Army. On the other hand, when Johnson issued his proclamation, the Confederate Army had been totally defeated. Consequently, from the point of view of Congressional radicals, there was no longer any

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[31]Hodding Carter, The Angry Scar: The Story of Reconstruction, Garden City, New York, Doubleday and Co., 1959, p. 68.

[32]Richardson, VII, 1897, op. cit., pp. 3509-3510.

need to be so lenient.[33]

Johnson viewed his policies as the best procedure in order to reincorporate Southerners so that they could help in the rapid restoration of the states. Accordingly, he chose M. F. Pleasants, a Southerner, as clerk of pardons. Pleasants had been a Confederate Colonel and his appointment was well received in the South.[34]

Johnson reviewed his policy on pardons on December 4, 1865 in his First Annual Message to Congress. He clarified what he meant by pardon and the source of his authority to grant pardons when he stated:

> As no State can throw a defence [sic] over the crime of treason, the power of pardon is exclusively vested in the executive government of the United States. In exercising that power, I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war.

He knew what he was doing since he expressed the desire that "every patriot must wish for a general amnesty at the earliest epoch consistent with public safety."[35]

Not until 1866, however, was the political breach

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[33]Carter, op. cit., pp. 64-65.

[34]John H. Franklin, The Reconstruction after the Civil War, Chicago, The University of Chicago Press, 1961, p. 33.

[35]McPherson, op. cit., pp. 64-65; Richardson, VIII, 1897, op. cit., pp. 3555-3556.

between Johnson and the Congressional Republicans complete, for he had gone into the field to campaign against his opponents before the 1866 Congressional elections. From August 28 to September 15, 1866, he made his "swing around the circle," a trip which he made through several states addressing crowds, attacking the Radicals, and defending his policies.

Johnson's contemporaries and later historians criticized his role during the "swing around the circle" because, as Craven stated, "Johnson dropped from the dignity demanded of the nation's President to the level of an ordinary citizen engaged in a give-and-take verbal conflict on the level of speaker versus heckler."[36] He never lost his Tennessee frontier habit of urging the crowd to participate in his speeches. The more the crowd participated, the more encouraged and enthusiastic he became. In instances when the crowd did not take part or expressed ideas contrary to his, Johnson changed tactics and fought his audiences.[37] In the elections, the Republicans obtained more than a two-thirds majority in both houses and their legislators won every "Union" state except Delaware, Maryland, and Kentucky. From then on the Radicals assumed

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[36]Craven, op. cit., p. 194.

[37]See McPherson, op. cit., pp. 129-143 for copies of Johnson's speeches during his trip.

a determined leadership.[38]

Some historians have inferred that Johnson's political ambitions contributed to his difficulties with Congress and to his veto of the First Reconstruction Act. They have traced his possible political ambitions as far back as 1862 when he was military governor of Tennessee. According to Leroy P. Graf, one of the latest students of Johnson's career, the Tennessean was a very ambitious man with an eye on the Presidency. After Johnson became military governor, he was the most influential patronage broker in his state. In his use of this power, he gave priorities to old party associates and to the building of a "Johnson's Party," at the expense of consolidating former Whig and Bell Unionist influence behind Lincoln's administration.[39] What was happening was that Johnson was shifting from the Democratic Party, to which he belonged, to the Union or Republican Party. This change of party became a reality when he was nominated for the Vice Presidency, as has been discussed earlier.

Once Lincoln was out of the way, Johnson found

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[38]For an evaluation of the election see Craven, op. cit., p. 158; and Randall, op. cit., pp. 590-591. For a primary reference see The Diary of George Templeton Strong, Allan Nevins and Milton H. Thomas, eds., IV, New York, The MacMillan Co., 1952, pp. 107-108.

[39]See Leroy P. Graf, "Andrew Johnson and the Coming of the Civil War," Tennessee Historical Quarterly, XIX, September, 1960, pp. 208, 214, 216-217, 220.

himself President of the nation and as a consequence one of the most influential leaders in the Republican Party. Using his office, he tried to restore the Southern states and to avoid as much trouble as possible. Nevertheless, Republicans in general did not accept the measures and policies he was using in order to bring the Southern states back into the Union. A bitter conflict developed between the President and the most prominent leader of his party. David Donald noticed how

> within twelve months of his inauguration, . . . Andrew Johnson publicly denounced both Sumner and Stevens, respected spokesmen of the party which had elected him; vetoed both the Freedmen's Bureau bill and the Civil Rights bill, supported by virtually the entire Republican delegation in both houses of Congress; set up in every former Confederate state governments which were dominated by men who for four years had been fighting against the Union; pardoned thousands of former rebel leaders; announced that his restored Southern governments ought to receive representation in Congress; and declared that the problem of Reconstruction was over.[40]

After this analysis, Donald concluded that "practical political considerations, rather than personal motivations, can best account for the President's switch to moderation." This was so because:

> If he and his party were to be successful in 1868, when the state of the former Confederacy would probably be back in the Union, he must not merely retain Lincoln's coalition of Radicals, Moderates, and War Democrats, but he must add a considerable vote from the South. His

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[40]Donald, op. cit., p. 20.

> wartime experience in his own state had taught him that there were not enough capable white Unionists to insure control of the reorganized Southern governments. The political danger of enfranchising the Negro he understood, all the more fully because he largely shared the racist views of Northern Democrats and many Republicans.[41]

Johnson's actions suggest that even before 1866 he was looking for reelection preferably, although not necessarily, through the Republican Party. As a matter of fact, evidence shows that during 1865-1866 Johnson was in contact with the leaders of the Democratic Party in New York, and in other cities as well, with the purpose of reaching some kind of understanding about reconstruction. Samuel Tilden, a future Democratic presidential candidate, was one of the New York politicians who dealt with the President.[42] What went wrong in his expectations? Donald summarized his mistakes as follows:

> Too rapid restoration of the Southern states under the leadership of former Confederates would certainly cost him the support of many Radicals. At the same time, prompt readmission of the Southern states under ex-Confederates would so increase the Democratic prospects for victory in 1868 that many Northern Democrats, who had uneasily supported Lincoln's coalition government during the war, would drift back to their original party, if only in the expectation of loaves and fishes.[43]

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[41] Ibid., pp. 21-22.

[42] Cox, op. cit., pp. 64-65; Glyndon G. Van Deusen, Thurlow Weed: Wizard of the Lobby, Boston, Little, Brown, and Co., 1947, pp. 320-321.

[43] Donald, op. cit., p. 22.

With such difficulties before him, Andrew Johnson decided to try another means: a new political coalition. During 1866 his friends began organizing a new political movement in order to win support for his reconstruction policies. This movement centered in the National Union Convention which met in Philadelphia in August, 1866. The Convention looked for the consolidation of conservative sentiments and expected to unite "Douglas Democrats" and conservative Republicans against the Radicals.[44] Among the men connected with the movement were such Northerners as J. R. Doolittle, John A. Dix, A. W. Randall, O. H. Browning, Edgar Cowan, Reverdy Johnson, Frank P. Blair, Jr., and Henry J. Raymond. From the South it included Governor James L. Orr and Benjamin F. Perry of South Carolina and Alexander H. Stephens of Georgia, all former office holders under the Confederacy.[45]

Of these men, Doolittle, Dix, and Raymond had been former Democrats who eventually joined the Republican Party, while Stephens, Randall, and Johnson were former Whigs who changed to the Democratic Party. Lastly, Orr was a Democrat, and Blair had been a Free-Soiler who changed

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[44]See McPherson, op. cit., pp. 118-119 for the call of the Convention.

[45]The Diary of Orville Hickman Browning, 1865-1881, II, James G. Randall, ed., Springfield, Illinois State Historical Library, 1933, p. 89.

to the Republican Party. The point is that most of Johnson's supporters during the Convention came from the Democratic or Whig Parties which represented a more moderate view on ways to deal with the Southern states than the main body of the Republican Party.

The Union National Convention denounced Congressional usurpation and asked support for the President.[46] Although Johnson was not present at the Convention, evidence suggests that it had his approval. On August 18, 1866, a committee of the Convention presented the proceedings to him through their chairman Reverdy Johnson. The President replied as follows:

> Language is inadequate to express the emotions and feelings produced by this occasion. . . . When I was thus informed that in that vast body of men, distinguished for intellect and wisdom, every eye was suffused with tears on beholding the scene, I could not finish reading the dispatch to one associated with me in the office, for my own feelings overcame me /Applause/. I think we may justly conclude that we are acting under a proper inspiration, and that we need not be mistaken that the finger of an overruling and unerring Providence is in this great movement. . . . Mr. Chairman, I consider the proceedings of this Convention equal to, if not more important than, those of any convention that ever assembled in the United States.[47]

Johnson's "swing around the circle," discussed above, was important in order to gain a better understanding of

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[46]McPherson, op. cit., pp. 118-119; Randall, op. cit., pp. 590-591.

[47]McPherson, op. cit., pp. 127-128.

his political ambitions. During this trip, he visited, among other cities, New York, Albany, Buffalo, Cleveland, Chicago, Indianapolis, Louisville, Cincinnati, and Pittsburgh. Johnson campaigned in the home territory of his political enemies--Pennsylvania, New York, Illinois, Ohio, and Indiana. A sample of some of the Radicals in the 39th Congress shows that from Ohio came J. M. Ashley, R. W. Clark, R. B. Hayes, E. R. Eckley, S. Shellabarger; from Indiana came Schuyler Colfax who was the Speaker of the House, Ebenezer Dumont, G. W. Julian, and G. S. Orth; from Pennsylvania, Thaddeus Stevens, Ulysses Mercur, G. F. Miller, W. D. Kelley, and W. H. Koontz; from Illinois, B. C. Cook, H. P. Bromwell, and S. M. Cullom; from New York, S. T. Holmes, and Henry Van Aerman. All of these men voted with the Radicals in 1866.[48]

The "swing around the circle" suggests even more. On August 29, 1866, Johnson stated in New York:

> As for the humble individual who now stands before you, and to whom you have so kindly and pleasantly alluded, as to what part he has performed in this great drama, in this struggle for the restoration of the Government. . . . I will say that I feel, though I may be included in this summing up, that the Government has done its duty. . . . But though the Government has done its duty, the work is not yet complete.

Then Johnson continued:

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[48]See Donald, op. cit., pp. 100-105 for a complete analysis of the Republican factions during the 39th Congress.

> I tell you, you have commenced the grand process now. I tell those present who are croaking and talking about individual aggrandizement and perpetuation of party, I tell them that they had better stand from under /laughter and cheers/, they had better get out of the way /cheers/; the Government is coming together, and they cannot resist it.[49]

As Bancroft later pointed out, Johnson's "words and acts excited the South with the vain belief that Congress must yield because it had no right to tax the states to which it refused a voice in the legislation."[50] Meanwhile, Seward also campaigned for Johnson. In New York he stated: "I know you will give a certificate at the polls that the Union of the United States consists not of twenty-five states but of thirty-six!" At Niagara he told the crowd that, although Lincoln had been abused when he was alive, after his assassination all hearts inclined to the deepest sorrow; and it would be the same if Johnson should be taken out of the office. In Buffalo Seward stated:

> 'The question is between the President and the Congress. Of all that has been done, tell me what the Congressmen of the United States have done? Of all that has been done to bring us so near the consummation /of reconstruction/, you see that nothing has been done that was not done through the direction, agency, activity, perseverance, and patriotism of Andrew Johnson, President of the United States. Will you stand

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[49]McPherson, op. cit., pp. 129, 133.

[50]Frederic Bancroft, The Life of William H. Seward, II, Gloucester, Massachusetts, Peter Smith, 1967, p. 453.

by Congress? or will you stand by the President?'[51]

Johnson's behavior during 1866 with regard to patronage made it appear as if he were looking for Democratic rather than Republican support. Even Gideon Welles noted how Johnson had been turning Republicans out of office.[52] During the 1866 campaign, he replaced 1,283 Republican postmasters with Democrats.[53] The removals were so frequent that many contemporaries of the President believed that he wanted to use patronage in order to undermine and destroy the Republican Party.

Some writers have explicitly implied that Johnson, as a normal politician, expected to win a second term to the Presidential office. Robert Winston, one of Johnson's most sympathetic biographers, concluded that as early as May, 1865, "Johnson had visions of succeeding himself."[54] On October 2, 1865, the Washington correspondent for the Springfield Republican wrote that "'Andy Johnson is a

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[51]Quoted in ibid., p. 461.

[52]Gideon Welles, Civil War and Reconstruction: Selected Essays, Albert Mordell, ed., New York, Twayne Publishers, 1959, p. 225.

[53]Fawn M. Brodie, Thaddeus Stevens: Scourge of the South, New York, W. W. Norton and Co., Inc., 1959, p. 290; Sumner, XII, op. cit., p. 362.

[54]Winston, op. cit., p. 339. For similar statements see Milton, op. cit., pp. 635-639; and Jonathan T. Dorris, Pardon and Amnesty Under Lincoln and Johnson, Chapel Hill, The University of North Carolina Press, 1953, pp. 316-356.

shrewd politician, and I have little doubt /that he/ means to be next president.'"[55] Yet Johnson kept his thoughts to himself. His papers reveal no evidence that by the end of 1866 he was concerned about reelection. Not even his faithful Secretary of the Navy Gideon Welles recorded in his diary any comments by the President during the period.

As we have seen in this chapter, Johnson tried to enforce a policy which he considered the best suited for the reconstruction of the Southern states. However, because of his rigid personality, in addition to his consistent behavior with regard to the states' rights doctrines, anti-military sentiment, and Negro bias, he provoked a deep estrangement with the Republican Party while trying to enforce his policies. This estrangement left Johnson, for all practical purposes, isolated from the party which brought him to power.

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[55]Quoted in Cox, op. cit., p. 96.

JOHNSON'S VETO AND THE FIGHT OVER RECONSTRUCTION POLICY

We have seen that between April, 1865, when Johnson became President, and November, 1866, when the Radicals won a victory in the Congressional elections, Johnson dealt with a series of problems which resulted in a break between him and the Congress. The year 1867 witnessed a further deterioration in his relations with Congress as Congress structured and enforced reconstruction measures which imposed harsher terms upon the ex-Confederate states as a condition for their re-entry into the Union. One of these measures, which contrasted with the lenient policies of the President, was the First Reconstruction Act of March 2, 1867. As he had done in 1866 with the Freedmen's Bureau and the Civil Rights Bills, Johnson opposed each measure passed by Congress for the purpose of reconstructing the Southern states. He vetoed all of them except the Army Appropriation Bill, which will be discussed later.

Johnson's veto of the First Reconstruction Act was important because it demonstrated his stubborn decision to continue opposing the Congress on reconstruction, despite the results of the 1866 Congressional elections. These elections gave Johnson a chance to change his course, but he decided to go ahead with his policies. Consequently, it can be inferred that the veto illustrated Johnson's

decision to seek support for his reconstruction policies among other groups, such as Democrats and Conservatives, which might back him for reelection in 1868. In other words, with the First Reconstruction Act, Congress declared war on the President, and Johnson accepted the challenge by vetoing the Bill. He decided to fight, indicating an unwillingness to allow Congress any major participation in the reconstruction of the Southern States. Johnson was, in fact, in a defensive position, and the only weapon he could use was the veto. As we will see, it fell short of the mark.

Events at the end of 1865 foreshadowed Congressional opposition to the President. We have seen how, with the creation of the Joint Committee on Reconstruction in December, 1865, the Radicals began to design measures which would allow them to pass their reconstruction schemes. The Joint Committee on Reconstruction examined all reconstruction legislation and made recommendations for future reconstruction policies. In addition, in February, 1866, Congress agreed that no Representatives or Senators from any of the ex-Confederate states should be seated until both Houses had declared their states entitled to representation. This measure made Congress the dominant agency in the restoration process, and what is more important, it could impose any conditions upon those states.

The report of the Joint Committee on Reconstruction

made on June 18, 1866, marked another important step which pointed toward the events of 1867. The Committee, which had been conducting hearings on conditions in the South, concluded "that the so-called Confederate States are not at present entitled to representation in the Congress of the United States. . . ." It added "that, before allowing such representation, adequate security for future peace and safety should be required. . . ." For the Committee, this peace and security "/could/ only be found in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the Republic. . . ."[1] With this report, criticized by Johnson of course, Congress and the nation were ready for the immediate discussion of the reconstruction measures of February, 1867.

In February, 1867, Congress passed three bills which, in one way or another, had important effects on its relations with the Executive.[2] One of these bills, the Tenure of Office Act, passed Congress on the 19th and was submitted

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[1]Edward McPherson, ed., The Political History of the United States of America During the Period of Reconstruction, Salomons and Chapman, 1875, p. 93. For a minority report by three of the members of the Committee see ibid., pp. 93-101. Johnson agreed with the minority report which praised him.

[2]Johnson discussed these measures with his Cabinet between February 22 and March 1, 1867. For the discussion see the Diary of Gideon Welles, Howard K. Beale, ed., III, Boston and New York, Houghton Mifflin Co., 1960, pp. 48-54.

to Johnson on the 20th. This measure prohibited the President from removing appointed officials without the advice and approval of the Senate. Congress stated that "every removal, appointment, or employment made . . . contrary to the provisions of this act . . . are hereby declared to be high misdemeanors . . . and every person guilty thereof shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both punishments. . . ."[3] Johnson's cabinet, including Stanton, condemned the bill.[4] The President vetoed it on March 2nd. Johnson based his main argument on the unconstitutionality of the Bill. Seward, with Stanton's help, drafted the veto.[5] The same day that the veto reached Congress, two-thirds in each House acted to over-ride it.[6]

The Tenure of Office Act was one of the most important pieces of legislation passed during the period because it provided the principal legal issue for Johnson's impeachment. Luckily for Johnson, the ambiguity of the Act prevented his conviction.[7] Later the Supreme Court declared it

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[3]McPherson, op. cit., p. 178.

[4]Welles, III, op. cit., p. 50.

[5]Ibid., p. 51.

[6]McPherson, op. cit., pp. 173-177, has copies of the bill and of the veto.

[7]For opinions about its ambiguity see the comments of Senators John Sherman and J. R. Doolittle in the Congressional Globe, 39th Cong., 2nd Sess., p. 1516.

unconstitutional.

The Army Appropriation Bill was another of the bills passed on February 20. This measure prescribed that all military orders emanating from the President or the Secretary of War should be issued through the General of the Army, who at this time was Grant. His headquarters were to remain in Washington, and he was not to be removed nor assigned to duty outside the capital without the approval of the Senate. The act also forbade the seceded states to organize a militia unless authorized by Congress to do so.[8] Johnson decided not to veto the bill because, as Stryker pointed out, it "had been tied into the Appropriation Bill as a rider; had Johnson vetoed it, and had it thereafter failed of passage, the army would have been without support, and the time might yet come when Johnson would require the army."[9] However, on March 2, 1867, Johnson sent a message to the House censuring the measure.[10]

The third measure also passed on February 20, was the First Reconstruction Act or the so-called Military Bill.

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[8]James D. Richardson, ed., A Compilation of the Messages and Papers of the Presidents, VI, New York, Bureau of National Literature, Inc., 1903, p. 472.

[9]Lloyd P. Stryker, Andrew Johnson: A Study in Courage, New York, The MacMillan Co., 1929, p. 457.

[10]For Johnson's message accompanying the approval of the bill see McPherson, op. cit., p. 178.

Since the end of the Civil War, a group of extremists had been determined to impose harsh terms upon the Southern states as a condition of their acceptance into the Union. But when the 1866 Congressional session began, neither a majority of the Republicans nor of the Democrats contemplated a comprehensive military bill. It was Thaddeus Stevens, who on January 3, 1867, brought forward this reconstruction measure. According to him, the Confederate States had forfeited all their rights and could only be restored by Congress; the governments established under the Presidential Plan were illegal; the states were to be placed under military rule; Confederate officers of all ranks, civil and military, would forfeit their citizenship for at least five years; and the new state constitutions must provide Negro suffrage. His scheme contained no guarantee that a state complying with these terms would be readmitted.[11]

During January and February, a bitter struggle over Stevens' Bill took place in Congress between Radical Republicans and a group of moderate Republicans and Democrats who wanted to soften this threat of military rule. A third group of Democrats tried to split the Republican Party over the military issue. John A. Bingham, James Garfield, and Nathaniel P. Banks, among others, presented the Moderates'

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[11] Congressional Globe, 39th Cong., 2nd Sess., p. 211.

point of view in the House, while Stevens, George S. Boutwell, and C W. Julian led the Radicals. Nevertheless, James G. Blaine offered the most significant amendment to Stevens' proposition on February 12. Blaine designed his amendment so as to allow the Southern States to regain their representation once they had ratified the Fourteenth Amendment and guaranteed a general Negro suffrage. Now the issue was a reconstruction bill with or without Blaine's amendment. Stevens opposed the amendment and was able to pass his original bill in the House without Blaine's modifications.[12]

It was another story, however, when debate on the bill opened in the Senate on February 14, 1867. Charles Sumner led the Radicals, while John Sherman led the Moderates. The Senate modified the bill adding the so-called Sherman substitute, which was really Blaine's amendment with some slight alterations. Consequently, the bill returned to the House in its amended form. There, on February 20, two additional amendments were added in order to placate the Radicals. James Wilson of Iowa proposed that all persons excluded from officeholding under the Fourteenth Amendment would be barred also both from serving as delegates to the new constitutional conventions and from voting in elections

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[12]For the debates related to this issue see Congressional Globe, 39th Cong., 2nd Sess., pp. 1104-1105 and 1213-1215.

to choose such delegates. On the other hand, Samuel Shellabarger's amendment extended the same principle to all officeholding and declared that prior to readmission any civil government should be deemed as "provisional" only. So, in this form, the final draft of the First Reconstruction Act passed both Houses on February 20, 1867.[13]

The essential points of the First Reconstruction Act can be summarized in this way. The ten states still deemed to be unreconstructed were to be divided into five military districts, each one to be placed under a Federal military commander "not below the rank of brigadier general." These commanders were clothed with functions superior to the state governments, which meant that they had the power to make arrests, conduct trials by military commissions, and direct the processes of constitution making. Elections for state constitutional conventions were to be held and Negroes were authorized to vote, while those disqualified under the proposed Fourteenth Amendment for supporting the Confederacy were excluded from voting. In addition, Negro suffrage and the disqualification of ex-Confederate leaders must be permanently written into the newly formed state constitutions, which required ratification by a majority of qualified voters. When any state

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[13]For the aforementioned amendments see Congressional Globe, 39th Cong., 2nd Sess., pp. 1316-1338, 1356-1358, 1555-1570.

had taken these steps and its legislature had ratified the Fourteenth Amendment, then that state was entitled to representation in Congress. Naturally, Congress reserved to itself the power to review each proposed constitution, to end military rule, and to seat representatives.[14]

A short summary of the other three reconstruction acts is necessary. The Second or Supplemental Reconstruction Act was passed on March 23, 1867, and encouraged the Federal military commander in the South to take the initiative in implementing the registration of voters, electing delegates, assembling conventions, and adopting state constitutions. The Third Reconstruction Act, which passed on July 19, 1867, was approved in order to prevent the obstruction of the Radical's reconstruction measures. It gave authority to the commanders of military districts to remove any state official who tried to obstruct the enforcement of Congressional legislation. The act was explicit in that "the commander of any district. . . . shall have the power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier

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[14]See Appendix A of this dissertation for a copy of this bill. The complete text of the First Reconstruction Act appears in the American Annual Cyclopedia, New York, D. Appleton and Co., 1867, pp. 657-658; and in McPherson, op. cit., pp. 191-192.

of the army. . . ."[15] The last of these acts was the Fourth Reconstruction Act of March 11, 1868, which Congress passed with the intention of forcing the Radicals' model of state government upon the South. It accepted only a majority of the votes actually cast by the state's constitutional convention in order to put a new constitution into force, even if only a minority of the population voted in the election.[16]

On February 20, Congress rushed the First Reconstruction Act to the President, who discussed it with the members of his cabinet. All, with the exception of Stanton, advised Johnson to veto the measure. He held the bill for the constitutional limit of ten days before returning it to the House with his veto on Saturday afternoon, March 2, 1867. The Thirty-ninth Congress was to expire at noon Monday, March 4.[17] As previously noted, Jeremiah Black, Attorney

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[15]McPherson, op. cit., p. 335.

[16]For the texts of these bills see ibid., pp. 192-193 for the Second Reconstruction Act and pp. 335-337 for the last two.

[17]David Dewitt, in his book The Impeachment and Trial of Andrew Johnson, New York, The MacMillan Co., 1903, p. 203, made a mistake in his assertion that Johnson might have defeated the Reconstruction Act by a pocket veto. The bill passed the Senate on February 20, twelve days before the expiration of the Thirty-ninth Congress. The same mistake appeared in Robert W. Winston, Andrew Johnson: Plebeian and Patriot, New York, Henry Holt and Co., 1928, pp. 395-396; and in Eric L. McKitrick's book, Andrew Johnson and Reconstruction, Chicago, The University of Chicago Press, 1960, p. 482. We can assume that Winston and McKitrick got their information from Dewitt or other similarly mistaken secondary source. See Congressional Globe, 39th Cong., 2nd Sess., pp. 1399-1400, 1625-45, for the dates of the passage of the bill.

General under Buchanan's Administration, drafted the veto.

The preamble of the bill received Johnson's attention first.

> Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican state governments can be legally established. . . .[18]

Johnson thought that by destroying the assumption of the preamble, which provided the basis for the whole bill, its entire subsequent structure and rationalization would collapse. With that purpose in mind, his first argument claimed that order prevailed in those states referred to in the preamble. Accordingly, he stated:

> It is not denied that the States in question have each of them an actual Government, with all the powers, executive, judicial, and legislative, which properly belong to a free State. They are organized like the other States of the Union, and, like them, they make, administer, and execute the laws which concern their domestic affairs.

Johnson continued with his arguments in which he considered that "an existing de facto government, exercising such functions as these, is itself the law of the State upon all matters within its jurisdiction. . . ."

He further stated:

> The provisions which these Governments have made

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[18]McPherson, op. cit., p. 191; American Annual Cyclopedia, 1867, op. cit., p. 657.

> for the preservation of order, the suppression of crime, and the redress of private injuries, are in substance and principle the same as those which prevail in the northern states and in other civilized countries. They certainly have not succeeded in preventing the commission of all crime, nor has this been accomplished anywhere in the world. . . . It is undoubtedly true that these evils have been much increased and aggravated, North and South, by the demoralizing influences of civil war, and by the rancorous passions which the contest has engendered.

From this point, Johnson went on to indicate that the information which he had on conditions in the South convinced him,

> that the masses of the southern people and those who control their public acts, . . . are completely united in the effort to reorganize their society on the basis of peace, and to restore their mutual prosperity as rapidly and as completely as their circumstances will permit.

Johnson concluded that "the excuse given for the bill in the preamble is admitted by the bill itself not to be real."[19]

Did the fact that Johnson blindly followed his established political principles, regardless of the actual circumstances of the time, lend support to his argument? As was discussed earlier, Johnson based his conception of an orderly South on reports made by Grant and Harvey M. Watterson in 1865 and by Benjamin C. Truman in 1866. All of

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[19]For the points herein stated see McPherson, op. cit., p. 167; Richardson, VI, 1903, op. cit., pp. 499-500; American Annual Cyclopedia, 1867, op. cit., pp. 652-657; Congressional Globe, 39th Cong., 2nd Sess., pp. 107 and 167.

these men believed that the South had accepted military defeat and that it wanted to re-enter the Union as soon as possible. In addition, these reports assumed that Southerners would comply with any requirement the national government established. However, it should be noted that Grant collected his information during the months of November and December, 1865, while the South was still suffering from the shock of defeat. Moreover, Grant as General of the Army, visited areas which the local military commanders controlled firmly. On the other hand, Watterson and Truman were Democratic newspapermen who supported Johnson's policies in the South.

Nevertheless, Johnson ignored other reports which contradicted his views of the South. General Carl Schurz submitted such a report in 1865 after making a tour of the South between July and September of that year. Schurz was a German political refugee who had distinguished himself by helping to organize the Republican Party in Wisconsin. He made his tour upon a petition from the President. Obviously, Schurz was an able writer, and when Charles Sumner asked for a copy of his report, it made an impact on Republicans.[20] On the basis of his observations, Schurz grouped the

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[20]On 1865-66 Carl Schurz was Washington correspondent of the New York Tribune, on 1866-1867 he was editor of the Detroit Post, and during 1867-1969 he was joint editor and owner of the St. Louis Westliche Post.

Southern people into four classes:

> 1. Those who, although having yielded submission to the national government only when obliged to do so, have a clear perception of the irreversible changes produced by the war, and honestly endeavor to accommodate themselves to the new order of things. Many of them are not free from traditional prejudice. . . .
>
> 2. Those whose principal object is to have the States without delay restored to their position and influence in the Union and the people of the States to the absolute control of their home concerns. . . .
>
> 3. The incorrigible, who still indulge in the swagger which was so customary before and during the war, and still hope for a time when the southern confederacy will achieve its independence.
>
> 4. The multitude of people who have no definite ideas about the circumstance under which they live . . . but whose prejudices and impulses are strong, and who are apt to be carried along by those who know how to appeal to the latter.

Other statements which Schurz made in his report mentioned how "Mayor Miller, assistant adjutant general of the commissioner of the Freedmen's Bureau in Alabama, . . . found it difficult to prevent a collision between the menacing populace and his escort. His wagon-master was brutally murdered while remaining but a short distance behind the command." More than that, Schurz summarized the situation of the Freedmen's Bureau agent as follows: "The murders of agents of the Freedmen's Bureau have been noticed in the public papers." He added that "no instance has come to my notice in which the people of a city or a rural

district cordially fraternized with the army." He concluded by saying "in some localities . . . where our troops had not yet penetrated and where no military post was within reach, planters endeavored and partially succeeded in maintaining between themselves and the negroes the relation of master and slave, partly by concealing from them the great changes that had taken place, and partly by terrorizing them into submission to their behests."[21]

Of course Johnson and his followers considered this report inaccurate. For example, Gideon Welles wrote: "I could never ascertain from him who advised the sending of Carl Schurz . . . to the South. . . . Schurz is a transcendental red republican of a good deal of genius, but . . . /with erroneous views of our federal system/."[22] Winston, Johnson's biographer, criticized Schurz's report because it was based on the opinion of "Federal Bureau Agents and others hostile to the President's course. . . ."[23] Nevertheless,

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[21]Report of Carl Schurz on the States of South Carolina, Georgia, Alabama, Mississippi, and Louisiana published on James P. Shenton, ed., The Reconstruction: A Documentary History of the South after the War: 1865-1877, New York, G. P. Putnam's Sons, 1963, pp. 19-25. See also W. R. Brock, An American Crisis: Congress and Reconstruction, 1865-1867, London, MacMillan and Co., Ltd., 1963, pp. 39-40. On October 17, 1865, Schurz wrote Sumner complaining that because of this report he (Schurz) was in disfavor with the President. For this complaint refer to Harold M. Hyman, ed., The Republicans and Reconstruction, Indianapolis, New York, The Bobbs-Merrill Co., Inc., 1967, p. 291.

[22]Welles, II, op. cit., p. 580.

[23]Winston, op. cit., p. 316.

other reports sustained Schurz's. For example, General Kirby Smith expressed his opinion from his headquarters in Louisiana on September 14, 1865 by stating "that with the exception of a small minority, the people of Mobile and southern Alabama are disloyal in their sentiments and hostile to what they call the United States. . . ."[24] Thomas Conway, a chaplain who had been Assistant Commissioner of the Freedmen's Bureau in Louisiana, issued a similar report in January, 1866. Conway made his report after a hearing held by the Joint Committee on Reconstruction. He stated: "I should expect in Louisiana, as in the whole southern country, that the withdrawal of the Freedmen's Bureau would be followed by a condition of anarchy and bloodshed. . . ." He continued: "I am pained at the conviction that I have in my own mind that if the Freedmen's Bureau is withdrawn the result will be fearful in the extreme."[25]

Moreover, Johnson ignored other events which were taking place in the South. Riots, which were mentioned earlier, occurred in an attempt to prevent Negro participation in politics. Such a riot occurred in Memphis in

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[24]Shenton, op. cit., p. 27.

[25]Walter L. Fleming, ed., Documentary History of Reconstruction, I, New York, Peter Smith, 1950, p. 362. For additional information about Conway's functions in Louisiana see William S. McFeely, Yankee Stepfather: General O. O. Howard and the Freedmen, New Haven and London, Yale University Press, 1968, pp. 68, 171-175.

May, 1866, after a quarrel between a Memphis Negro and a white teamster. Whites raided and burned the Negro quarter. As usual, many Negroes were killed. Even more serious was the so-called "New Orleans affair" or "New Orleans riot." In July, 1866, the state of Louisiana was divided between Johnson's conservatives and the advocates of Negro suffrage. The latter group intended to hold a convention in order to win the votes of the freedmen. The mayor of New Orleans, where the convention was to be held, opposed Negro suffrage. He had the responsibility, however, of preserving order in the city. On July 30, a procession of Negroes, accompanied by a group of white supporters, marched toward the convention hall. Their opponents attacked them. The procession ran to the meeting place followed by their belligerent opposers. While they were at the meeting place, a shot rang out and a confused riot started. When it was over, 37 Negroes and white supporters had been killed; 119 Negroes and 17 of their supporters had been wounded.[26] As was pointed out previously, Johnson did not react to these

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[26]For details of this incident see Howard K. Beale, The Critical Years, New York, Harcourt, Brace, and Co., 1930, pp. 351-352; Brock, op. cit., p. 158; William S. McFeely, Yankee Stepfather: General O. O. Howard and the Freedmen, New Haven, Yale University Press, 1968, pp. 267-287. For the explanation of the role of Louisiana's officials during the crisis see Andrew Johnson MSS, August 3, 1866. For conflicting versions of Southern and Northern newspapers see Nation, III, August 2, 1866, p. 81 and August 9, 1866, p. 102.

incidents.[27]

According to Johnson's interpretation, the First Reconstruction Act destroyed the legal and constitutional relationship which existed between the states and the Federal government. It reduced the people living in the Southern states "to the condition of vassalage." Johnson argued that because the ex-Confederate states had never been out of the Union, the rights which they had guaranteed under the Constitution were unimpaired. Consequently, he stated, "/O/ur victories subjected the insurgents to legal obedience, not to the yoke or an arbitrary despotism." In addition, he reasoned that the Act violated the rights of the states because they were not represented in Congress at the time it was passed. Besides, "the United States are bound to guarantee to each State a republican form of government."[28]

Considering Johnson's view of states' rights, it was predictable that he would veto the bill. Yet this highly controversial matter was one of interpretation rather than of fact. Thaddeus Stevens, for example, adopted an opposite view. In a speech at Lancaster, Pennsylvania in

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[27]See the previous chapter for Johnson's opinion about this incident.

[28]For references see McPherson, op. cit., pp. 166-172; Richardson, VI, 1903, op. cit., pp. 499-500; and American Annual Cyclopedia, 1867, op. cit., 652ff.

September, 1865, Stevens held that the Constitution had no application to the events of 1861-65; that the acts of the Southern states had shattered the Constitution to such an extent that any rights or privileges accruing to them from it had no application. Those states had seceded. They had established a separate nation. They had been conquered and their destiny was in the hands of the conquerors. He was very clear about what he wanted. He insisted that "'the property of the chief rebels should be seized and appropriated to the payment of the national debt. . . .'"[29]

Charles Sumner, the Radical leader in the Senate, also had his own point of view regarding reconstruction. It was called the "state suicide theory" and held the middle point between the "presidential" and "conquered provinces" views. For him, it was constitutionally impossible to remove United States' territory from the jurisdiction of the federal government. The attempt of the ex-Confederate states to do so, though constitutionally illegal, was both an act of treason and a disruption of normal constitutional relations so extreme, that it had

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[29]Quoted by Fawn M. Brodie, Thaddeus Stevens: Scourge of the South, New York, W. W. Norton and Co., Inc., 1929, p. 232. The discussion of this "conquered province" theory appears also in Stryker, op. cit., p. 25; William A. Dunning, Essays on the Civil War and Reconstruction, New York, Harper Torchbooks, 1965, pp. 107-108; McKitrick, op. cit., 1961, p. 99; and Dewitt, op. cit., p. 8.

extinguished all rights of their entities as states. That is, they had committed suicide. The United States should retain jurisdiction and control and should exercise authority just as if those states were territories.[30]

To Johnson, the First Reconstruction Act intended to change the whole structure and character of Southern society through the enforced citizenship of Negroes. He denounced this intention:

> The purpose and object of the bill . . . is to change the entire structure and character of the State governments and to compel them by force to the adoption of organic laws and regulations which they are unwilling to accept if left to themselves. The negroes have not asked for the privilege of voting; the vast majority of them have no idea what it means. This bill not only thrust it into their hands, but compels them, as the whites, to use it in a particular way. . . . Without pausing here to consider the policy or impolicy of Africanizing the southern part of our territory, I would simply ask the attention of Congress to that manifest, well-known . . . rule of constitutional law which declares that the Federal Government has no jurisdiction, authority, or power to regulate such subjects for any State. [Italics mine.][31]

Johnson's reasons for vetoing this bill were not new. He had already stated them when he had vetoed the Civil Rights Bill on March 27, 1866. Besides, as has already been pointed out, his intervention, opposition, and hostility

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[30]McKitrick, op. cit., p. 110; Dewitt, op. cit., p. 8; and Walter L. Fleming, The Sequel of Appomattox, New Haven, Yale University Press, 1919, p. 58.

[31]Richardson, VIII, 1897, op. cit., p. 3705.

toward the Fourteenth Amendment caused its rejection. Most historians accept the point that the Southern states would not have dared to take the defiant attitude, which they had assumed, without the support of the President.

Johnson argued that if conditions were unsettled in the South, those conditions could best be remedied by immediately restoring rights of the states, rather than by adapting an even more abnormal relationship such as Congress proposed. Consequently, Johnson reasoned:

> The evils which spring from the unsettled state of our Government will be acknowledged by all. Commercial intercourse is impeded, capital is in constant peril, public securities fluctuate in value, peace itself is not secure, and the sense of moral and political duty is impaired. To avert these calamities from our country it is imperatively required that we should immediately decide upon some course of administration which can be steadfastly adhered to.[32]

While Johnson failed to refer in his veto message to the cost of the proposed Congressional reconstruction, he returned to the problem of expenditure in his Third Annual Message, delivered on December 3, 1867. The First Reconstruction Act had been in effect since March of that year, therefore, he had time to evaluate its fiscal implications. Upon review, he stated that "the expenses incident to 'reconstruction' under the system adopted by Congress aggravate what I regard as the intrinsic wrong of the measure itself."

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[32]Ibid., p. 3707.

He made clear that "it has cost uncounted millions already, and if persisted in will add largely to the weight of taxation, already too oppressive to be borne without just complaint and may finally reduce the Treasury of the nation to a condition of bankruptcy." He estimated that "it will require a strong standing army and probably more than $200,000,000 per annum to maintain the supremacy of negro governments after they are established." He concluded his statement by pointing out that:

> The great interests of the country require immediate relief from these enactments. Business in the South is paralyzed by a sense of general insecurity, by the terror of confiscation, and the dread of negro supremacy. The Southern trade, from which the North would have derived so great a profit under a government of law, still languishes, and can never be revived until it ceases to be fettered by the arbitrary power which makes all its operations unsafe. /Italics mine./[33]

In retrospect, most historians accept the proposition that reunification would have improved the economic stability of the nation. Johnson, of course, accepted this as fact. He would have opposed any measure which might have implied spending unreasonable amounts of money. For him, the First Reconstruction Act was such a measure.

Johnson also found the role of the Army in the

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[33]Arthur M. Schlesinger, The State of the Union Message of the Presidents, Fred L. Israel, ed., II, New York, Chelsea House: Robert Hector Publishers, 1966, pp. 1152-1153; Richardson, VIII, 1897, op. cit., pp. 3764-3765.

reconstruction of the ex-Confederate states highly objectionable. In beginning his veto message, he argued: "The bill places all the people of the ten States therein named under the absolute domination of military rulers. . . ."[34] His distrust of military men reappeared clearly. He considered that "the power thus given to the commanding officer over all the people of each district is that of an absolute monarch." He went on to warn the nation about the dangerous decision of giving such great power to an army commander. He stated:

> He alone is permitted to determine what are rights of person or property, and he may protect them in such way as in his discretion may seem proper. It places at his free disposal all the lands and goods in his district, and he may distribute them without let or hindrance to whom he pleases.

Johnson continued to paint a picture of the extensive power which, he thought, the military men had under this law. He indicated that

> Being bound by no State law, and there being no other law to regulate the subject, he may make a criminal code of his own; and he can make it as bloody as any recorded in history, or he can reserve the privilege of acting upon the impulse of his private passions in each case that arises. He is bound by no rules of evidence; there is indeed, no provision by which he is authorized or required to take any evidence at all. Everything is a crime which he chooses to call so, and all persons are condemned whom he pronounces to be guilty.

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[34]Richardson, VIII, 1897, op. cit., p. 3696.

Johnson went further. He tried to tell the nation that the commander of the military district could easily become a dictator. He clearly implied this when he stated:

> If any State or Federal court presumes to exercise its legal jurisdiction by a trial of a malefactor without his special permission, he can break it up and punish the judges and jurors as being themselves malefactors. He can save his friends from justice, and despoil his enemies contrary to justice.

Johnson was very sarcastic when he said: "Several provisions dictated by the humanity of Congress have been inserted in the bill, apparently to restrain the power of the commanding officer; but it seems to me that they are of no avail for that purpose." Moreover, never was Johnson so strong in his words as when he said:

> It is plain that the authority here given to the military officer amounts to absolute despotism. . . . It reduces the whole population of the ten States . . . to the most abject and degrading slavery. No master ever had a control so absolute over the slaves as this bill gives to the military officers over both white and colored persons.[35]

Is there any difference between a slave master and an army general? For Johnson the answer was no. He never sympathized with the Army and this bill gave him the opportunity to release all his hostile feelings against it. Word by word, the attack on the power given to the Army overshadowed every other argument. He showed hatred toward

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[35] Ibid., pp. 3698-3700.

anything that had to do with compulsory orders and power which emanated from the Army.

When Johnson decided to restore the ex-Confederate States, he was well aware of the problems and difficulties that this action would bring. Nevertheless, he proceeded to use the same Constitutional right that Lincoln had used extensively, the power of pardon. When the First Reconstruction Act arrived at his office, Johnson found that, had he signed the bill, all persons whom he had pardoned previously would have again been disfranchised because the bill provided that:

> no person excluded from the privilege of holding office by said amendment /Fourteenth/ to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any said rebel States, nor shall any such person vote for members of such convention.[36]

So much for the bill and the veto per se. Two questions come forward at this moment. What were the immediate circumstances which might have played a role in the President's actions? What was Johnson's political situation in 1867? To find accurate and complete answers to these questions would be a difficult task. However, it is clear that Andrew Johnson was operating in a confused political environment and neither he nor the forces and problems which revolved around him can be

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[36]McPherson, op. cit., p. 192.

ignored. In other words, Johnson, as one of the central figures of the Reconstruction Period, had other issues with which he had to deal.

The period in itself had many problems, not the least of which was the economic situation of the South. Lands were devastated; billions invested in slaves had been swept away. Accumulated capital had disappeared. Banks were shattered. Factories were dismantled. The flow of business had been interrupted. Transportation facilities had almost ceased to exist, while many Southern cities had suffered serious fires.[37]

The social condition of the South was as bad as its economic situation. With the defeat of the Southern armies, the soldiers had been dispersed. Each was trying to return to a home that, in many cases, no longer existed. White and black families "were often found wandering through the woods without food or shelter."[38] The rich landowner of ante-bellum times was now penniless. In addition, the South had lost more than a quarter of a million of its best men

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[37]William B. Hesseltine, The Tragic Conflict: The Civil War and Reconstruction, New York, George Braziller, 1962, pp. 326-329, quotes from The Knickerbocker Magazine, New York, 1862, an interesting analysis in which he tries to destroy the idea that the North won the war because of its preponderant economy. The statistics presented are useful in order to compare the condition of the South before and after the war.

[38]Winston, op. cit., p. 274.

in the war. Now a conquering army, many of whose members were Negroes, occupied their states.

The condition of about four million freedmen presented one of the most difficult social problems. Many of them did not know how to support themselves. As Randall and Donald pointed out, "difficult social problems presented themselves in the sudden elevation of a servile race to the status of free laborers and enfranchised citizens."[39] James E. Sefton made a similar assessment when he said that "freedom at the end of hostilities had a mischievous psychological effect on some Negroes, who wandered about from place to place, congregated around military posts, and generally thought ill of having to work for a living."[40]

For Johnson the best way to relieve the aforementioned social and economic problems was to unify the nation again with a just and durable program of reconstruction. For him, the First Reconstruction Act represented the opposite of what the nation needed, therefore he vetoed it.

What sort of political support did Johnson have in the months prior to the passage of the First Reconstruction Act? What happened to Johnson's support in 1866 during the National Union Convention? In 1867 Andrew Johnson lost

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[39]Randall, op. cit., p. 543.

[40]James E. Sefton, The United States Army and Reconstruction, 1865-1877, Baton Rouge, Louisiana State University Press, 1967, p. 42.

most of his previous political support. As was discussed earlier, many of these losses occurred during the 1866 Congressional elections. Edgar Cowan of Pennsylvania, James McDougall of California, and James W. Nesmith of Oregon had been among the Senators who had supported Johnson in the convention. All of them met defeat in 1866. In the House, among others, Henry J. Raymond and Charles Goodyear from New York, and Lovell H. Rousseau from Kentucky had supported Johnson. They were also defeated.[41]

Frank P. Blair was another of Johnson's political advisers. During 1867 Blair had abandoned the idea of a new party and had returned to the Democratic Party. In 1868 he became the Democratic candidate for Vice President. Although Democrats such as John C. Ten Eyck, Henry Grider, Thomas A. Hendricks and L. W. Powell opposed the First Reconstruction Act, they had done so because of personal political reasons rather than because of support for Johnson. Donald described the attitudes of Democrats during discussion of the bill as follows: "Jubilantly the Democrats watched the Republican discord, and they contributed to it whenever possible by delivering long speeches, behaving boisterously, and making frequent calls

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[41]Refer to pp. 85-86, 91-92 for the 1866 Congressional elections and their results. For the call to the National Union Convention see McPherson, op. cit., pp. 119-120; for the membership in the 39th and 40th Congresses see ibid., pp. 107 and 347-348 respectively.

to order and motions to adjourn."[42] McKitrick also called the Democrats' role during the passage of the bill "pseudo-Machiavellianism," because they "were already turning their thoughts to the 1868 election, somehow hoping that Southern votes might be made available to them in time."[43] The point is that Democratic opposition to the First Reconstruction Bill did not mean support for Johnson.

Johnson's political position became still more difficult after January, 1867, when moderate Republicans moved closer to the Radicals' position. Donald summarized this trend as follows: "As the Moderates lost strength, the Radicals gained it, and by February, 1867, seventy-two Representatives could be identified with the left wing of the party."[44] Thomas, one of Johnson's biographers, noted that even Senator Reverdy Johnson of Maryland, who had been chairman of a committee in the National Union Convention, switched to the Radical side during the controversy over the First Reconstruction Act.[45]

In addition, Johnson had been receiving political advice from Jeremiah S. Black. Black was no longer a politician,

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[42]David Donald, The Politics of Reconstruction, 1863-1867, Baton Rouge, Louisiana State University Press, 1965, pp. 78-80.

[43]McKitrick, op. cit., pp. 481, 485.

[44]Donald, op. cit., p. 62.

[45]Lately Thomas, pseud., The First President Johnson, New York, William Morrow and Co., Inc., 1968, p. 522.

but a lawyer and a private citizen who dealt primarily with constitutional issues. In 1867 the American people were not interested in constitutional matters but in issues which carried emotional overtones, such as the one presented by the Radicals. So Black's help, as political advisor to Johnson, proved not to be very effective. As a matter of fact, he broke with the President during the impeachment fiasco because of a conflicting economic interest.

We have already explained how Gideon Welles advised Johnson and influenced his political ambitions by assuring him that his policies were right. But as his diary later revealed, he did not believe Johnson had a real opportunity to be nominated by any party in 1868.[46] Next to Welles, Seward was Johnson's closest advisor. Seward still defended Johnson policies in 1867, but "this defence was often so calm and impersonal as to lack vigor and seem half-hearted. . . ."[47] As a matter of fact, some of Johnson's friends, such as Montgomery Blair, asked the President to remove Seward from the cabinet. Van Deusen, in his recent biography of Seward, describes the situation as follows: "Clamor for his /Seward's/ own dismissal came from

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[46]Refer to the previous chapter for this discussion.

[47]Frederick Bancroft, The Life of William H. Seward, II, Gloucester, Massachusetts, Peter Smith, 1967, p. 463.

Blair and others, rumor had it that the axe had fallen on him . . . , and on August 23 he sent his . . . resignation to the White House. Johnson asked him to remain in office."[48]

In summary, the people who had supported Johnson in 1866 either were defeated in the 1866 Congressional elections or they gave up hopes of organizing a new party which Johnson could lead. Other advisors of the President, such as Seward, Welles, and Black did not have enough political influence in 1867 to strengthen his position.

Did Johnson stand to gain or lose politically by his veto? Given the situation in 1867, we can speculate that the best step for Johnson politically was to veto the bill. Had he signed the bill, he would have had an opportunity to gain the support of some independent Radicals, such as W. B. Allison of Iowa, J. D. Baldwin of Massachusetts, J. M. Broomall of Pennsylvania, and Benjamin Eggleston of Ohio. However, this group was not large enough to give him sufficient support for possible re-election on the Republican ticket in 1868. Consequently, Johnson's best strategy was to veto the bill, thereby trying to gain support from four larger Republican factions: the Moderates, which included such men as D. R. Ashley of Nevada, J. A. Bingham of

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[48]Glyndon G. Van Deusen, William Henry Seward, New York, Oxford University Press, 1967, p. 474.

Ohio, R. P. Buckland of Ohio, W. A. Darling of New York, H. L. Dawes of Massachusetts, T. W. Ferry of Michigan, and Ralph Hill of Indiana; the Conservatives such as Jehu Baker of Illinois, N. P. Banks of Massachusetts, and T. T. Davis of New York; the Republicans not clearly identified with any factions such as C. D. Hubbard of West Virginia, R. P. Spalding of Ohio, and Daniel Morris of New York; and those Republicans who usually abstained from voting, such as Oakes Ames from Massachusetts and C. V. Culver of Pennsylvania among others.[49] Of course Johnson had no hope of winning the Ultra-Radicals nor the followers of Thaddeus Stevens.

Moreover, Johnson could expect the full support of the Democrats and the Southerners who would be elected under the reconstruction governments. Although the Southerners probably would have elected Republicans, they still would need the support of the conservative votes of the section. John H. and Lawanda Cox summarized Johnson's

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[49]For a good classification of Republican factions during the second session of the 39th Congress (1866-1867) see Donald, op. cit., pp. 100-105. Donald considered that 12 Congressmen belonged to the Ultra-Radicals, 47 to Stevens' Radicals, 13 to the Independent Radicals, 33 to the Moderates, 13 to the Conservatives, 8 to the Republicans not clearly identified with any faction, and 17 to the Republicans who usually abstained from voting. Consequently, Johnson knew that he had no hope of winning over the Ultra-Radicals and Stevens Radicals, but by appealing to the groups discussed above he might gain 71 votes, instead of the 13 Independent Radicals, against the 59 Ultra and Stevens Radicals.

strategy in this way: "Johnson believed that the Supreme Court would set aside any conditions Congress might impose upon the South or, failing such a resolution of the conflict, that the use of military power to enforce Congressional policy would become so 'expensive, odious, and intolerable' that the voters would expel from power the party responsible for such a policy."[50]

That Johnson expected to emerge as the only hero against "congressional oppression," can be seen in his reaction to the 1867 state elections. The Coxes summarized his reaction in the following way:

> The losses which the Radicals sustained in the state elections of 1867 seemed to justify the President's hope of victory and the strategy of no compromise. News of the defeat of the Radicals in Connecticut's April election of that year was received by Johnson as 'the turn of the current.'[51]

Gideon Welles considered the 1867 elections as signaling "the first loud knock, which admonishes the Radicals of their inevitable doom."[52] Welles also related Johnson's opinion that the returns from Pennsylvania and Ohio "show most extraordinary results, and indicate the /total/

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[50]John H. and Lawanda Cox, Politics, Principle, and Prejudice, 1865-1866, London and New York, The Free Press of Glencoe: A Division of the MacMillan Co., 1963, p. 231. This opinion was also expressed by editorials in the New York Times, December 4, 27, 31, 1866.

[51]Ibid., p. 231.

[52]Welles, III, op. cit., p. 78.

overthrow of the Radicals and the downfall of that party."[53] If any doubts about Johnson's intention remained, he removed them on November 13, 1867 when he made a "victory speech" to a crowd of serenaders in which he announced that "his policy had been vindicated by the people."[54]

Another inference can be made from Gideon Welles' words. He insisted that Johnson hoped until the end to be nominated for President by the Democratic party in 1868. Instead, Horatio Seymour received the nomination in New York on July 9, 1868 on the 22nd ballot. Welles recorded in his diary: "I was at the President's /office/ when the telegram announcing Seymour's nomination was received. The President was calm and exhibited very little emotion, but I could see he was disturbed and disappointed. He evidently had considerable expectation."[55] In October 1868, some Democrats who were not pleased with Seymour's candidacy pressed the New York Democratic leader, Samuel Tilden, to get "Seymour out of the way." Welles' entry about Johnson's reaction to this situation explained: "It was pretty evident, the President said, that the present ticket could have little hope." Welles continued: "Although guarded in

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[53] Ibid., p. 232.

[54] McKitrick, op. cit., p. 498. For his speech see the New York Times, November 14, 1867.

[55] Welles, Diary, III, op. cit., p. 398.

his remarks, I could perceive the President was not /greatly/ displeased with the turn things were taking, and I think begins to have hopes that attention /may yet/ be turned to himself."[56]

Gideon Welles thought that Johnson had no chance of being nominated by any party in 1868, even if Seymour should resign. Nevertheless, Johnson was so anxious to be a candidate that he listened to any person who brought him encouraging rumors. But Welles was sure that "there is no intention to make him /Johnson/ the candidate. . . . His name is used /by a set/ as a bank-note for Chase and nothing else. I am sorry he listens to it."[57]

Johnson's remarks about such persons as Grant and Secretary of the Treasury Hugh McCulloch, whom he considered potential rivals, also suggest his political ambitions. Johnson considered Grant to be a man dominated by prejudices and passions, without any knowledge of government--a mere figurehead in short.[58] Until 1866, Johnson had always had a good opinion of McCulloch. At that time, some Republicans mentioned him as a possible Presidential candidate in 1868.

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[56]Ibid., p. 454. Words inside brackets belong to the editor of Welles' diary.

[57]Ibid., p. 455. Words inside the second bracket belong to the editor of Welles' diary.

[58]Andrew Johnson MSS, August 24, 1867, March 27, 1868.

Then Johnson saw him as a man who could do infinitely better as Secretary of the Treasury than as President.[59] Although Johnson expressed his willingness to help Seward win the Republican nomination, he made clear that, in his opinion, Seward was too old and too weak politically, even in his own state. For Johnson, Seward now was a "dead carcass."[60]

That Johnson was mistaken in his political judgments or that his possible strategy did not work is beside the point. But as we discussed previously, he hoped to the end to be nominated for a second term either by the Democratic party or by a conservative coalition. Nevertheless, Johnson lacked the political ability to unify all of the diverse opinions and the varied interests of the different groups which he needed in order to win. In addition, he too closely identified the First Reconstruction Act with the Radicals. As Donald pointed out:

> the Reconstruction Act of 1867 was not the work of any man or any faction. . . . The legislative history of the bill is the story of a series of attempted compromises between the need of the individual Congressman to respond to the desires of his constituency and the necessity for the national Republican party to enact a comprehensive Reconstruction program.[61]

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[59] Ibid., August 14, 1867.

[60] Ibid., August 14, 1867. See also Van Deusen, op. cit., p. 475.

[61] Donald, op. cit., pp. 81-82.

After a careful study of Johnson's private and political life, his traits emerge as part of a consistent personality. Maybe his inflexible personality provoked many of his conflicts. He could not compromise and he could not be flexible. When he died in 1875, he was still fighting for the same ideals for which he had fought in 1829 when he began his public career. For him, the First Reconstruction Act was just one more fight, in a long series of battles which had dominated his whole life.

His Presidential Administration was so fruitless that many Americans regretted that he had ever been President. It did not have to be that way. Had Johnson ever been able to yield, to compromise, to adapt himself to different political situations, he might have regained support from the Conservative and Moderate factions of the Republican Party, the intellectuals, the press, and from the American public. But he failed to win any of these groups. As we discussed previously, the turning point came with the vetoes of the Freedmen's Bureau Bill on February 19, 1866 and of the Civil Rights Bill on March 27, 1866. Had he signed either or both bills, he might have regained his leadership among Republicans and more favorable reconstruction measures might have been passed. The fact that Congress failed to override his Freedmen's Bureau Bill veto on February 19, 1866, indicates that Congressmen were

reluctant to break relations with the President.[62] After these vetoes it became clear, however, that if any modification of Southern society was to be achieved, it would have to be in spite of Johnson's veto power.

Previous historical explanations for Johnson's veto of the First Reconstruction Act have been limited to his stubborn personality, to his anti-Negro bias, to his conservative Southern attitude, and to his belief in a states' rights doctrine. These explanations have much validity. This dissertation has argued, however, that Johnson also had additional reasons for vetoing the Act. These reasons cannot be discovered in the veto message alone; they have to be sought throughout his political career. Johnson's other reasons included: his concept of order in the South, which in reality reflected his desire to gain conservative and Southern approval for his reconstruction policies; his commitment to economic retrenchment, a policy that remained constant throughout his political life and that can be traced to his early career; his anti-militarist attitude which he displayed so strongly while he served as military governor of Tennessee; and his desire to enforce a lenient pardon policy, which indicated his hope

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[62]See pp. 79-80 for a discussion of Congressional attitude toward his vetoes.

for a rapid restoration of the Southern states and a sympathetic attitude for their cause. In addition, Johnson's political ambitions played a significant part in his decision to veto the First Reconstruction Act.

All of these reasons have been discussed explicitly and have been related to the circumstances in which the President and other important contemporary politicians operated. Unlike previous historical treatments, this dissertation used the veto as a means for clarifying the arguments presented and not as an end in itself in explaining Johnson's motivation.

Because Johnson was unsuccessful politically, a stereotype grew up that his vision of political reconstruction was unpopular. As a matter of fact, it is not clear that in 1867 the majority of the country did not feel as Johnson did with regard to race relations and a rapid restoration of the Union. Events show that Johnson was wrong in estimating that he could win his fight against the Radicals, but this does not mean that his ideas were so different from those of the rest of the nation. The Radicals were able to defeat him because they were better manipulators of issues and because they controlled the Southern governments. We have to consider the possibility that had Johnson been able to unify the nation in December 1865, as he tried to do, his political future might have been quite different. It is clear, however, that from a

political point of view, Johnson did not deal properly with the circumstances which he faced.

THE TREATMENT OF THE FIRST RECONSTRUCTION ACT AND ITS VETO IN SECONDARY SCHOOL TEXTBOOKS

How do textbooks used in secondary schools deal with the First Reconstruction Act and its veto? How do they relate the Act and its veto to the whole complex of events which took place during the Reconstruction Period? What changes, if any, should be made in teaching about the First Reconstruction Act and its veto?

The school personnel in charge of selecting textbooks for American History courses have to deal with a number of difficult problems. First, they have to determine the objectives of the school community. Besides, they have to understand the abilities and wishes of the teachers. The teachers should have the knowledge and the desire to make the best possible use of the materials which are chosen. Otherwise they may view a specific textbook as being imposed upon them by the system. In the same way, the use of a particular text should depend upon the abilities of the students to profit from it. For example, they should use books which they can read and understand so that they analyze the material, formulate hypotheses, and draw conclusions from it. It is difficult to indicate the best textbook for a specific American history class, since we have to consider all these factors.

For our purpose, it is important to see how textbooks used in American secondary schools treat the First Reconstruction Act and Johnson's opposition to it. In order to do this, some of the most common textbooks will be analyzed and criticized. The textbooks used at the secondary level in Puerto Rico will be considered also, because the recommendations made in this dissertation can be applied to textbooks used on the Island.

Typical of the textbooks used in the American secondary schools is one by Henry F. Graff and John A. Krout, The Adventures of the American People: A History of the United States, Chicago, Rand McNally and Co., 1965, 756 pp. The book treats the Reconstruction Period in Chapter 16, pp. 325-342. Only nine of these pages deal with Johnson's Administration (the rest deal with Grant's Administrations). In discussing different topics, the authors insert selections from contemporary writings. They summarize the First Reconstruction Act briefly and state that it was passed over Johnson's veto. They do not, however, give a single reason for the veto. They also mention the Tenure of Office Act and the Army Appropriation Bill of March 2, 1867.

In general, the book treats the First Reconstruction Act, Andrew Johnson's veto of it, and his role during the Reconstruction Period superficially. In addition, the authors accept stereotyped explanations of the period.

They clearly follow William A. Dunning's views, which have been discussed elsewhere in this dissertation. Thus the book presents a series of opinions which give an erroneous picture of the Reconstruction Period. The only eyewitness account they include is a selection chosen from Carl Schurz' report which, as we know, was done in September, 1865. The authors state that "in the triumphant North there was growing determination to have the freedmen free in practice as well as in name" (p. 326). The authors never explain the meaning of this sentence, but it can be interpreted to mean that Northerners wanted equality for the Negro, something which was not true.

Another peculiarity of the book is that the Radicals are presented as a vengeful group who declared that "the seceded states must be treated without mercy" (p. 328). I pointed out previously that the First Reconstruction Act, which passed Congress on March 2, 1867, was not the bill introduced by Stevens, but the final draft as amended by John Sherman. When the authors state that the Radicals "called vindictively for a fundamental rearrangement of the relationship between the former Confederate states and the Union" (p. 328), they give the impression that the Radicals formed a solid group, which tried to impose harsh measures upon the South without any valid reason. This statement is invalid according to my research.

Graff and Krout accept the legend that Johnson's

wife taught him to read and write (p. 328), a fiction denied by modern historians, as I indicated before. For some reason, they enumerate the positions which Johnson had held during his career as: "mayor, state legislator, governor, military governor of Tennessee, and vice-president of the United States" (p. 328). They ignore the years 1829-1831, during which he served three terms as alderman; the years 1843-1853, during which he served five consecutive terms as United States Congressman; and the years 1857-1862, in which he was a United States Senator.

The authors also present three short biographies of the "men" of the period. The men they include are Charles Sumner, Thaddeus Stevens, and Benjamin F. Wade (p. 329). Although these biographies support Dunning's views on reconstruction, the authors overlook the positions of other moderate politicians, such as William P. Fessenden, James G. Blaine, John Sherman, and Samuel Shellabarger, all of whom played important roles during the period, especially during the discussion of the First Reconstruction Act.

For Graff and Krout, the Radicals made their "first successful move in 1865, when Congress created the Freedmen's Bureau" (p. 330). This is a doubtful statement because the Freedmen's Bureau was established on March 3, 1865. Although Lincoln was meeting opposition in Congress, it is wrong to apply the term "Radicals" to the group that opposed him, if by Radical are meant the same individuals who

opposed Johnson in 1866. In the same manner, the authors consider General Oliver O. Howard as a Radical, a judgment subject to challenge.

The book states that the Joint Committee on Reconstruction was created "to sit as a watchdog over the President's program of reconstruction" (p. 331). As I stated before, the function of the Committee was to examine all reconstruction legislation and to formulate new measures. The Committee totally ignored the Presidential program of reconstruction.

According to Graff and Krout, Johnson's main reason for vetoing the Freedmen's Bureau Bill on February 19, 1866 was "because . . . Congress could not pass valid laws with 11 states out of the Union" (p. 331). According to the evidence presented in this dissertation, such a statement is an oversimplification. But one of the greatest misconceptions in The Adventure of the American People is contained in this statement: "During the summer of 1866, Johnson's Union party (a new party made up of his followers) held a convention at Philadelphia to prepare for the fall elections to Congress" (p. 331). Clearly the National Union Convention was only a movement; it never acquired the status of a political party.

The book points out also that the Radicals won their victory in the 1866 Congressional elections because the war casualties had created a revengeful attitude among

Northerners (p. 332). As I discussed earlier in this dissertation, this is another oversimplification. The same can be said for Graff and Krout's classifying Stanton as a "Radical spy in the President's official family" (p. 333). As the bibliography of this dissertation indicates, new historical interpretations have been reevaluating Stanton's role in the Cabinet.

Two short paragraphs (5 short sentences in all, p. 333) do not provide an adequate discussion of the First Reconstruction Act and its veto. Consequently, the book deals with these events superficially. A couple of tables or charts, showing the number of whites and Negroes in the nation during the Reconstruction Period, would have expanded the treatment of this topic.

What are the positive attributes of The Adventure of the American People? It contains at the end of each topic a number of analytical questions which might help students to clarify their own views. However, these questions are more appropriate for recall than for evaluation of the material covered. Examples of the questions are: "What did Carl Schurz say 'reconstruction' meant? How had the war affected the South economically? Socially? Politically? How did Lincoln's plan of reconstruction differ from the Radicals'?" (p. 328). A good teacher, however, can broaden these questions and use them in a more effective way. Another attribute of the book is that at the end of the

chapter a series of useful exercises are included. In order to do these exercises, the students must find information and apply it to new situations. This exercise is offered as an example. "Read Article V of the Constitution to find out in what two ways constitutional amendments may be prepared. Which method was used in the case of the Fourteenth Amendment? In the case of the Fifteenth?" (p. 342).

Another textbook used widely in American secondary schools is by Henry W. Bragdon and Samuel P. McCutchen, History of a Free People, New York, The MacMillan Co., 1967, 834 pp. This book deals with the Civil War and Reconstruction in a single chapter, pp. 347-383. It contains a good bibliography, arranged according to topics, which includes distinguished writers on the period, such as Eric L. McKitrick, David Donald, Kenneth M. Stampp, and C. Vann Woodward.

Bragdon and McCutchen summarize the First Reconstruction Act briefly, without bothering to explain how the bill became a law. They make no references to Johnson's vetoing the Act nor to the fact that Congress overrode his veto. Unless the teacher explains these actions, the students will not understand the background to the bill's passage.

The book is organized by topic, without any regard for chronology. For example, the Fourteenth and Fifteenth Amendments are discussed together. This means that the

narrative shifts from the 1866 Congressional election, to the First Reconstruction Act in 1867, to the Fourteenth and Fifteenth Amendments ratified in 1868 and 1870 respectively, and then back to the Freedmen's Bureau Bill in 1866 (p. 369). This organization is difficult to follow, especially if the student lacks a sequential knowledge of American History.

Nevertheless, this book provides a very objective account of reconstruction and presents the period as the revisionists of the Dunning school have been doing. For example, the authors make clear that "carpetbag governments were not in truth run by and for the Negro" (p. 370). In addition, they support their statements with quotations from Johnson, Senator Henry Wilson, and other politicians of the time. The authors' picture of Andrew Johnson's life is accurate and follows the interpretations of his biographers. The book analyzes Johnson's efforts to reconstruct the Southern states during 1865 in an objective way. It also includes Southern reactions to the President's measures. The authors avoid labeling the Radicals, preferring instead to consider that: "The Radical Republicans included men inspired by both self-interest and idealism, by desire for partisan advantage, and by genuine concern for the Negroes" (p. 366).

Another strong point of the book with respect to its treatment of the Reconstruction Period comes from the use

of audio-visual material. The authors chose good illustrations, which include photographs of personalities of the time; pictures of Southern cities during 1866-1877; copies of posters calling for conventions; maps giving, among other things, the dates on which the Southern states re-entered the Union; and copies of contemporary cartoons.

The exercises suggested at the end of the chapter, require students to use some skills in order to relate what is learned about reconstruction to previous events discussed in the book. Some examples of such exercises are: "In parallel columns, compare the Civil War and the American Revolution. In what ways did the Radical Republicans attack constitutional checks and balances? How did they weaken the Supreme Court? In what ways did they provide Negroes with constitutional protection of their rights as citizens?" (p. 380). In addition, the book has exercises involving map skills and an interesting exercise in which students are asked to answer who, what, and why of certain names, terms, or events.

Although the book covers the First Reconstruction Act briefly, it presents an objective picture of the Reconstruction Period. Moreover, the interpretation is well sustained by the best historians of the period. Its annotated bibliography is very good and clearly divided according to topics. This bibliography includes special

supplements, sound records, specialized references, biographies, and historical fiction.

Still another of the textbooks used in American secondary schools is by Lewis P. Todd and Merle Curti, Rise of the American Nation, New York, Harcourt, Brace, and World Co., Inc., 1966, 880 pp. The book has a Teacher's Manual and Resource Guide, a Student Workbook, and a test booklet. The textbook discusses the Reconstruction Period in Chapter 20, pp. 395-414. The First Reconstruction Act is well delineated and its requirements are explicitly described. Secondary school students should be able to understand the basic requirements of the First Reconstruction Act from the explanation given in this book. However, the authors make no reference to the motives for Johnson's veto.

The discussion of the Reconstruction Period follows a topical organization, and at the same time it is well related chronologically to other events of the period. For example, the topics are discussed as follows:

1. President Lincoln strove for lenient reconstruction.
2. The Radical Republicans developed their own program of reconstruction.
3. The Radical Republicans enacted a severe program of reconstruction.
4. Southern government was restored to white southerners.
5. New developments created a "New South" (p. 395).

This organization means that Johnson's reconstruction

measures of 1865 are followed by the discussion of the Joint Committee on Reconstruction, by the Freedmen's Bureau and Civil Rights Bills, by the "black codes," etc.

The treatment that the book gives Andrew Johnson's background is accurate, and follows the most accepted version of his biographers. The authors describe Johnson as a man with self-assurance, a fighting spirit, and the moral courage to act according to his convictions. However, they also point out correctly that Johnson lacked Lincoln's ability to adopt a flexible attitude when the situation required it. They write: "Whereas Lincoln made every effort to understand the position held by his political opponents, Johnson tended to insist upon the rightness of his own point of view. In other words, he lacked sufficient patience, tact, and political skill to provide effective leadership at this critical time" (p. 399). They also explain that Johnson antagonized the Radicals as well as the Moderates.

This book has some strong points in the way it handles the First Reconstruction Act and the Reconstruction Period as a whole. For example, the authors use footnotes in order to explain difficult terms which might disturb the flow of the narrative. The word "repudiate" is defined in a footnote when it refers to the repudiation of the Confederate debts. In addition, the book contains a series of questions and exercises, which come after each topic in

order to help the student clarify the material he has studied. An example of these questions is: "Why were the Republicans divided in their views about how the South was to be treated?" (p. 399).

The use of audio-visual material provides another of the book's strong points. A time-line, the first visual material included in the chapter, helps students to place the Reconstruction Period in its proper relationship to other historical events. The selection and use of pictures is very good and very interesting. For example, we see pictures of Lincoln's cortege, of a Freedmen's Bureau school in operation, of cartoons showing Schurz as a carpetbagger, and of Negroes in the House of Representatives of South Carolina.

In addition, the authors have inserted in the corners of some pages short summaries of events or biographies of persons who might have played important roles during the period. Because of the shortage of space, such summaries could not be included in the narrative. One of the summaries deals with Lincoln's death; another gives a biography of General Oliver O. Howard. The book also contains at the end of the chapter a section called "Tracing the Main Ideas," which attempts to pinpoint the principal ideas and to relate them sequentially. This section includes exercises which require students to use maps and charts.

The Teacher's Manual and Resource Guide, intended for use with the Rise of the American Nation, contains suggestions for helping teachers conduct their classes. This manual refers teachers to additional readings which will complement the textbook. They may be used for opening chapters and for developing certain sections of chapters with the class. Besides supplementary readings, it suggests topics for panel discussions, the use of charts and cartoons, and an exercise in identification. Audio-visual suggestions accompany all of these activities.

The Students' Workbook contains exercises related to the First Reconstruction Act which could be improved. Filling in blanks, for example, requires students to recall specific words or names. Such an exercise does not give students much of an opportunity to relate ideas. An example of a "fill-in" exercise follows: "President Lincoln believed in a policy of . . . (lenient) . . . reconstruction of the South. He was opposed by the . . . (Radical Republicans) . . . led by . . . (Thaddeus Stevens). . . . This group wanted to . . . (punish) . . . the South" (p. 97). The main objective of such an exercise is the recall of certain facts. This statement also applies to the true and false exercises contained in the Workbook.

In addition, the Todd and Curti text has a test booklet which contains 25 questions on the chapter dealing with the Reconstruction Period, 13 of which are related to

Johnson's Administration. All of the questions are multiple choice oriented toward recalling information.

In summary, Todd and Curti treat the First Reconstruction Act and its veto better than the authors of the books discussed previously. They delineate the principal steps of the Act carefully, although, like the authors of most textbooks, they ignore the veto. The treatment of the Act is objective and they avoid stereotypes. The Teacher's Manual is acceptable, but the Student's Workbook and the test booklet could be improved.

A recently published textbook which has been introduced in a selected number of American secondary schools is by Irving Bartlett, Edwin Fenton, David Fowler, and Seymour Mandelbaum, A New History of the United States: An Inquiry Approach, New York, Holt, Rinehart, and Winston, Inc., 1969, 784 pp. The book, which includes a Teacher's Guide and a test booklet, covers the Civil War and Reconstruction Period in Chapter 14, pp. 342-366. Of the texts analyzed, it is the only one which focuses more on the Reconstruction Period than on the Civil War. The chapter dealing with Reconstruction opens with an essay on the Civil War, followed by readings from historical sources and ends with an essay on Reconstruction.

The book briefly summarizes the First Reconstruction Act and notes that Congress passed it over the President's veto. Because this is a book primarily of historical selections, no reference is made to the veto or to Andrew Johnson's role during the period.

Therefore, this book should be used only by teachers who have a good knowledge of the period and who know how to stimulate a class discussion. Otherwise a lack of analysis and discussion may lead students to a misinterpretation. Let us take an example which indicates the broad knowledge which teachers need in order to explicate not only the Reconstruction Period, but the Constitution as well: "When Congress convened in March 1867, the Radicals commanded a two-thirds vote in each house, enough to override any Presidential veto" (p. 362). A good teacher should go beyond this sentence as it is written in order to broaden its meaning and to bring new concepts to bear on the discussion. The teacher should know that Congress had been in session since January, 1867, and that the Radicals had overridden Johnson's veto even before the Congressional elections of 1866, although after the elections, of course, they had more control of Congressional votes. In short, the important thing is not what the textbook says, but the explanation which teachers give to what it says.

The strong point of the book lies in its objective of guiding the student to inquire about the Reconstruction Period. This objective relegates facts to a means to an end, rather than as an end in themselves. The chronology of events, found on the first page of the chapter, allows the student to read smoothly, and without distraction, a condition that would not have been possible had he

confronted a series of dates in the narrative.

Another advantage of the book lies in its organization which leads students to reflect upon the issues of the period. By "Stating the Issue" first, students have an idea of what to expect in the chapter. The historical essays are precise, giving basic information for an overview of the Reconstruction Period. The analytical questions presented with the readings lead students to verify facts and to formulate hypothesis. The short introductions precede selections from historical sources, and the readings give more than one point of view. This gives the student a frame of reference so he may determine whether or not evidence supports a hypothesis, and he may even assess the degree to which a statement in an article is factually accurate.

Although the book does not give details about the First Reconstruction Act and its veto, students acquire an overview of the Act as it related to the most important events in the Reconstruction Period. The Act is one part of a whole series of circumstances which together comprised the Reconstruction Period. The information provided in the historical essay is accurate and readable.

The Teacher's Guide contains the lesson plans for each chapter plus an appendix which includes copies of all class handouts. The lesson plans dealing with the Reconstruction Period stress the importance of students forming

hypotheses. This Teacher's Guide differs from those previously discussed because it contains detailed lesson plans, including objectives, materials, and teaching strategies to be used in class. One advantage of this system is that it allows teachers more time to read additional background material. Consequently, it could be expected that, under normal conditions, the teacher would have more knowledge of the topic under discussion than other teachers who had to prepare their own lesson plans.

A test booklet accompanies the text. The difference between this and the test booklets discussed previously is that it contains different types of questions and exercises in each test. The essay exercise is especially useful. In addition, the multiple choice exercises do not require a simple word for an answer. Instead students have to review what they have learned in the chapter.

How do the textbooks used in the Puerto Rican secondary schools deal with the First Reconstruction Act and its veto?[1] The principal textbook used during the last four years in American History courses in Puerto Rican schools was written by Antonio J. Colorado and María T. Galiñanes, América de

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[1]The Puerto Rican school system is a centralized one in which school policies for the whole Island are determined by the Department of Education. The role of the school districts is to enforce these policies. Consequently, the textbook chosen by the Department of Education will be used by all the school districts.

Todos, Chicago, Rand McNally and Co., 1963, 320 pp. The book is a translation and adaptation of the two-volume work published by Warren J. Nystrom, Emlyn D. Jones, and Helen Harter, Beyond Our Borders, 2 Vols., Chicago, Rand McNally and Co., 1958. The two volumes of the English version were condensed into one volume in Spanish.

The First Reconstruction Act as presented on pp. 189-191 of this book, is an extremely biased interpretation of the Dunning school. For the authors, the "black codes" were necessary for social protection. No effort is made to discuss the codes in their historical context. According to the authors, Congress passed the First Reconstruction Act as a punishment against Southern states for rejecting the Fourteenth Amendment in 1866. The book still refers to the reconstruction governments established in the South under Congressional terms as "federal bayonet rule governments." The book also characterizes these governments as shameful; having paid no attention to the immediate social reality; controlled by illiterate Negroes, and directed by corrupt carpetbaggers and scalawags. The carpetbaggers were Northern adventurers looking for money, while the scalawags were Southerners without scruples working for bribes. None of these stereotypes is true and are denied by any student of the field.

In addition, the book states that Thaddeus Stevens was the Speaker of the House of Representatives (it used

the word "presidente" which is the equivalent to President) in 1865. We know that this was not true. Of course no analytical questions, teacher's manual, or test booklet are used. In short, the factual mistakes and misinterpretations are so numerous that it is a pity that students have received such biased information.

Luckily for the Puerto Rican education system, the book is in process of being totally eliminated and another one is being substituted for it.[2] Meanwhile, a series of new basic books are being introduced in the principal high schools of the Island. One of these new books was prepared by Héctor Alvarez Silva and is called Documentos básicos de la historia de los Estados Unidos de América, Río Piedras, Puerto Rico, Héctor Alvarez Silva y Co., Inc., 1967, 466 pp. This book presents a selection of basic documents dealing with the history of the United States. The book is designed for use by the most advanced students. Although the idea of using original documents is good, this book provides no help in dealing with the Reconstruction Period or the First Reconstruction Act. The selection of documents is poor. Of the 67 documents which it contains, not one comes from the period between April, 1865, and the year 1877. This means that it ignores all the bills,

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[2]No one knows how long this process will take, but probably during the next two years some secondary schools will continue to use it.

resolutions, messages, amendments, and other documents of the Reconstruction Period.[3]

Another of the books which is used in the Puerto Rican secondary schools is by Allan Nevins and Henry Commager, Historia de los Estados Unidos: Biografía de un pueblo libre, Florentino M. Torner, trans., New York, Minerva Books, Ltd., 1963, 542 pp.[4] This is a translation and adaptation of the authors' English version of America: The Story of a Free People, Boston, Little, Brown, and Co., 1942, which, as we know, was later published in a series of pocket editions.

The Spanish version of this textbook is one of the most confusing pieces of literature that can be found in any school system. The book presents what is called a Congressional program of reconstruction (p. 224) in which a person with a knowledge of the Reconstruction Period can identify some aspects of the First Reconstruction Act. However, it makes no direct mention of the Act nor of

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[3]The book includes five documents of the Civil War which are: Mississippi's Secession Resolutions of 1860; Lincoln's Letter to Horace Greeley in 1862; the Emancipation Proclamation of 1863; Lincoln's Gettysburg Address in 1863; and Lincoln's Second Inaugural Message in 1865.

[4]The Department of Education has been eliminating some textbooks and introducing others gradually. Consequently, it is common to find that different school districts are using different textbooks in their American History courses. But it is improbable that one school district uses more than one textbook at a time.

its veto.

In its analysis of reconstruction, the book gives an extreme interpretation of the Dunning school. It criticizes the fact that the freedmen, "whose grandparents were probably African savages, and illiterates, and whose entire experiences were confined to the cotton fields, could be given the right to vote" (p. 225). The book also notes that Negroes and corrupt carpetbaggers (we will explain later why it did not mention scalawags) controlled the Southern governments. The authors consider these to have been the worst governments that any English-speaking country ever had. To point out other misconceptions and weaknesses in this book is beyond the scope of this work.

However, it is important to note other kinds of handicaps inherent in this book's treatment of reconstruction. Difficulties are inherent in using a book which has been translated literally. The student who reads this book will find names as Andrés Johnson (Andrew Johnson); Tadéo Stevens (Thaddeus Stevens); Carlos Sumner (Charles Sumner); Horacio Greeley (Horace Greeley); Roberto E. Lee (Robert E. Lee); and so on. However, when the translator found names or words for which there are no literal equivalents in Spanish, he assumes one of two attitudes: either he uses them in English even without quotation marks or he ignores them totally. For example, Rutherford B. Hayes remains in English because no Spanish word exists for that name. On

the same page, he uses the word "maleteros" (porters) for carpetbaggers, but he totally ignores scalawags because there is no equivalent or even an approximation in the Spanish language (p. 225). This situation will distract the attention of the readers and will confuse them by presenting words and terms in both languages. In addition, the translation sometimes does not present the same idea as the English version of the book expressed.

Moreover, the organization of the book contributes to the distraction and confusion of the reader. The book often shifts the discussion from an event in 1868 to another event in 1866 without making any connection between them. Of course, no analytical questions or suggested exercises appear anywhere in it. Since the translation is from a 1942 edition (although the book later came out in a pocket edition), the suggested bibliography for the Reconstruction Period is outdated.

The personnel of the Department of Education prepared a book, which has been introduced recently into the Puerto Rican secondary school system--Historia de los Estados Unidos de América, San Juan, Departamento de Instruccion Pública, 1968, 173 pp. The authors of this book hope to eliminate the English translations which most teachers recognize as not being appropriate for use in Puerto Rican schools. This book has five parts which correspond to the five topics of the American History

course: American Society in the Colonial Period; the Independence of the Colonies and the Formation of a New Nation; Development of American Political Practice and Tradition; Formation and Development of a Urban Industrial Society; and Foreign Policy of the United States.

This book doesn't include a single word about the Reconstruction Period nor the First Reconstruction Act. Therefore, the task of relating the five topics to the Reconstruction Period would have to be done through supplementary readings, which would depend upon the ability of the teacher to deal with additional material not appearing in the textbook. Most of these supplementary readings are still in the process of being published.

In short, a crisis exists in Puerto Rican secondary texts insofar as the treatment of the Reconstruction Period is concerned. Many difficulties stand in the way of an easy solution to the problem. The average students do not have the fluency in, nor the understanding of, the English language necessary for them to use the best American textbooks. Therefore, the practice has been to translate American history books from English into Spanish. The Department of Education is now making a laudable effort to write its own textbooks, which should provide better books than either those which have been translated from English or those from other Latin American countries which have also been translated. However, this effort is just

beginning and much work remains to be done. During the next five years, however, new texts should be produced so that Puerto Rican schools may be able to select better books for their students.

The discussion in this chapter has indicated what a fair textbook should offer its readers. However, a more complete presentation of the First Reconstruction Act and its veto would be very useful so that students may have a more complete picture of the period. From the point of view of students, the treatment of the veto is not, of course, as important as a fuller treatment of the whole Reconstruction Period.

In our time, the First Reconstruction Act and the Reconstruction Period are of particular importance, because some of our most important contemporary problems have their roots in the issues of that period. The struggle of minority groups for equal rights can be traced back to reconstruction. An interesting comparison could be made between the attempts of the federal government to protect the Negro and Southern opposition to its efforts. If a teacher wanted to present the relationship between the issues of reconstruction and those of the present time, he might focus on the First Reconstruction Act and its veto.

Such a teacher should use readings to supplement the original text of the Act and its veto. Additional material would allow students to discover the issues of the

Reconstruction Period. In addition to government documents, other primary sources from which appropriate excerpts might be taken are: the Diary of Gideon Welles, Howard K. Beale ed., III, Boston and New York, Houghton Mifflin Co., 1960; The Diary of Orville Hickman Browning, 1865-1881, James G. Randall, ed., II, Springfield, Illinois State Historical Library, 1933; and The Diary of George Templeton Strong, Allan Nevins and Milton H. Thomas, eds., IV, New York, The MacMillan Co., 1952. All of these persons attacked Congressional Reconstruction. Excerpts from the Autobiography of Oliver Otis Howard, II, New York, The Baker and Taylor Co., 1907, and from The Autobiography of Carl Schurz, Wayne Andrews, ed., New York, Charles Scribner's Sons, 1961, could be used in order to clarify the arguments of those who supported the Congressional programs. The teacher might also use excerpts from secondary sources, such as Milton Lomask, "When Congress Tried to Rule," American Heritage, XI, December 1959, pp. 60-61, and Margaret Green, Defender of the Constitution: Andrew Johnson, New York, Julian Messner Inc., 1962. Both of these authors oppose Congressional Reconstruction. W. R. Brock (An American Crisis: Congress and Reconstruction, 1865-1867, 1963) and Kenneth M. Stampp (The Era of Reconstruction, 1966) present a favorable picture of Congressional Reconstruction. Of course, any readings used should be adapted to the reading level of the students.

Moreover, the teacher should consider the conflicting

interpretations of the Reconstruction Period as one way of presenting a more balanced view of it. For example, he might offer the interpretation that Congressional reconstruction was wicked because a Radical minority controlled by different interests proposed it and because it did more harm than good in the South. Historians such as William A. Dunning, George F. Milton, Claude G. Bowers, and Walter L. Fleming have subscribed to this thesis.

The teacher should also present other interpretations. He might explain the thesis which defends Congressional measures and even insists that the great mistake of the Radicals was that their reconstruction measures did not go far enough in restructuring Southern society. W. E. B. Du Bois, John H. Franklin, Harvey Wish, and W. R. Brock have argued this position. To these interpretations, the teacher might add specific analyses of the period, such as the economic study done by Howard K. Beale and the racial interpretations done by John H. and Lawanda Cox and James McPherson. To broaden these interpretations further, the teacher might use other recent studies such as the one done by Vernon L. Wharton who analyzes the role of the Negro in Mississippi politics during the period.[5]

Andrew Johnson's veto of the First Reconstruction Act also allows teachers and students of history to investigate

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[5]For further discussion of and references to these historians see pp. 11-19. The best way to deal with these interpretations is through the inquiry method in which the teacher allows the students to analyze the material in order to reach their own conclusions.

the way decisions are made in a democracy. Through the study of this historical event, the students will learn about forces operating in the society which a President must take into account. They will learn that the process of reaching a decision is complex.

The way Johnson made decisions could well be compared to the way other Presidents have made decisions in order to illustrate the different and varied forces which a President has to consider before deciding on a course of action. For example, students might compare Johnson's veto with President Harry S. Truman's decisions to drop the atomic bomb in Japan, to initiate the "Truman Doctrine," and to remove General Douglas MacArthur from his command in Korea and Japan.

Moreover, a study of the First Reconstruction Act may also be useful to teachers and students of history in helping them to understand the study of the discipline itself. By a close examination of a specific event, students might find out that some statements in textbooks ought to be questioned. If students develop an open mind in the analysis of historical events, they will have a good opportunity to do well in future studies. It is more important for them to understand history as a process subject to continuing reinterpretation, than as a product to be memorized.

In conclusion, the contemporary issues facing teachers and students demand a more comprehensive study of the First Reconstruction Act and of the Reconstruction Period. The teacher should use the Act, its veto, and other issues of the Reconstruction Period as one means of helping students to understand better the conflicts and problems of the times in which they live as well as the nature of the historical process.

APPENDICES

APPENDIX A

Text of the First Reconstruction Act, March 2, 1867[1]

Reconstruction Act of Thirty-Ninth Congress.

AN ACT to provide for the more efficient government of the rebel States.

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore

Be it enacted, &c., That said rebel States shall be divided into military districts and made subject to the military authority of the United States, as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

Sec. 2. That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3. That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end

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[1]For references regarding the bill see Edward McPherson, ed., The Political History of the United States During the Period of Reconstruction, Washington, Salomons and Chapman, 1875, pp. 191-192; and American Annual Cyclopedia, New York, D. Appleton and Co., 1867, pp. 657-658.

he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

Sec. 4. That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: Provided, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

Sec. 5. That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the

convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

Sec. 6. That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

APPENDIX B

Text of

Andrew Johnson's Veto of the First Reconstruction Act, March 2, 1867[1]

I have examined the bill "to provide for the more efficient government of the rebel States" with the care and anxiety which its transcendent importance is calculated to awaken. I am unable to give it my assent, for reasons so grave that I hope a statement of them may have some influence on the minds of the patriotic and enlightened men with whom the decision must ultimately rest.

The bill places all the people of the ten States therein named under the absolute domination of military rulers; and the preamble undertakes to give the reason upon which the measure is based and the ground upon which it is justified. It declares that there exists in those States no legal governments and no adequate protection for life or property, and asserts the necessity of enforcing peace and good order within their limits. Is this true as matter of fact?

It is not denied that the States in question have each of them an actual government, with all the powers--executive, judicial, and legislative--which properly belong to a free state. They are organized like the other States of the Union, and, like them, they make, administer, and execute the laws which concern their domestic affairs. An existing de facto government, exercising such functions as these, is itself the law of the state upon all matters within its

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[1]For references regarding Johnson's veto see Edward McPherson, ed., The Political History of the United States of America During the Period of Reconstruction, Washington, Solomons and Chapman, 1875, pp. 166-172; James D. Richardson, ed., A Compilation of the Messages and Papers of the Presidents, VIII, Washington, Bureau of National Literature and Art, 1897, pp. 3696-3709; and American Annual Cyclopedia, New York, D. Appleton and Co., 1867, pp. 652-657.

jurisdiction. To pronounce the supreme lawmaking power of an established state illegal is to say that law itself is unlawful.

The provisions which these governments have made for the preservation of order, the suppression of crime, and the redress of private injuries are in substance and principle the same as those which prevail in the Northern States and in other civilized countries. They certainly have not succeeded in preventing the commission of all crime, nor has this been accomplished anywhere in the world. There, as well as elsewhere, offenders sometimes escape for want of vigorous prosecution, and occasionally, perhaps, by the inefficiency of courts or the prejudice of jurors. It is undoubtedly true that these evils have been much increased and aggravated, North and South, by the demoralizing influences of civil war and by the rancorous passions which the contest has engendered. But that these people are maintaining local governments for themselves which habitually defeat the object of all government and render their own lives and property insecure is in itself utterly improbable, and the averment of the bill to that effect is not supported by any evidence which has come to my knowledge. All the information I have on the subject convinces me that the masses of the Southern people and those who control their public acts, while they entertain diverse opinions on questions of Federal policy, are completely united in the effort to reorganize their society on the basis of peace and to restore their mutual prosperity as rapidly and as completely as their circumstances will permit.

The bill, however, would seem to show upon its face that the establishment of peace and good order is not its real object. The fifth section declares that the preceding sections shall cease to operate in any State where certain events shall have happened. These events are, first, the selection of delegates to a State convention by an election at which negroes shall be allowed to vote; second, the formation of a State constitution by the convention so chosen; third, the insertion into the State constitution of a provision which will secure the right of voting at all elections to negroes and to such white men as may not be disfranchised for rebellion or felony; fourth, the submission of the constitution for ratification to negroes and white men not disfranchised, and its actual ratification by their vote; fifth, the submission of the State constitution to Congress for examination and approval, and the actual approval of it by that body; sixth, the adoption of a certain amendment to the Federal Constitution by a vote of the legislature elected under the new constitution; seventh, the adoption of said amendment by a sufficient number of other States to make it

a part of the Constitution of the United States. All these conditions must be fulfilled before the people of any of these States can be relieved from the bondage of military domination; but when they are fulfilled, then immediately the pains and penalties of the bill are to cease, no matter whether there be peace and order or not, and without any reference to the security of life or property. The excuse given for the bill in the preamble is admitted by the bill itself not to be real. The military rule which it establishes is plainly to be used, not for any purpose of order or for the prevention of crime, but solely as a means of coercing the people into the adoption of principles and measures to which it is known that they are opposed, and upon which they have an undeniable right to exercise their own judgment.

I submit to Congress whether this measure is not in its whole character, scope, and object without precedent and without authority, in palpable conflict with the plainest provisions of the Constitution, and utterly destructive to those great principles of liberty and humanity for which our ancestors on both sides of the Atlantic have shed so much blood and expended so much treasure.

The ten States named in the bill are divided into five districts. For each district an officer of the Army, not below the rank of a brigadier-general, is to be appointed to rule over the people; and he is to be supported with an efficient military force to enable him to perform his duties and enforce his authority. Those duties and that authority, as defined by the third section of the bill, are "to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace or criminals." The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the States is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority to be null and void. He alone is permitted to determine what are rights of person or property, and he may protect them in such way as in his discretion may seem proper. It places at his free disposal all the lands and goods in his district, and he may distribute them without let or hindrance to whom he pleases. Being bound by no State law, and there being no other law to regulate the subject, he may make a criminal code of his own; and he can make it as bloody as any recorded in history, or he can reserve the privilege of acting upon the impulse

of his private passions in each case that arises. He is bound by no rules of evidence; there is, indeed, no provision by which he is authorized or required to take any evidence at all. Everything is a crime which he chooses to call so, and all persons are condemned whom he pronounces to be guilty. He is not bound to keep any record or make any report of his proceedings. He may arrest his victims wherever he finds them, without warrant, accusation, or proof of probable cause. If he gives them a trial before he inflicts the punishment, he gives it of his grace and mercy, not because he is commanded so to do.

To a casual reader of the bill it might seem that some kind of trial was secured by it to persons accused of crime, but such is not the case. The officer "may allow local civil tribunals to try offenders," but of course this does not require that he shall do so. If any State or Federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up and punish the judges and jurors as being themselves malefactors. He can save his friends from justice, and despoil his enemies contrary to justice.

It is also provided that "he shall have power to organize military commissions or tribunals;" but this power he is not commanded to exercise. It is merely permissive, and is to be used only "when in his judgment it may be necessary for the trial of offenders." Even if the sentence of a commission were made a prerequisite to the punishment of a party, it would be scarcely the slightest check upon the officer, who has authority to organize it as he pleases, prescribe its mode of proceeding, appoint its members from his own subordinates, and revise all its decisions. Instead of mitigating the harshness of his single rule, such a tribunal would be used much more probably to divide the responsibility of making it more cruel and unjust.

Several provisions dictated by the humanity of Congress have been inserted in the bill, apparently to restrain the power of the commanding officer; but it seems to me that they are of no avail for that purpose. The fourth section provides: First. That trials shall not be unnecessarily delayed; but I think I have shown that the power is given to punish without trial; and if so, this provision is practically inoperative. Second. Cruel or unusual punishment is not to be inflicted; but who is to decide what is cruel and what is unusual? The words have acquired a legal meaning by long use in the courts. Can it be expected that military officers will understand or follow a rule expressed in language so purely technical and not pertaining in the least degree to

their profession? If not, then each officer may define cruelty according to his own temper, and if it is not usual he will make it usual. Corporal punishment, imprisonment, the gag, the ball and chain, and all the almost insupportable forms of torture invented for military punishment lie within the range of choice. Third. The sentence of a commission is not to be executed without being approved by the commander, if it affects life or liberty, and a sentence of death must be approved by the President. This applies to cases in which there has been a trial and sentence. I take it to be clear, under this bill, that the military commander may condemn to death without even the form of a trial by a military commission, so that the life of the condemned may depend upon the will of two men instead of one.

It is plain that the authority here given to the military officer amounts to absolute despotism. But to make it still more unendurable, the bill provides that it may be delegated to as many subordinates as he chooses to appoint, for it declares that he shall "punish or cause to be punished." Such a power has not been wielded by any monarch in England for more than five hundred years. In all that time no people who speak the English language have borne such servitude. It reduces the whole population of the ten States--all persons, of every color, sex, and condition, and every stranger within their limits--to the most abject and degrading slavery. No master ever had a control so absolute over the slaves as this bill gives to the military officers over both white and colored persons.

It may be answered to this that the officers of the Army are too magnanimous, just, and humane to oppress and trample upon a subjugated people. I do not doubt that army officers are as well entitled to this kind of confidence as any other class of men. But the history of the world has been written in vain if it does not teach us that unrestrained authority can never be safely trusted in human hands. It is almost sure to be more or less abused under any circumstances, and it has always resulted in gross tyranny where the rulers who exercise it are strangers to their subjects and come among them as the representatives of a distant power, and more especially when the power that sends them is unfriendly. Governments closely resembling that here proposed have been fairly tried in Hungary and Poland, and the suffering endured by those people roused the sympathies of the entire world. It was tried in Ireland, and though tempered at first by principles of English law, it gave birth to cruelties so atrocious that they are never recounted without just indignation. The French Convention armed its deputies with this power and sent them to the southern departments of the Republic. The massacres, murders, and other

atrocities which they committed show what the passions of the ablest men in the most civilized society will tempt them to do when wholly unrestrained by law.

The men of our race in every age have struggled to tie up the hands of their governments and keep them within the law, because their own experience of all mankind taught them that rulers could not be relied on to concede those rights which they were not legally bound to respect. The head of a great empire has sometimes governed it with a mild and paternal sway, but the kindness of an irresponsible deputy never yields what the law does not extort from him. Between such a master and the people subjected to his domination there can be nothing but enmity; he punishes them if they resist his authority, and if they submit to it he hates them for their servility.

I come now to a question which is, if possible, still more important. Have we the power to establish and carry into execution a measure like this? I answer, Certainly not, if we derive our authority from the Constitution and if we are bound by the limitations which it imposes.

This proposition is perfectly clear, that no branch of the Federal Government--executive, legislative, or judicial--can have any just powers except those which it derives through and exercises under the organic law of the Union. Outside of the Constitution we have no legal authority more than private citizens, and within it we have only so much as that instrument gives us. This broad principle limits all our functions and applies to all subjects. It protects not only the citizens of States which are within the Union, but it shields every human being who comes or is brought under our jurisdiction. We have no right to do in one place more than in another that which the Constitution says we shall not do at all. If, therefore, the Southern States were in truth out of the Union, we could not treat their people in a way which the fundamental law forbids.

Some persons assume that the success of our arms in crushing the opposition which was made in some of the States to the execution of the Federal laws reduced those States and all their people--the innocent as well as the guilty--to the condition of vassalage and gave us a power over them which the Constitution does not bestow or define or limit. No fallacy can be more transparent than this. Our victories subjected the insurgents to legal obedience, not to the yoke of an arbitrary despotism. When an absolute sovereign reduces his rebellious subjects, he may deal with them according to his pleasure, because he had that power before. But when

a limited monarch puts down an insurrection, he must still govern according to law. If an insurrection should take place in one of our States against the authority of the State government and end in the overthrow of those who planned it, would that take away the rights of all the people of the counties where it was favored by a part or a majority of the population? Could they for such a reason be wholly outlawed and deprived of their representation in the legislature? I have always contended that the Government of the United States was sovereign within its constitutional sphere; that it executed its laws, like the States themselves, by applying its coercive power directly to individuals, and that it could put down insurrection with the same effect as a State and no other. The opposite doctrine is the worst heresy of those who advocated secession, and can not be agreed to without admitting that heresy to be right.

Invasion, insurrection, rebellion, and domestic violence were anticipated when the Government was framed, and the means of repelling and suppressing them were wisely provided for in the Constitution; but it was not thought necessary to declare that the States in which they might occur should be expelled from the Union. Rebellions, which were invariably suppressed, occurred prior to that out of which these questions grow; but the States continued to exist and the Union remained unbroken. In Massachusetts, in Pennsylvania, in Rhode Island, and in New York, at different periods in our history, violent and armed opposition to the United States was carried on; but the relations of those States with the Federal Government were not supposed to be interrupted or changed thereby after the rebellious portions of their population were defeated and put down. It is true that in these earlier cases there was no formal expression of a determination to withdraw from the Union, but it is also true that in the Southern States the ordinances of secession were treated by all the friends of the Union as mere nullities and are now acknowledged to be so by the States themselves. If we admit that they had any force or validity or that they did in fact take the States in which they were passed out of the Union, we sweep from under our feet all the grounds upon which we stand in justifying the use of Federal force to maintain the integrity of the Government.

This is a bill passed by Congress in time of peace. There is not in any one of the States brought under its operation either war or insurrection. The laws of the States and of the Federal Government are all in undisturbed and harmonious operation. The courts, State and Federal, are open and in the full exercise of their proper authority. Over every State comprised in these five military districts, life,

liberty, and property are secured by State laws and Federal laws, and the National Constitution is everywhere in force and everywhere obeyed. What, then, is the ground on which this bill proceeds? The title of the bill announces that it is intended "for the more efficient government" of these ten States. It is recited by way of preamble that no legal State governments "nor adequate protection for life or property" exist in those States, and that peace and good order should be thus enforced. The first thing which arrests attention upon these recitals, which prepare the way for martial law, is this, that the only foundation upon which martial law can exist under our form of government is not stated or so much as pretended. Actual war, foreign invasion, domestic insurrection--none of these appear; and none of these, in fact, exist. It is not even recited that any sort of war or insurrection is threatened. Let us pause here to consider, upon this question of constitutional law and the power of Congress, a recent decision of the Supreme Court of the United States in ex parte Milligan.

I will first quote from the opinion of the majority of the court:

> Martial law can not arise from a threatened invasion. The necessity must be actual and present, the invasion real, such as effectually closes the courts and deposes the civil administration.

We see that martial law comes in only when actual war closes the courts and deposes the civil authority; but this bill, in time of peace, makes martial law operate as though we were in actual war, and becomes the cause instead of the consequence of the abrogation of civil authority. One more quotation:

> It follows from what has been said on this subject that there are occasions when martial law can be properly applied. If in foreign invasion or civil war the courts are actually closed, and it is impossible to administer criminal justice according to law, then, on the theater of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course.

I now quote from the opinion of the minority of the

court, delivered by Chief Justice Chase:

> We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists. Where peace exists, the laws of peace must prevail.

This is sufficiently explicit. Peace exists in all the territory to which this bill applies. It asserts a power in Congress, in time of peace, to set aside the laws of peace and to substitute the laws of war. The minority, concurring with the majority, declares that Congress does not possess that power. Again, and, if possible, more emphatically, the Chief Justice, with remarkable clearness and condensation, sums up the whole matter as follows:

> There are under the Constitution three kinds of military jurisdiction--one to be exercised both in peace and war; another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within States or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of the States maintaining adhesion to the National Government, when the public danger requires its exercise. The first of these may be called jurisdiction under military law, and is found in acts of Congress prescribing rules and articles of war or otherwise providing for the government of the national forces; the second may be distinguished as military government, superseding as far as may be deemed expedient the local law, and exercised by the military commander under the direction of the President, with the express or implied sanction of Congress; while the third may be denominated martial law proper, and is called into action by Congress, or temporarily, when the action of Congress can not be invited, and in the case of justifying or excusing peril, by the President, in times of insurrection or invasion or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights.

It will be observed that of the three kinds of military jurisdiction which can be exercised or created under our Constitution there is but one that can prevail in time of peace, and that is the code of laws enacted by Congress for

the government of the national forces. That body of military law has no application to the citizen, nor even to the citizen soldier enrolled in the militia in time of peace. But this bill is not a part of that sort of military law, for that applies only to the soldier and not to the citizen, whilst, contrariwise, the military law provided by this bill applies only to the citizen and not to the soldier.

I need not say to the representatives of the American people that their Constitution forbids the exercise of judicial power in any way but one--that is, by the ordained and established courts. It is equally well known that in all criminal cases a trial by jury is made indispensable by the express words of that instrument. I will not enlarge on the inestimable value of the right thus secured to every freeman or speak of the danger to public liberty in all parts of the country which must ensue from a denial of it anywhere or upon any pretense. A very recent decision of the Supreme Court has traced the history, vindicated the dignity, and made known the value of this great privilege so clearly that nothing more is needed. To what extent a violation of it might be excused in time of war or public danger may admit of discussion, but we are providing now for a time of profound peace, when there is not an armed soldier within our borders except those who are in the service of the Government. It is in such a condition of things that an act of Congress is proposed which, if carried out, would deny a trial by the lawful courts and juries to 9,000,000 American citizens and to their posterity for an indefinite period. It seems to be scarcely possible that anyone should seriously believe this consistent with a Constitution which declares in simple, plain, and unambiguous language that all persons shall have that right and that no person shall ever in any case be deprived of it. The Constitution also forbids the arrest of the citizen without judicial warrant, founded on probable cause. This bill authorizes an arrest without warrant, at the pleasure of a military commander. The Constitution declares that "no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury." This bill holds every person not a soldier answerable for all crimes and all charges without any presentment. The Constitution declares that "no person shall be deprived of life, liberty, or property without due process of law." This bill sets aside all process of law, and makes the citizen answerable in his person and property to the will of one man, and as to his life to the will of two. Finally, the Constitution declares that "the privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it;" whereas this bill declares

martial law (which of itself suspends this great writ) in time of peace, and authorizes the military to make the arrest, and gives to the prisoner only one privilege, and that is a trial "without unnecessary delay." He has no hope of release from custody, except the hope, such as it is, of release by acquittal before a military commission.

The United States are bound to guarantee to each State a republican form of government. Can it be pretended that this obligation is not palpably broken if we carry out a measure like this, which wipes away every vestige of republican government in ten States and puts the life, property, liberty, and honor of all the people in each of them under the domination of a single person clothed with unlimited authority?

The Parliament of England, exercising the omnipotent power which it claimed, was accustomed to pass bills of attainder; that is to say, it would convict men of treason and other crimes by legislative enactment. The person accused had a hearing, sometimes a patient and fair one, but generally party prejudice prevailed instead of justice. It often became necessary for Parliament to acknowledge its error and reverse its own action. The fathers of our country determined that no such thing should occur here. They withheld the power from Congress, and thus forbade its exercise by that body, and they provided in the Constitution that no State should pass any bill of attainder. It is therefore impossible for any person in this country to be constitutionally convicted or punished for any crime by a legislative proceeding of any sort. Nevertheless, here is a bill of attainder against 9,000,000 people at once. It is based upon an accusation so vague as to be scarcely intelligible and found to be true upon no credible evidence. Not one of the 9,000,000 was heard in his own defense. The representatives of the doomed parties were excluded from all participation in the trial. The conviction is to be followed by the most ignominious punishment ever inflicted on large masses of men. It disfranchises them by hundreds of thousands and degrades them all, even those who are admitted to be guiltless, from the rank of freemen to the condition of slaves.

The purpose and object of the bill--the general intent which pervades it from beginning to end--is to change the entire structure and character of the State governments and to compel them by force to the adoption of organic laws and regulations which they are unwilling to accept if left to themselves. The negroes have not asked for the privilege of voting, the vast majority of them have no idea what it means. This bill not only thrusts it into their hands, but compels them, as well as the whites, to use it in a particular way.

If they do not form a constitution with prescribed articles in it and afterwards elect a legislature which will act upon certain measures in a prescribed way, neither blacks nor whites can be relieved from the slavery which the bill imposes upon them. Without pausing here to consider the policy or impolicy of Africanizing the southern part of our territory, I would simply ask the attention of Congress to that manifest, well-known, and universally acknowledged rule of constitutional law which declares that the Federal Government has no jurisdiction, authority, or power to regulate such subjects for any State. To force the right of suffrage out of the hands of the white people and into the hands of the negroes is an arbitrary violation of this principle.

This bill imposes martial law at once, and its operations will begin so soon as the general and his troops can be put in place. The dread alternative between its harsh rule and compliance with the terms of this measure is not suspended, nor are the people afforded any time for free deliberation. The bill says to them, take martial law first, then deliberate. And when they have done all that this measure requires them to do other conditions and contingencies over which they have no control yet remain to be fulfilled before they can be relieved from martial law. Another Congress must first approve the Constitution made in conformity with the will of this Congress and must declare these States entitled to representation in both Houses. The whole question thus remains open and unsettled and must again occupy the attention of Congress; and in the meantime the agitation which now prevails will continue to disturb all portions of the people.

The bill also denies the legality of the governments of ten of the States which participated in the ratification of the amendment to the Federal Constitution abolishing slavery forever within the jurisdiction of the United States and practically excludes them from the Union. If this assumption of the bill be correct, their concurrence can not be considered as having been legally given, and the important fact is made to appear that the consent of three-fourths of the States--the requisite number--has not been constitutionally obtained to the ratification of that amendment, thus leaving the question of slavery where it stood before the amendment was officially declared to have become a part of the Constitution.

That the measure proposed by this bill does violate the Constitution in the particulars mentioned and in many other ways which I forbear to enumerate is too clear to admit of the least doubt. It only remains to consider whether the injunctions of that instrument ought to be

obeyed or not. I think they ought to be obeyed, for reasons which I will proceed to give as briefly as possible.

In the first place, it is the only system of free government which we can hope to have as a nation. When it ceases to be the rule of our conduct, we may perhaps take our choice between complete anarchy, a consolidated despotism, and a total dissolution of the Union; but national liberty regulated by law will have passed beyond our reach.

It is the best frame of government the world ever saw. No other is or can be so well adapted to the genius, habits, or wants of the American people. Combining the strength of a great empire with unspeakable blessings of local self-government, having a central power to defend the general interests, and recognizing the authority of the States as the guardians of industrial rights, it is "the sheet anchor of our safety abroad and our peace at home." It was ordained "to form a more perfect union, establish justice, insure domestic tranquillity, promote the general welfare, provide for the common defense, and secure the blessings of liberty to ourselves and to our posterity." These great ends have been attained heretofore, and will be again by faithful obedience to it; but they are certain to be lost if we treat with disregard its sacred obligations.

It was to punish the gross crime of defying the Constitution and to vindicate its supreme authority that we carried on a bloody war of four years' duration. Shall we now acknowledge that we sacrificed a million of lives and expended billions of treasure to enforce a Constitution which is not worthy of respect and preservation?

Those who advocated the right of secession alleged in their own justification that we had no regard for law and that their rights of property, life, and liberty would not be safe under the Constitution as administered by us. If we now verify their assertion, we prove that they were in truth and in fact fighting for their liberty, and instead of branding their leaders with the dishonoring name of traitors against a righteous and legal government we elevate them in history to the rank of self-sacrificing patriots, consecrate them to the admiration of the world, and place them by the side of Washington, Hampden, and Sidney. No; let us leave them to the infamy they deserve, punish them as they should be punished, according to law, and take upon ourselves no share of the odium which they should bear alone.

It is a part of our public history which can never be forgotten that both Houses of Congress, in July, 1861,

declared in the form of a solemn resolution that the war was and should be carried on for no purpose of subjugation, but solely to enforce the Constitution and laws, and that when this was yielded by the parties in rebellion the contest should cease, with the constitutional rights of the States and of individuals unimpaired. This resolution was adopted and sent forth to the world unanimously by the Senate and with only two dissenting voices in the House. It was accepted by the friends of the Union in the South as well as in the North as expressing honestly and truly the object of the war. On the faith of it many thousands of persons in both sections gave their lives and their fortunes to the cause. To repudiate it now by refusing to the States and to the individuals within them the rights which the Constitution and laws of the Union would secure to them is a breach of our plighted honor for which I can imagine no excuse and to which I can not voluntarily become a party.

The evils which spring from the unsettled state of our Government will be acknowledged by all. Commercial intercourse is impeded, capital is in constant peril, public securities fluctuate in value, peace itself is not secure, and the sense of moral and political duty is impaired. To avert these calamities from our country it is imperatively required that we should immediately decide upon some course of administration which can be steadfastly adhered to. I am thoroughly convinced that any settlement or compromise or plan of action which is inconsistent with the principles of the Constitution will not only be unavailing, but mischievous; that it will but multiply the present evils, instead of removing them. The Constitution, in its whole integrity and vigor, throughout the length and breadth of the land, is the best of all compromises. Besides, our duty does not, in my judgment, leave us a choice between that and any other. I believe that it contains the remedy that is so much needed, and that if the coordinate branches of the Government would unite upon its provisions they would be found broad enough and strong enough to sustain in time of peace the nation which they bore safely through the ordeal of a protracted civil war. Among the most sacred guaranties of that instrument are those which declare that "each State shall have at least one Representative," and that "no State, without its consent, shall be deprived of its equal suffrage in the Senate." Each House is made the "judge of the elections, returns, and qualifications of its own members," and may, "with the concurrence of two-thirds, expel a member." Thus, as heretofore urged, "in the admission of Senators and Representatives from any and all of the States there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation, for

this could not happen when the Constitution and the laws are enforced by a vigilant and faithful Congress." "When a Senator or Representative presents his certificate of election, he may at once be admitted or rejected; or, should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee. If admitted to a seat, it must be upon evidence satisfactory to the House of which he thus becomes a member that he possesses the requisite constitutional and legal qualifications. If refused admission as a member for want of due allegiance to the Government, and returned to his constituents, they are admonished that none but persons loyal to the United States will be allowed a voice in the legislative councils of the nation, and the political power and moral influence of Congress are thus effectively exerted in the interests of loyalty to the Government and fidelity to the Union." And is it not far better that the work of restoration should be accomplished by simple compliance with the plain requirements of the Constitution than by a recourse to measures which in effect destroy the States and threaten the subversion of the General Government? All that is necessary to settle this simple but important question without further agitation or delay is a willingness on the part of all to sustain the Constitution and carry its provisions into practical operation. If to-morrow either branch of Congress would declare that upon the presentation of their credentials members constitutionally elected and loyal to the General Government would be admitted to seats in Congress, while all others would be excluded and their places remain vacant until the selection by the people of loyal and qualified persons, and if at the same time assurance were given that this policy would be continued until all the States were represented in Congress, it would send a thrill of joy throughout the entire land, as indicating the inauguration of a system which must speedily bring tranquillity to the public mind.

While we are legislating upon subjects which are of great importance to the whole people, and which must affect all parts of the country, not only during the life of the present generation, but for ages to come, we should remember that all men are entitled at least to a hearing in the councils which decide upon the destiny of themselves and their children. At present ten States are denied representation, and when the Fortieth Congress assembles on the 4th day of the present month sixteen States will be without a voice in the House of Representatives. This grave fact, with the important questions before us, should induce us to pause in a course of legislation which, looking solely to the

attainment of political ends, fails to consider the rights it transgresses, the law which it violates, or the institutions which it imperils.

ANDREW JOHNSON.

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