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Re: Outline for Congressional (Radical) Reconstruction

I. Congressional Republicans (Radicals) Oppose Johnson

A. Irritations and Anxieties

1. Understand: That Johnson went ahead w/ his own reconstruction program without calling Congress into any emergency session. Despite the warning of the Wade-Davis Bill. (It is not likely Lincoln would have done it this way). Johnson seemed determined to act without the advice and consent of the Congress or to bring them into the process. Congress was not scheduled to convene until the Fall of 1865. The, according to Johnson, I suppose to ratify his program and his governments in the South.

2. The Republican dilemma: They could have gone along w/ Johnson's program and permitted the former Confederate states to rejoin the Union. It would have been easy. There were certain advantages in a rapid reunion.

Interpretation: But the party decided to oppose Johnson. And PRINCIPLE was a strong consideration. This was one of those almost unique times in American politics when men and the times came together when men in power reacted (at least in part) on the basis of principle rather than political expediency.

Mention that the party was also divided on many issues of Reconstruction: enfranchisement, confiscation, some wanted the South to go through a long probatiuonary period before allowed back into the Union, etc.

But the majority of the party members were able to agree on a irreducible minimum: protection for the civil liberties and civil rights of all men in the South, black as well as white.

Must add that the party (or the majority of moderates) did not relish the idea of taking on the President in some party struggle with the titular head of the party. No politicians ever do.

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Notes/Outline w/ Congressional Reconstruction

B. Presidential Obstructionism

1. Johnson's Ringing Vetoes:

a. The Freedman's Bureau Bill(1866). This was the Trumbull extension of the Freedman's Bureau

---See notes on Freedman's Bureau

b. Johnson's Veto of the Civil Rights Bill (1866)

The Republicans would have swallowed the veto of the Freedman's Bureau. But they could not stand by while he vetoed the Civil Rights Bill. This was a Presidential declaration of war and Johnson knew it.

--see notes on the Civil Rights Bill

C. Election of 1866

1. Johnson repudiated by the North/ explain

D. The 14th Amendment and Congressional Reconstruction Acts

II. Congressional Reconstruction(1867-1877)

III. "Radicals" Oppose Johnson

A. Irritations and Anxieties:

1. Make point about the Johnson govts. Especially refer to Franklin's chapter "Reconstruction: Confederate Style"

a. Republican moderates (core of the party) were not enthusiastic about these govts. For obvious reasons. But many were willing to give Johnson his head on the basis that he was "experimenting" They took a wait and see attitude.

b. Republican moderates did not want to engage in a party struggle with their party leader. No politicians ever do.

2. Make point, however, that there was a great deal at stake politically.

a. Republicans expected to dominate the national politics of the Union as a result of their success in putting down the "Rebellion."

b. The GOP stood for certain definite programs with definite constituent appeal in the North.

- (1). Banking policy
- (2). Homestead Act
- (3). Tariff policy--protective
- (4). Immigration policy
- (5). Railroad policy

c. Moreover, with the 13th Amendment freeing the slaves now nullified the old 3/5's compromise in Article I, section # 2 of the Constitution. What this meant was that the former rebel states stood to gain 12 seats in the House if all Negroes were counted (and about 18 fewer seats if none were counted). It simply did not make sense to reward the southern states at the expense of the victorious northern states. This would be the case if the southern states did not permit the black man to have the vote.

(1) What made Republicans anxious was the possibility of southern Democrats and northern Democrats realigning and overthrowing GOP programs in Congress.

3 paragraphs of text - See Appendix sheet

C. B. The "second Fort Sumter"

1. Johnson's veto of the "reedman's Bureau Bill"

Notes on the left margin:
- Republican
- 22 in Senate
- 7 in House

2. Johnson's veto of the Civil Rights Act(1866)

These two ringing vetoes meant that Johnson was throwing down the gauntlet to the Republicans(moderate and radicals alike)

B. Election of 1866--Johnson repudiated by the North

1. Republican opponents of the President emerged victorious in every state legislature; in every gubernatorial contest; and enjoyed a 2/3s majority in both House of Congress.

C. The 14th Amendment and Radical Reconstruction acts

1. 14th Amendment was the Republican program for the South

2. Johnson advises the South not to ratify the 14th Amendment.

a. The consequences--Radical Reconstruction for all states except Tennessee-- Military rule, etc. . . .

b. A note on Johnson's failure as a Reconstruction President. . . .

IV. "Republicans and their "Limited Crusade"

A. North and the Negro

1. Northern war aims: Union and Freedom--these emerged as the generally accepted war aims of the Union.

a. The Emancipation Proclamation and the 13th Amendment opened the question of the black man's role in postwar America. . . .

b. Two questions:

(1)How could the Negro be advanced the cause of the war?

(2)How could the war advance his freedom?

Reconstruction: Was the time for the nation(or policymakers) to decide what the Civil War was all about. Why was it fought?

The central issue of Reconstruction was to define the place of the black man in postbellum America. Was the nation(North and the GOP)ready to confront the racial question head on-- to push this crusade to the finish.

They advocated ending the land monopoly of the former slaveocrats by confiscation of the large plantations and redistribution of the land to its former tillers.

3. This position had support in Congress from Republicans as well. Radicals and especially moderate Republicans favored the idea of hitting at the economic roots of the slave masters by confiscating their great estates.

4. The final version of the Freedman's Bureau Act provided for "forty acres" of land for every for refugee (loyal white southerner) and freedman." In short, the Government had gone on record by the end of 1865 for distribution of former Confederate land to southerners--white and black.

5. The defenders of this legislation argued that the freedman could best be made into a self-reliant, independent, and enterprising element of the population by owning his own land. The whole idea was in step with a nation that held to the values of an agrarian Democratic republic.

B. Rehearsal for Reconstruction--Port Royle and David Bend Experiments, 1863-1865.

1. These experiments proved that the blacks could cultivate the land in a free and independent status. That the old southern argument that agriculture in the South by necessity rested upon a slave system for forced labor was the only manner blacks could be made productive.

2. A little about these experiments in developing a free black peasantry. . . . superior to General Banks contract labor in La.

3. General Sherman's Field Order No. #15

C. Revolutions May Go Backward

1. Johnson's pardoning policy ended these brief experiments in Negro ownership.

2. The Republicans once they assumed command of Reconstruction never tried to reinstitute a land policy based on a social and economic revolution of the south

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Re: BR, H. Belz, Emancipation and Equal Rights: Politics and Constitutionalism in the Civil War Era (1978)

Chpt. 5 "The Nationalization of Civil Rights, 1865-1883"

Protecting freedmen's rights was the means to assure that abolition of slavery was de facto as well as extending democracy to the South. Voting was now seen as a right of citizenship rather than, as previously, a privilege granted to certain citizens on a prudential basis by responsible elements in the community. That was the principle. The expediency was the recognition that blacks would support the party that gave them the vote. But the freedman's rights became an ideological and moral issue, a matter of justice as well as expediency. Many Republican congressmen defended black civil rights not for political gain but rather in spite of the political risk it involved.

Long before the end of the war, the rights of emancipated slaves became inextricably tied to Reconstruction policy. The W/D bill proposed to guarantee personal liberty and equal rights in reorganizing the southern states. . . and the Freedmen's Bureau gave ex-slaves temporary legal protection and welfare assistance, implicitly recognizing their status as citizens. Still these were just wartime measures.

With the 13th Amendment Congress was given power to enforce this new freedom. . . But there was question of what other rights other than freedom was to be their share. . . This was the first formal constitutional expansion of federal power since the beginning of the government. The issue of the limits of this new freedom were complicated by the Johnson govts. in the South as they began to legislate a new civil status for the emancipated slaves.

Evolution of the 13th Amendment: Initially the major consensus was that the 13th ended slavery and granted to the ex-slave his personal liberty--to his person and the right to mobility, and that was it. There was no belief that there was a broad claim for federal protection to protect the freedman's civil rights. The amendment was seen as a culmination and not a commencement that it would become. It marked for contemporaries, the end of slavery and appeared as the great reform that would purify the republic. Most people saw the 13th as the necessary and sufficient basis for reconstruction.

Then came Presidential Reconstruction and the Black Codes, etc. . . . These made a mockery of the 13th Amendment. . . A return to slavery by another name. This forced Republicans to reconsider the Amendment.

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BR, Belz

Alarmed, congress rtried to protect ex-slaves civil rights by strengthen ing the FB. To confirm powers that the FB was exercising in local matters without authority under the initial act, the Congress passed a 2nd FB bill. But the FB was a war measure and could not expect to perform permanently. . .The quest for a non-military solution to the problem of freedmen's rights rnesulted in the Civil Rights Act of 1866.

The Civil Rights Act now took a wider view of rights of freedmen and included the protection of their civil rights. The CR Act of 1866 declared that all persons born or naturalized in the US, except Indians not taxed, were citizens of the US. The CR Act did not expand to include political or social rights . . .But defined what civil rights citizens had: the right to in every state to sue, enforce contracts, be parties to suits, inherit and purchase, lease, or sell property. These were rights of property and person. All citizens had the same rights as to person and property according to the language of the Act.

Hence, under the 13th Amendment and its enforcement clause, the Congress interpreted the federal power to assure that the civil rights spelled out now in the CR Act could be enforced by Congress. Civil rights were nationalized by the 13th Amendment. Congress could legislate against state action that denied ex-slaves their civil righst.

The provisions in the CR Act of punishment of state officials who failed in protecting freedmen's civil rights was seen as the leverage to bring about change in southern folk ways. Republicans expected that the threat of federal intervention and a few test cases would "persuade state officials in the South to abide by the law. Belz notes what can be called the "triggering idea," if states failed to protect civil rights then injured parties could remove their cases from the state and local courts and apply to the federal law. The onus for compliance was on the South. Republicans naively believed this was all that was necessary. Thus, the CR Act like the FB Act were seen as temporary measures that would enduce the southern states to recognize freedmen as citizens. If the South protected its won citizens it would have no interference from the federal govt.

Re: BR, Belz

Through national law the Congress intended to make blacks equal before state law as US citizens. Nationalization of civil rights did not mean the centralization of law-making and administration, but rather state recognition and enforcement of equal rights under a general guarantee by the federal government, as in the Civil Rights Act (I still see this as a trigger mechanism). The state pulls the trigger. Whatever the laws passed by states regulating or guaranteeing ordinary liberties must be applied equally to both races

The idea of dual citizenship. In the Civil Rights Act and the 14th Amendment, Congress established the existence of national citizenship beyond any question... But rather than two clearly separate citizenships, lawmakers thought of a single entity--American citizenship--which assumed two complementary aspects, national and state.

14th Amendment: language meant to the Congress that if a state distinguished between citizens in the state in its laws, the Congress could correct the discrimination and inequality. Without denying states primary jurisdiction over civil rights, it gave the federal govt. power to guarantee equality in the way states regulated the rights of American citizenship.

The CR Act and the second Freedman's Bureau act passed over Johnson's veto to protect freedmen against the Black Codes constituted the initial application and interpretation of federal power under the Civil Rights Act, and they were followed by federal court rulings which further elaborated the nature and the scope of federal civil rights authority under the 13th Amendment.

Postwar federal protection of freedmen's rights began under O.O. Howard, when he ordered Bureau agents to remove from the state courts and assume jurisdiction of disputes involving emancipated slaves. These courts were under military authority. . . not therefore very legally secure since peace was the condition. Johnson's veto message of the FB was based on this objection. But military commanders in the South were still ordered under Grant to use military tribunals when blacks and loyal Union men in the South were denied justice in the civil courts. This continued under the Reconstruction Act of 1867. The use of Bureau agents to adjudicate thousands of cases to guarantee black civil rights was impressive. It did not stop the violence but the undertaking was novel and unprecedented.

Hubbard
Congress
Act of
1867

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Re: BR. Belz

Chpt. 6. The Significance of Reconstruction

Xerox