

Italian reformers, and the Polish reformers are already appearing in their native tongue. The Anabaptist documents have now reached formidable proportions. For the Reformation in Spain John E. Longhurst and Mrs. Angela Sanchez Barbudo are publishing new documents from the records of the Inquisition.

The most prominent omission is a critical edition of the works of Erasmus. Mr. and Mrs. P. S. Allen have done his letters, the Holborns have edited selected works, and Wallace Ferguson has done the works not included in the great Louvain edition.²⁵ But the great bulk has not been touched. For years Yale has been collecting first editions in order to lay the groundwork. Erasmus suffers from the misfortune of not having founded a church. The Lutherans take care of Luther, the Calvinists of Calvin, and the Schwenkfeldians of Schwenkfeld. The Mennonites are chiefly responsible for the publication of the Anabaptist documents. Erasmus, however, kept *au-dessus de la mêlée* and there he stays.

Bibliographical surveys of the Reformation must start from the great work of Karl Schottenloher.²⁶ The literature as it appears is covered in the *Archiv für Reformationsgeschichte* as well as in frequent surveys in *Church History*. Anabaptist literature is treated in the *Mennonite Quarterly Review*. Two admirable recent surveys are those of Hassinger in the work already mentioned and that of the International Commission for Comparative Ecclesiastical History.²⁷ Much work remains to be done.

²⁵ *Desiderius Erasmus Roterodamus Ausgewählte Werke*, ed. Hajo and Annemarie Holborn (Munich, 1933); Wallace K. Ferguson, *Erasmii Opuscula* (The Hague, 1933).

²⁶ Karl Schottenloher, *Bibliographie zur deutschen Geschichte im Zeitalter der Glaubensspaltung* (6 vols., Leipzig, 1933-40).

²⁷ *Bibliographie de la réforme, 1450-1648: Ouvrages parus de 1940 à 1955* (2 vols., Leiden, 1958, 1960).

Johnson, Stanton, and Grant: A Reconsideration of the Army's Role in the Events Leading to Impeachment

HAROLD M. HYMAN*

SEVENTY years ago William A. Dunning saw the involvement of Ulysses Grant and other army officers in the political developments that resulted in Andrew Johnson's impeachment as a ". . . mere accidental feature of the general issue . . . throwing over the situation a sort of martial glamour."¹ Accepting this premise without questioning its validity, historians have understated if not altogether ignored the army's role, desires, and needs during the first three years after Appomattox. Studies of the Reconstruction period have stressed political and economic approaches to the impeachment theme, and in the process some writers have created a sentimental and incorrect image of Johnson as a vigorous defender of constitutional rights and presidential prerogatives.²

A growing interest in civil-military relations has recently led some investigators into fresh pathways. Lloyd Lewis, for example, while on the trail of Grant's actions during the confused months after Lee surrendered, had by 1947 come to the tentative conclusion that ". . . Grant . . . and the [other] Generals were convinced that Andrew Johnson was going so fast in re-
admitting 'Rebels' to power, that the nation was endangered." The "modern" view, Lewis continued in a private letter, "that Johnson was merely restoring Lincoln's merciful [Reconstruction] policy and that was all there was to it

* Mr. Hyman, associate professor at the University of California, Los Angeles, and author of *To Try Men's Souls: Loyalty Tests in American History* (Berkeley, Calif., 1959), read portions of this article as a paper at the 1959 meeting of the Pacific Coast Branch, American Historical Association.

¹ William A. Dunning, "The Impeachment and Trial of President Johnson," *American Historical Association, Papers* (5 vols., New York, 1886-91), IV, 479-80.

² Bernard A. Weisberger, "The Dark and Bloody Ground of Reconstruction Historiography," *Journal of Southern History*, XXV (Nov. 1959), 427-47, and Thomas J. Pressly, *Americans Interpret Their Civil War* (Princeton, N. J., 1954), 302-33, offer useful surveys of extant bibliography. The major studies of Johnson are devoted to sustaining his conduct; see George F. Milton, *The Age of Hate: Andrew Johnson and the Radicals* (New York, 1930), Lloyd P. Stryker, *Andrew Johnson: A Study in Courage* (New York, 1929), and Claude G. Bowers, *The Tragic Era: The Revolution after Lincoln* (Boston, 1929). Eric L. McKittrick, *Andrew Johnson and Reconstruction* (Chicago, 1960), was unfortunately not available during the preparation of this article. It offers a valuable and provocative revision of its subject's role, in essential harmony with the theme of this article, but McKittrick does not include consideration of the military institution.

overlooks a hell of a lot of unreconstructed things the old Bourbons . . . were doing at the time."³

Untimely death cut short Lewis' work on Grant in which this judgment might have appeared as a firm conclusion. Lewis was on the right track. The period from early 1865 through 1867 still requires reexamination in order to ascertain what Grant and other generals felt and did about events, and to clarify the ultimately conflicting purposes and policies of President Johnson and his holdover War Secretary, Edwin M. Stanton, the army's civilian overlords. When viewed from the perspective of the professional army officer of this time, these controversial personalities and complex problems gain new illumination.

★ With the surrender of the last rebel forces, the hurriedly reorganized regulars of the United States Army faced four primary responsibilities. In order to meet them, Stanton and Grant grouped the troops into what in effect were two separate "armies." The first "army" was assigned to relatively traditional duties. It patrolled the Mexican border to impress the French adventurers at the Halls of Montezuma, sought to suppress the Indian tribesmen who had grown bold from wartime incitements, and in smaller detachments garrisoned posts along the unquiet Canadian border and performed training and ceremonial chores in eastern cities. This "army" never became a political issue. Its commanders remained within the traditional pattern of civilian direction from the White House and War Department; Congress was content to let Johnson control it.⁴

In defeated Dixie, however, the war-born military galaxy faced a task unique in American history—the military government of large numbers of their countrymen after hostilities had ceased. Here the second "army" came into being. Its commanders had at hand only the lessons in occupation administration learned since 1861 to guide them. No one in the early months of 1865 knew if these precedents were adequate for peacetime. A new and untried President was in the White House. Marking time until Johnson indicated what he wished the army to do in the South, Stanton and Grant sanctioned the police and welfare activities which local commanders undertook, and devoted their energies to solving demobilization and reorganization problems.

³ *Letters from Lloyd Lewis* (Boston, 1950), 52.

⁴ Sensing this, William Tecumseh Sherman, who usually tried to stay clear of the political jungle, saw to it that he was assigned to western duties, and except for intervals when he dabbled in the Grant-Stanton-Johnson imbroglio, Sherman escaped serious involvement in the army crisis. See Lloyd Lewis, *Sherman: Fighting Prophet* (New York, 1958), 581-94.

★ In April 1865 Stanton, Grant, and the senior army officers were prepared to offer Johnson the same cordial support that they had tendered to Lincoln.⁵ They assumed that Johnson would give the army the same firm executive backing that Lincoln had done. In the soldiers' terms, this meant that the new President would use the troops in the South to make worthwhile the wartime sacrifices of a hundred thousand Billy Yanks, and that he would employ the powers of his office to protect military personnel who were performing duties to which he had assigned them. Three years later Congress impeached Johnson for attempting to exercise commander in chief powers over the second "army," and in this the legislators had the soldiers' cordial acquiescence. By early 1868 the United States Army units on southern occupation duty were under Congress' command rather than the President's. It had become a separate "army" in law as well as in fact.

★ Divorce between the White House and the War Department was an improbable eventuality when Johnson announced his Reconstruction and pardon program for the South in May 1865. The President was confident that he was carrying out the spirit of Lincoln's plans, and to be sure, his pronouncements concerning the former rebel states had the ring of his predecessor's. Like Lincoln, Johnson based his Reconstruction proclamation on a broad view of executive power, adequate to employ the army to build new and ostensibly loyal state governments in the South. To this end and for their own protection, the soldiers were to use martial law to expedite the process. True, Johnson ignored the tendency Lincoln had exhibited shortly before the war ended for including some substantial portion of southern Negroes in the electorates of the new states. But the significance of this omission was not immediately apparent.

It soon became obvious, however, to most of the officers on southern duty and to Stanton and Grant who read their reports that fundamental differences existed between the Reconstruction plans of the two Presidents. Lincoln had used the December 1863 proclamation primarily as a war weapon to seduce southern whites away from their allegiance to the Confederacy. Thus

⁵ On army reorganization, see Secretary of War, *Annual Report, 1865* (Washington, D. C., 1866); *Army and Navy Journal* (May 13, 1865), 600. Wartime precedents for occupation of the South are discussed in A. H. Carpenter, "Military Government of Southern Territory, 1861-1865," *Annual Report, American Historical Association, 1900* (2 vols., Washington, D. C., 1901), I, 465-98, and Wilton P. Moore, "The Provost Marshal Goes to War," *Civil War History*, V (Mar. 1959), 62-71. The tendency of Stanton and the army commanders to support Johnson is evident in "Original Letters of General Grant," *Colorado Magazine*, XIV (Mar. 1937), 65; Charles A. Dana to James S. Pike, May 10, 1865, Calais Free Library; and the numerous memoranda in the Stanton MSS, Manuscript Division, Library of Congress, detailing the War Secretary's accord with the new President.

conceived and successfully employed by the Union army, Lincoln's plan and his exercise of presidential powers sustained the northern soldier. As Johnson's program developed through 1865, Union officers became convinced that it strengthened only former rebels and returned to positions of official power in the South men who had brought the nation to civil war, but who had since received Johnson's pardons for their rebellious pasts. General Philip Sheridan was later to term Johnson's southern policy "a broad macadamized road for perjury to travel on," by which unrepentant southern whites were encouraged to harass federal soldiers and Unionists, and through vicious legalisms to escape punishment for these transgressions.⁶

★ Consider one aspect of Reconstruction in 1865 that outraged most soldiers. In southern state courts reborn under Johnson's auspices and through the efforts of the army, former rebels initiated scores of suits against federal military personnel. These claimants asked damages for soldiers' actions made under martial law during and after the war. Army officers on southern duty confessed to the War Department that they were now fearful of exercising their assigned functions, for if these suits succeeded, they would be ruined. In these state courts judges, jurors, and claimants were white men, and almost all were former rebels. What soldier or white or Negro Unionist, officers inquired, could expect fair hearings from such assemblages?

Then, late in 1865, Stanton was sued for damages arising from the wartime arrest of a disloyal northern civilian, Joseph E. Maddox. If Maddox won against the mighty Mars, then similar verdicts would inevitably follow against hundreds of lesser officers.

★ Maddox's counsel, Caleb Cushing, soon realized that he was involved in something more than a damage claim. Cushing learned that the men who were now the President's chief advisers, the Blair trio (Francis P., Sr., Jr., and Montgomery) and Manton Marble of the New York *World*, had inspired Maddox to sue in order to break Stanton. Marble and the Blairs also wanted to frighten off army officers in the South from enforcing property confiscation and Freedmen's Bureau legislation. Perhaps with Cushing's connivance, Grant and Stanton learned what was afoot. Neither the War Secretary nor the commanding general assumed that the President was privy to the plot. But they were outraged that men close to the White House should involve the army in this combination of personal vendetta and policy struggle. They were bitter that they could not convince Johnson to order the southern state courts

⁶ Harold M. Hyman, *To Try Men's Souls: Loyalty Tests in American History* (Berkeley, Calif., 1950), 139-218; Jonathan T. Dorris, *Pardon and Amnesty under Lincoln and Johnson* (Chapel Hill, N. C., 1953), Chap. VIII; Fawn M. Brodie, "A Lincoln Who Never Was," *Reporter*, XX (June 25, 1959), 25-27.

to hold off the many damage suits pending against military personnel. The realization sank home at the War Department that the White House was not going to exert itself to protect soldiers from the legal consequences of wartime actions or postwar activities in the South. If something was to be done, army headquarters would have to do it.

Grant arranged a compromise with Cushing so that Maddox dropped the suit against Stanton. Moving to protect army personnel at least so far as suits originating in the South were concerned, Grant and Stanton took advantage of the fact that Johnson's Reconstruction proclamations sanctioned the use of martial law in the former Confederacy. On January 3, 1866, Grant issued General Order 3 to all southern commands. It was designed "To protect loyal persons against improper civil suits and penalties in the late rebellious States." By its terms, soldiers and civilians, including Negroes, who asserted that justice was unobtainable in southern state courts could transfer any suits pending against them to the Freedmen's Bureau paramilitary tribunals or to federal civil courts. In the former, martial law prevailed. In the latter, Congress had prescribed that all federal court personnel, jurors, attorneys, and claimants, had to swear an ironclad oath of past loyalty to the Union.

As a solution to the damage suit problem, General Order 3 was satisfactory if the situation remained static. But a perverse genius for instability seemed to afflict the leading actors and institutions on the political stage. After a nine-year abstention from significant policy pronouncements, the United States Supreme Court introduced a new and unsettling element.

★ In April 1866 the Court issued a preliminary judgment in the Milligan case. This involved the army's right to employ martial law in noncombat areas. Although the full opinion in this case was not to be issued until the Court's forthcoming December term, it was obvious in April that the jurists did not look kindly upon martial law's being employed anywhere except in the vicinity of battle. Would the Court in December bring forth a decision condemning all martial law usage in the postwar South? As the War Department saw the situation, the White House and the Supreme Court seemed determined to hamstring the army.

Stanton and Grant turned toward Congress in hope that the army might find friends on Capitol Hill. They knew that General Order 3 dealt only with damage suits from the South, but not with those like Maddox's claim, lodged by northern residents over whom the army now claimed no control. The Secretary and the general, therefore, pressured friendly congressmen to amend the 1863 Habeas Corpus Act to provide greater protection for officers who had acted under its provisions anywhere in the nation during the war.

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Republicans in Congress cooperated.⁷ The army was finding its bulwark in Congress, not in the President.

* This explains why Stanton and Grant chose to support the Freedmen's Bureau court system in its jurisdictional feud with the provost courts of the army field commands, a carry-over from war organization. Congress had given the Freedmen's Bureau special legislative support lacking in the provost units, which operated only on the wartime executive authority now questioned at the White House and in the Supreme Court as well as in lower federal courts.

But the War Department was still only disturbed, not wrenched away from support of the President. When Congress had convened in December 1865, Stanton and Grant cooperated with Johnson in suppressing the unsavory Smith-Brady Report, which indicated that the state governments set up by Lincoln in the Mississippi Valley were centers of vast corruption rather than of renascent Unionism. Johnson wanted the report suppressed because he believed that he was following Lincoln's policies and did not want his own state creations in the South tarred by the Smith-Brady brush. Grant wanted it hushed up because the report indicated that hundreds of army officers were involved in the sordid peculations discovered in Louisiana, Arkansas, and in parts of Missouri.⁸ But it is the fact of the cooperation more than the reasons for it which is significant here.

The Republicans of Congress, like the army officer corps, were not under Radical control in the early months of 1866, but they clearly distrusted Johnson's accomplishments in state making in the South. Congress prevented the "Confederate brigadiers"—the delegates-elect from the former rebel states—from taking seats at the national legislature, and the President and Congress commenced their joust for power. Meanwhile the evidence of southerners' attacks on northern test oath requirements, the inequities of the Black Codes, and the tragic race riot at Memphis gave added weight to Radical arguments that the South was unrepentant and untrustworthy.

As the debate raged, Johnson proved rigid and doctrinaire in his convictions concerning federal-state relations and the power and influence he had

⁷ Brief and correspondence on *Maddox v. Stanton* in Caleb Cushing Papers, Manuscript Division, Library of Congress. For General Order 3, see Adjutant General's Office, *Index of General Orders, 1866* (Washington, D. C., 1867), and *Army and Navy Journal* (June 16, 1866), 687. Details on the Milligan suit are in *The Milligan Case*, ed. Samuel Klaus (New York, 1929), 43-47.

⁸ The intra-army court dispute is best described in "Final Reports of Provost Marshals," MSS, Army Commands, Record Group 98, National Archives. Smith-Brady Commission Report and evidence, MSS, Record Group 94, *ibid.*, largely unexploited, offer rich rewards to investigators. See, too, *Investigations at New Orleans* (House Executive Document, 39 Cong., 1 sess., No. 96.).

at hand to wield. He deceived himself into thinking that he was emulating Lincoln not only in the form of Reconstruction policy, but also in the exercise of executive leadership. He failed to see that Lincoln had never sought perfection, but only realizable goals, had never been willing to battle Congress but instead compromised with or circumvented its leaders, and had never dared lose the support of the Union soldiers.

To be sure the war was now over, and the last mass armies were replaced by volunteer professionals. But that, to many Republican legislators and apolitical generals, was the point. It was well enough for Lincoln to have proclaimed emancipation and Reconstruction policies on the basis of war powers, but he had always agreed that these were extraordinary wartime acts, subject to postwar judicial or legislative amendment, and even during the war Congress had protested against Lincoln's assumptions of leadership. * Now Johnson insisted that the war was finished, and that no one, therefore, could legitimately limit the revived southern states. Yet he simultaneously claimed a monopoly of pardoning and state-making power for the executive on which Congress might not infringe. He wanted presidential power and at the same time professed a doctrine of weakness for the entire national government, used the army to get the South on its feet, but refused soldiers the right to shackle the spurred boots of the former rebels so that they might not kick out again. This, at least, was the way many saw the situation.⁹

* As if to prove the accuracy of this contention, Johnson on April 2, 1866, almost coincident with the preliminary Milligan decision, proclaimed that the rebellion was ended everywhere and that the southern states were restored to the Union. Army headquarters in Washington soon learned of the intense confusion into which military commanders in the South were cast by this statement and by the Court's pronouncement. Was martial law operating? Did the Freedmen's Bureau, under Congress' authority rather than the President's, now lose its power to hold special military tribunals if civil courts failed to provide justice? Did army personnel, insulted and assaulted by jubilant southern whites, now become defenseless?

A week later, on April 9, Grant sent out a confidential circular to military commanders stationed in the former Confederacy. He cautioned them to exercise discreet restraint in dealing with the "reconstructed" state governments and with southern civilians. But he also authorized them to employ martial law whenever they felt it necessary, despite Johnson's clear statement that peace was at hand and in defiance of the Court's inference that

⁹ These attitudes are best described in John L. Motley, *Four Questions for the People* (Boston, 1868), 31-32, and Laurence Oliphant, *On the Present State of Political Parties in America* (London, 1866), 9, 12-13.

martial law was inapplicable in a peacetime situation. In addition, Grant advised his subordinates that the Freedmen's Bureau was exempt from the President's jurisdiction, although it was part of the army, for the general concluded that the Bureau was Congress' creation. Where southern civil authorities failed to provide or obstructed justice to soldiers or to southern Unionists, then the army might still step in.

Clearly Grant was moving toward a sharp break with tradition so far as his view of civil-military relationships was concerned. Events had pushed him and Stanton so far by the spring of 1866 that the two men were willing to use their immense prestige and popularity within the army and with the public to counter what they felt to be error on Johnson's part. They were beginning to align the army with Congress because they felt that the President was leaving the soldiers helplessly adrift.

Neither Grant nor Stanton, however, desired an outright clash with Johnson. Both men still hoped to win him to their views, which at this point approximated those of moderate Republican congressmen. Thus, on May 1, Grant issued through normal army channels General Order 26, specifying compliance with Johnson's April peace proclamation. The general knew that his earlier secret circular had forewarned army commanders to ignore the President's peace policy if necessary. They could be confident that Grant would block any retaliation from the White House.¹⁰

More evidence accumulated, meanwhile, of outrages in the South directed against soldiers and Negroes. Feeling that they had acted correctly in checking the President's policy, Stanton and Grant were convinced that the army still had work to do in Dixie. They now shared the view of most army commanders assigned to southern stations that former rebels were incapable of true reformation. Grant went a step further to strengthen his subordinates' positions. On July 6 he issued General Order 44, supplementing General Order 3 of the past January. The July order empowered all army commanders in the South down to the post or company level to arrest civilians charged with crimes against federal civil or military personnel, or against "inhabitants of the United States, regardless of color, in cases where the civil authorities have failed, neglected, or are unable to arrest and bring such parties to trial." Those arrested were to stay in confinement "until such time as a proper judicial tribunal may be ready and willing to try them."

This curious document neither imposed martial law nor obeyed the

¹⁰ *A Compilation of the Messages and Papers of the Presidents, 1789-1902*, ed. James D. Richardson (10 vols., New York, 1903), VI, 429-32; the Apr. 9 circular is in Box 102, Record Group 108, National Archives; and General Order 26 in Adjutant General's Office, *General Orders, 1866* (Washington, D. C., 1867).

President's clear statement of April that civil authority must take precedence over military power in the South. In substance, it openly informed Johnson, as many persons including Jonathan Worth of North Carolina complained to him, that Stanton, Grant, and most commanders of the army disagreed with his position and thought the April peace proclamation hasty, ill advised, unfair to military personnel, and an unreal estimate of southern conditions.¹¹

Later that month the President prepared to retaliate by reading a proclamation that the rebellion was not only ended, but spelling out that martial law was inoperative everywhere in the country. Thus encouraged, the "reconstructed" governor of Virginia on July 21 informed Stanton that he was reactivating the state militia and requested surplus army weapons for the members, all of whom, Grant learned, were whites, and most of whom were former rebels and holders of the President's pardons. Informed of this by Grant, Johnson refused to cancel the governor's request. To Grant this seemed equivalent to putting arms back in the hands of men still capable of using them against the victors, and the general delayed in complying.¹²

No open rupture yet existed between the White House and the army, but the President's southern policy was forcing individual army officials to make choices concerning their political allegiance. Stanton, Grant, Sheridan, Daniel Sickles, John Pope, M. C. Meigs, and Edward Ord were clearly in sympathy with the Republicans of Congress; William Tecumseh Sherman and Winfield Scott Hancock favored Johnson; E. D. Townsend remained determinedly neutral. But to attach traditional political party labels to these officers seems irrelevant and inaccurate. To be sure, Congress' supporters in the army were becoming "radicals" in the sense that they had come to believe that Negro suffrage must be imposed upon the South as the only means to insure the subordination of the old secessionist class. If Congress was willing to see to it that Negroes voted, then these men were going to favor Congress.

The New Orleans riot seemed to prove the acuity of the "radical" officers' analysis. Soon after that event, General Pope made a speech after first securing Stanton's and Grant's approval for its text. He argued that if the "military power is suspended" in the South, "at once the old political & personal influences will resume their activity," and the Copperheads of the North and the Bourbons of the South would seek again to sunder the Republic. It may be, of course, that Pope was merely spouting Republican propaganda. Yet

¹¹ *Ibid.*; Jonathan Worth to Stanton, July 30, 1866, Secretary of War Correspondence File, Box 317, Record Group 107, National Archives.

¹² The proclamation was issued Aug. 20, 1866; *Messages and Papers of the Presidents*, ed. Richardson, VI, 434-38; Grant to Stanton, July 21, 1866, Headquarters of the Army, Box 97, Record Group 108, National Archives.

the man was no politician, and he was risking his professional career by assuming this public position. In openly defying the President's orders, Grant was chancing the political laurels he secretly coveted, and Stanton, who wanted more than all else to get out of politics, was only making it impossible for himself to quit the War Department. These men wanted Pope's words to be clarion calls of warning, to alert a somnolent North to what they feared was a clear and present danger. Aging General Ethan Allen Hitchcock wondered, "Have we run our race as a Republic? I hope not—but fear it." Grant and Stanton were determined to use military influence to prevent the civilian President from keeping the nation on a disastrous course.¹³

Realizing that so long as Stanton and Grant were working together the army in the South was out of his control, Johnson decided to split the team, replace Grant with a more cooperative commanding general, and then to oust Stanton in turn. He brought the nation's third most popular man, General Sherman, to Washington to be at hand and offered Grant a trumped-up diplomatic assignment to Mexico, intending then to put Sherman in first as commanding general, and once Grant was away to slip either him or Montgomery Blair in as Secretary of War in place of Stanton. But Grant refused to play, Sherman would not take issue with his beloved commander, and the scheme foundered.¹⁴

Deciding to exploit Grant at home in the 1866 congressional elections if he could not employ him abroad, Johnson swung around the circle with the disgusted general in tow. The results of that "critical" election gave the Republicans a thumping victory and a working majority in Congress adequate to override any veto. Now the question was: Would Johnson acquiesce in the verdict of the ballot boxes? "Things have changed here somewhat since the last election," Grant advised in a confidential note to his protégé, General Phil Sheridan, but he could not predict the nature of the change.

Johnson had no intention of signaling surrender by suggesting that the

¹³ Pope to Grant, July 24, 1867, including pamphlet copy of Pope's 1866 speech initialed by Stanton and Grant, in Secretary of War Correspondence File, Box 327, Record Group 107, National Archives. Hitchcock's comment is on the margin of an article on Johnson in the *Atlantic Monthly*, in the Hitchcock Papers, Manuscript Division, Library of Congress.

¹⁴ William B. Hesseltine, *Ulysses S. Grant, Politician* (New York, 1935), 77-79; Stanton to W. P. Fessenden, Oct. 25, 1866, Huntington Library. Including Stanton as a popular figure may surprise some, but see a contemporary attestation to Stanton's general prominence in *Miscellaneous Writings of the Late Honorable Joseph P. Bradley*, ed. Charles Bradley (Newark, N. J., 1901), 57. Such evidence is strikingly different from recent commentaries on Stanton in Otto Eisenschiml, *Why Was Lincoln Murdered?* (Boston, 1937), and Theodore Roscoe, *The Web of Conspiracy* (Englewood Cliffs, N. J., 1959), which should be measured against James G. Randall's plea for a realistic appraisal of Stanton, in "Civil War Restudied," *Journal of Southern History*, VI (Nov. 1940), 455-56.

southern states ratify the pending Fourteenth Amendment. His secretary, Colonel William G. Moore, realized that the President was convinced that the white men of the South would be submerged under a sable sea if the freedmen exercised the ballot. This concern merged with Johnson's views of the nature of the federal system and the purposes of the Civil War, and it combined with his combative personality to help create the critical situation in which the nation found itself. "He seemed never to be happy unless he had some one to strike at or to denounce," recalled Hugh McCulloch, Johnson's personal friend, Treasury Secretary, and political supporter. As 1866 closed, Andrew Johnson should have been a very happy man.¹⁵

Somehow Johnson missed the significance of the 1866 election results, for they were barely counted when he "suggested" to Grant, bypassing Stanton completely, that the army issue ten thousand stands of arms to the revived Virginia state militia. Grant replied properly through Stanton's office that "I would not recommend the issue of arms for the use of the militia of any of the states lately in rebellion in advance of their full restoration and the admission of their representatives by Congress."¹⁶

The Republicans, now dominating Congress, prepared Reconstruction legislation for the South which included much of what the army had wanted since Appomattox: the continued use of martial law, legal protection for army personnel, and the disfranchisement of most former rebels. Then in the first weeks of 1867, the Supreme Court threw three bombshells into the legislators' works. In the Milligan, Garland, and Cummings decisions, the jurists denounced military trials of civilians and federal and state test oath laws as unconstitutional excesses. This at least was the way excited and indignant Republican spokesmen portrayed the decisions, while Democrats lauded them as noble defenses of civil liberties and individual rights.¹⁷ President Johnson was naturally delighted that his constitutional views now had had judicial support. To the army, however, the Court's pronouncements spelled disaster, and to Radical Republican congressmen, they were reactionary obstructions that must be overcome or ignored.

¹⁵ Grant to Sheridan, Nov. 15, 1866, Sheridan Papers, Manuscript Division, Library of Congress; Hugh McCulloch, *Addresses, Speeches, Lectures, and Letters Upon Various Subjects* (Washington, D. C., 1891), 144; entry, Apr. 9, 1868, W. G. Moore MSS diary, Manuscript Division, Library of Congress.

¹⁶ Grant to Johnson, Nov. 9, 1866, Secretary of War Correspondence File, Box 323, Record Group 107, National Archives.

¹⁷ Henry Steele Commager's conviction, expressed in *Majority Rule and Minority Rights* (New York, 1943), 49, that the test oath and Milligan cases were ". . . perhaps the best example of judicial protection of personal rights in the whole of our history" seems valid only when considering these decisions from the viewpoint of the 1940's. In their contemporary context, however, they meant the continued subordination of freedmen and of white Unionists in the South. On Republican reaction, see my *Era of the Oath: Northern Loyalty Tests during the Civil War and Reconstruction* (Philadelphia, 1954), 113-20.

Now Stanton and Grant leaped fully over the wall into the Radical camp, Stanton openly and Grant still secretly. The two men arranged for Congress to provide for the army's needs. By the military appropriations bill of 1867, Grant was made autonomous of the President so far as the location of his headquarters was concerned and the funnel through which Johnson had to transmit orders to subordinate army commanders. Congress, in brief, determined that Grant, whom the legislators trusted, be the commander in chief as well as the commanding general of the southern section of the army. It would no longer be possible legally for Johnson to replace him, as the President had recently tried to do by sending him to Mexico, or to bypass him and Stanton as Johnson had done with fateful results with General Absalom Baird at New Orleans just before the tragic riot there. And by protecting Stanton in the War Secretary's position through the Tenure of Office Act, the Republican majority in Congress felt that it had effectively blocked the President's power to control the army in the South. To the surprise of many persons, Johnson at last seemed willing to acquiesce in the legislative will, although he did helplessly veto these laws as they emerged from Congress, in what Grant privately described as "the most ridiculous veto message[s] that ever issued from any President."¹⁸

Buoyed up by the Court's decisions, Johnson now had a new scheme. He intended to water down the effects of the Reconstruction law that Congress passed on March 2, 1867, by having Attorney General Henry Stanbery issue interpretations that would in effect let the President take the teeth from the disfranchising and Negro suffrage provisions. Again the army commanders found themselves at issue with the White House, for most of the senior officers felt that the Reconstruction law was a moderate and necessary enactment.

On March 27, 1867, Sheridan removed from their offices in the Louisiana state government men Johnson had pardoned for rebellion. This was the first test of a military commander's powers under the new law of Congress, and Grant secretly applauded the action. "It is just the thing," Grant confidentially wrote Sheridan, "and merits the approbation of the loyal people at least. I have no doubt but that it will also meet with like approval from the reconstructed." Johnson ordered that no more removals occur until the Attorney General's opinion was available. On April 3 Grant obediently transmitted this order, but also sent Sheridan a private message, warning him that "there is a decided hostility to the whole Congressional plan of reconstruction

¹⁸ Grant to E. B. Washburne, Mar. 4, 1867, Illinois State Historical Library. It has seemed unnecessary to document these familiar political events.

at the 'White House,' and a disposition to remove you from the command you now have. Both the Secretary of War and myself will oppose any such move, as will the mass of the people." They would oppose it by claiming that in the southern army commands Congress had made officers independent of the President, of the Secretary of War, and of the commanding general. Thus, if the President somehow managed to evade, transfer, or replace Stanton and/or Grant, the Reconstruction acts could still be enforced by local commanders.

Grant assured Sheridan that in the Reconstruction law, Congress "intended to give District Commanders entire control over the civil governments of these [southern] districts." The army commanders in the South ". . . shall be their own judges of the meaning of its provisions." By this analysis, any opinion of the Attorney General, the President's legal representative, would merely be advisory rather than binding on the military officers assigned to Reconstruction duty. The army in the South, Grant inferred, was Congress' army, no longer under the White House or under the War Department except for routine administrative purposes.¹⁹

To his friend, Congressman Elihu Washburne, Grant wrote ". . . all will be well if Administration and Copperhead influences do not defeat the objects of that reconstruction measure." He advised Sheridan, his favored subordinate: "Go on giving your own interpretation to the law." No wonder that after informing Grant that he intended to remove more of Johnson's state officials, Sheridan boasted to him that "The Attorney General should not hamper me too much; no one can conceive or estimate, at so great a distance, the precautions necessary to be taken . . . here." When General Pope wrote Grant from Georgia that the Milligan decision would have no effect in his command, Grant replied: "My views are that District Commanders are responsible for the faithful execution of the Reconstruction Act of Congress, and that in civil matters I cannot give them an order. I can give them my views, however, . . . and above all, I can advise them of views and opinions here which may serve to put them on their guard." Grant comforted Sheridan with the assurance that "I think your head is safe above your shoulders at least so that it can not be taken off to produce pain."²⁰ In midsummer the President told Grant that he was thinking of dismissing Sheridan. Warning the younger man, Grant again assured him of his and

¹⁹ Adam Badeau, *Grant in Peace* (Hartford, Conn., 1887), 70-71, 102; exchange between Stanton, Grant, Sheridan, and Johnson, Mar. 27-Apr. 13, 1867, Sheridan Papers.

²⁰ Badeau, *Grant in Peace*, 62, 65-68; Grant to Sheridan, Apr. 7, 1867, Andrew Johnson Papers, Manuscript Division, Library of Congress; Sheridan to Grant, Apr. 21, 1867, Sheridan Papers.

Stanton's support. "Removal cannot hurt you if it does take place, and I do not believe it will," he wrote. "You have carried out the acts of Congress, and it will be difficult [for Johnson] to get a general officer who will not." Then the Attorney General issued his opinion. As expected, it watered down the significant aspects of the Reconstruction law and put the military commanders back into almost the same untenable position they had held before Congress enacted this law. Grant and Stanton moved swiftly on two fronts. They had cooperating Congressmen prepare supplements to the Reconstruction law, countering Stanbery's restrictive opinion. And while this was in the works, Grant bolstered sagging army morale by writing to Sheridan and to General Ord in Virginia that "the Attorney General or myself can do no more than give our opinions as to the meaning of the law." Responsibility and autonomy were still where Congress had vested them, in the district commanders, Grant insisted, and he advised them that "Congress may [soon] give an interpretation of their own acts, differing possibly from those given by the Attorney General."²¹

Johnson finally acted, but against Stanton rather than Sheridan. Striking now hard and swiftly, if belatedly, the President in early August suspended Stanton. Giving the slow-thinking Grant little time to ponder, Johnson swept him into the cabinet as combined War Secretary ad interim and commanding general. The President thought he had won the campaign now that Grant was in a frankly Democratic cabinet. Surely the general would benefit from exposure to proper constitutional and political views, and at the same time would become unacceptable as Republican presidential timber in 1868, thereby increasing Johnson's own chances for a Democratic bid, which he greatly desired. But Johnson was to find that Grant, while cooperative enough as Secretary of War in matters of administrative detail, was still acting against the White House when he put on his second hat, the peaked cap of the commanding general of the army.

On the day he took over the War Office, Grant had a trusted friend, General James Forsyth, secretly warn Sheridan of the impending changes, so that "in case the President insists upon your removal, that whoever may be assigned to your command, can be directed by General Grant to carry out the Military Reconstruction Acts as interpreted by you, and foreshadowed by your orders—in fact General Grant wants things in such a condition in Louisiana that your successor (in case you are relieved) will have to carry out the [Reconstruction] Law as you have viewed it; and without the opportunity to change your programme."

²¹ Badeau, *Grant in Peace*, 66, 83, 102; Grant to Sheridan, June 24, 1867, Sheridan Papers.

Over Grant's vigorous protests in the cabinet, Johnson decided to remove Sheridan from the Louisiana command. Flashing off a secret warning to the younger man, Grant advised him to ". . . go on your course exactly as if this communication had not been sent to you, and without fear of consequences. That so long as you pursue the same line of duty that you have followed thus far in the service you will receive the entire support of these Headquarters." By "these Headquarters" Grant meant himself as commanding general. In this capacity he considered himself autonomous of the President by virtue of Congress' enactments, far more independent than as interim War Secretary. Like Stanton he had learned that the power of this cabinet post was questionable and its tenure uncertain.²² Grant could not as War Secretary, for example, prevent Johnson from suspending Sheridan, Sickles, Pope, or Ord. As commanding general, however, he saw to it that all the army commanders in the South knew that they had a friend in the cabinet and at army headquarters. Until Congress reassembled in December 1867, when the Senate would judge whether Johnson had acted rightly in suspending Stanton, Grant held the War portfolio in a defensive, caretaker, rear-guard action. Johnson had trapped himself. Thinking that once Stanton was out of the way he could easily overawe Grant, whom he, Gideon Welles, and the Blairs mistook for a simple, malleable soul, the President learned that Grant definitely had a mind of his own.

But he learned it too late. In January 1868 Grant let Stanton return to the war office. When Johnson again sought to oust the sticky War Secretary in favor of General Lorenzo Thomas, Congress impeached the President. During the long weeks from February to May 1868, as Congress tried Johnson for seeking to be commander in chief of the army units stationed in the South, the nation teetered on the brink of renewed violence. Johnson escaped conviction by one vote. Cowed at last, he accepted General John Schofield as a compromise Secretary of War. A total breakdown of the national government was narrowly avoided. For the rest of 1868 Grant remained as commanding general, then he took over the presidency. During that year he saw to it that Johnson kept out of internal army administration. The President, at last brought to caution by the narrowness of the Senate vote on his conviction, accepted what he could not prevent. The Supreme Court sustained Congress' actions in the South, for the jurists had been frightened by the legislators' attacks on them.²³

²² Badeau, *Grant in Peace*, 104; Forsyth to Sheridan, Aug. 12, 14, 1867, Sheridan Papers.

²³ William A. Russ, Jr., "Was There Danger of a Second Civil War during Reconstruction?" *Mississippi Valley Historical Review*, XXV (June 1938), 39-58. On the Court, see *Mississippi v. Johnson*, 4 Wallace, 465 (1867), and *Georgia v. Stanton*, 6 *ibid.*, 50 (1867). Leonard D. White,

Schofield served as a dignified clerk, bearing messages from White House to army headquarters and back, in the manner of prewar Secretaries of War. The military had won. Reconstruction proceeded henceforth in the manner that the soldiers had felt necessary since 1865, and with their own status and safety assured by Congress' laws and sympathy.

Until the complex interaction of the military institution with the civilian political branches of the national government is thoroughly reported, the full story of the background of impeachment will remain partially untold. Thus far the study of this period has suffered from the one-sided nature of the sources most widely utilized. The great *Diary* kept by Gideon Welles, for example, indispensable as it is, in the words of the man who edited it for publication, offers a view of events "... too much like sitting at the prize-ring and seeing only one pugilist."²⁴ The army was another contender crouched in a posture of self-defense in a ring full of aggressive combatants. It should be invisible no longer.

The Republican Era, 1860-1901 (New York, 1958), 23-24, makes the point that in 1866 Grant took with him to the White House the conviction that the Congress should lead the President, derived from his participation in these events. The theory that impeachment was the result of the Radical leaders' interest in removing Johnson so that the industrial development of the North might continue unchecked is most recently criticized in Stanley Cohen, "North-eastern Business and Radical Reconstruction: A Re-examination," *Mississippi Valley Historical Review*, XLVI (June 1959), 67-90.

²⁴ *The Diary of Gideon Welles*, ed. John T. Morse, Jr. (3 vols., Boston, 1911), I, xxx-xxxii.

Reviews of Books

General

CULTURE AND HISTORY: PROLEGOMENA TO THE COMPARATIVE STUDY OF CIVILIZATIONS. By Philip Bagby. (Berkeley: University of California Press, 1959. Pp. 12, 244. \$5.00.)

In discussing "the nature of history," Bagby calls the writing of history up to the present "a semi-rational activity" and refers to historians as "the guardians of tradition, the priests of the cult of nationality, the prophets of social reform, the exponents and upholders of national virtue and glory." Since Spencer, Marx, and Spengler have failed to win general acceptance for their systems, the author contends that a new approach to history is called for. Bagby's general philosophic point of view is that of the empiricist, but the intuitions and insights of historians are not entirely disparaged. Dismissing Collingwood's interpretation as "unregulated intuitions" and Toynbee's views as "religious fantasies," he turns to anthropology for a set of concepts and methods in studying "more complex societies." He places greater reliance on cultural anthropology than on social anthropology and sociology, and such documents and artifacts as are available he utilizes in analyzing cultural forms and the dynamics of culture.

Among the anthropological concepts that he recommends to historians are culture, a culture, culture trait, culture complex, subculture, superculture, and cultural integration. He makes an interesting application of the anthropological concept of "base-line" in tracing Near Eastern civilization forward and backward from the ninth century by determining the persistence of a basic list of culture complexes.

In sketching briefly the history of anthropology, the author reveals his unawareness of the very strong concern in the United States with the method of comparison. As Oscar Lewis shows in his excellent chapter in *Current Anthropology*, many comparative studies have been undertaken during the past decade by American anthropologists.

Bagby defines civilization as "the culture of cities and cities we shall define as agglomerations of dwellings a majority of whose inhabitants are not engaged in producing food." He found nine major units in his survey: Egyptian, Babylonian, Chinese, Indian, Classical, Peruvian, Middle American, Western European, and Near Eastern. He seems uncertain about Japan and Russia. In addition to his nine (or eleven) major civilizations, he lists a number of peripheral or secondary ones, for instance, Hittite, Burmese, and Malayo-Indonesian.

While rejecting the view that a science of history is impossible because the