
Reconstruction Plans Structured Academic Controversy

Team _____ / Side _____ Your Name _____ / Partner _____

Background: It is the winter of 1865 and, as Union victory in the Civil War looks ever more likely, thoughts begin to turn to the aftermath of war. President Abraham Lincoln and some outspoken members of Congress are embroiled in a heated exchange over which branch of government will direct Reconstruction efforts. Beyond the separation of powers question, there is also disagreement between Lincoln and Congress about the character of Reconstruction efforts. Lincoln favors a lenient but cautious plan for the South. Moreover, he insists that the plan should not compromise the integrity or the authority of the Constitution. The ardent anti-slavery element in Congress—known as the “Radical Republicans”—favors harsher treatment for the South and immediate changes to initiate full citizenship and civil rights for freed slaves. They often disagree with Lincoln’s understanding of Constitutional powers. While Lincoln did support broad respect for the rights of freedmen, he differed with the Radicals about how best to secure these rights while still maintaining respect for the Constitution and laws.

Directions: In small groups, you are going to participate in a Structured Academic Controversy that debates which plan for Reconstruction is best for the country in order to achieve peace and promote democracy. To begin, all sides will read Lincoln’s Proclamation on Amnesty and Reconstruction. Then, your group will divide into two smaller groups: one side will read documents related to Lincoln’s Plan and the other group will review documents relevant to the Radical Republicans Plan for Reconstruction. Each side will present the main components and arguments of their plan. Once they have finished, they will attempt to come to a consensus on which plan is best for the country to ensure safety and democracy.

Step 1: All sides read: A Proclamation on Amnesty and Reconstruction

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:
A PROCLAMATION.

WHEREAS, in and by the Constitution of the United States, it is provided that the President “shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment;” and

Whereas, a rebellion now exists whereby the loyal state governments of several states have for a long time been subverted, and many persons have committed, and are now guilty of, treason against the United States; and

Whereas, with reference to said rebellion and treason, laws have been enacted by congress, declaring forfeitures and confiscation of property and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion, in any state or part thereof, pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare; and

Whereas, the congressional declaration for limited and conditional pardon accords with well-established judicial exposition of the pardoning power; and

Whereas, with reference to said rebellion, the President of the United States has issued several proclamations, with provisions in regard to the liberation of slaves; and

Whereas, it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal state governments within and for their respective states: Therefore—

I, ABRAHAM LINCOLN, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:—

“I, _____, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by congress, or by decision of the supreme court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the supreme court. So help me God.”

The persons excepted from the benefits of the foregoing provisions are all who are, or shall have been, civil or diplomatic officers or agents of the so-called Confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been, military or naval officers of said so-called Confederate government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States congress to aid the rebellion; all who resigned commissions in the army or navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such state at the presidential election of the year of our Lord one thousand eight hundred and sixty, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the state existing immediately before the so-called act of secession, and excluding all others, shall reestablish a state government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the state, and the state shall receive thereunder the benefits of the constitutional provision which declares that “the United States shall guaranty to every state in this Union a

republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive, (when the legislature cannot be convened,) against domestic violence.”

And I do further proclaim, declare, and make known that any provision which may be adopted by such state government in relation to the freed people of such state, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class, will not be objected to by the National Executive.

And it is suggested as not improper that, in constructing a loyal state government in any state, the name of the state, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new state government.

To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to state governments, has no reference to states wherein loyal state governments have all the while been maintained. And, for the same reason, it may be proper to further say, that whether members sent to congress from any state shall be admitted to seats constitutionally rests exclusively with the respective houses, and not to any extent with the Executive. And still further, that this proclamation is intended to present the people of the states wherein the national authority has been suspended, and loyal state governments have been subverted, a mode in and by which the national authority and loyal state governments may be reestablished within said states, or in any of them; and while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

Given under my hand at the city of Washington the eighth day of December, A.D. one thousand eight hundred and sixty-three, and of the Independence of the United States of America the eighty-eighth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, Secretary of State.

LINCOLN GROUP

Document 1: Excerpt from Lincoln's Third Annual Message to Congress, December 8, 1863:

http://www.millercenter.virginia.edu/scripps/digitalarchive/speeches/spe_1863_1208_lincoln

[In this document, Lincoln announced to Congress his intention to begin reconstructing states as the war progressed.]

“Looking now to the present and future, and with reference to a resumption of the national authority within the States wherein that authority has been suspended, I have thought fit to issue a proclamation, a copy of which is herewith transmitted. On examination of this proclamation it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution. True, the form of an oath is given, but no man is coerced to take it. The man is only promised a pardon in case he voluntarily takes the oath. The Constitution authorizes the Executive to grant or withhold the pardon at his own absolute discretion; and this includes the power to grant on terms, as is fully established by judicial and other authorities.

It is also proffered that if, in any of the States named, a State government shall be, in the mode prescribed, set up, such government shall be recognized and guaranteed by the United States, and that under it the State shall, on the constitutional conditions, be protected against invasion and domestic violence. The constitutional obligation of the United States to guaranty to every State in the Union a republican form of government, and to protect the State, in the cases stated, is explicit and full. But why tender the benefits of this provision only to a State government set up in this particular way? This section of the Constitution contemplates a case wherein the element within a State, favorable to republican government, in the Union, may be too feeble for an opposite and hostile element external to, or even within the State; and such are precisely the cases with which we are now dealing.

An attempt to guaranty and protect a revived State government, constructed in whole, or in preponderating part, from the very element against whose hostility and violence it is to be protected, is simply absurd. There must be a test by which to separate the opposing elements, so as to build only from the sound; and that test is a sufficiently liberal one, which accepts as sound whoever will make a sworn recantation of his former unsoundness.

But if it be proper to require, as a test of admission to the political body, an oath of allegiance to the Constitution of the United States, and to the Union under it, why also to the laws and proclamations in regard to slavery? Those laws and proclamations were enacted and put forth for the purpose of aiding in the suppression of the rebellion. To give them their fullest effect, there had to be a pledge for their maintenance. In my judgment they have aided, and will further aid, the cause for which they were intended. To now abandon them would be not only to relinquish a lever of power, but would also be a cruel and an astounding breach of faith. I may add at this point, that while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation; nor shall I return to slavery any person who is free by the terms of that proclamation, or by any of the acts of Congress. For these and other reasons it is thought best that support of these measures shall be included in the oath; and it is believed the Executive may lawfully claim it in return for pardon and restoration of forfeited rights, which he has clear constitutional power to withhold altogether, or grant upon the terms which he shall deem wisest for the public interest. It should be observed, also, that this part of the oath is subject

to the modifying and abrogating power of legislation and supreme judicial decision.

The proposed acquiescence of the national Executive in any reasonable temporary State arrangement for the freed people is made with the view of possibly modifying the confusion and destitution which must, at best, attend all classes by a total revolution of labor throughout whole States. It is hoped that the already deeply afflicted people in those States may be somewhat more ready to give up the cause of their affliction, if, to this extent, this vital matter be left to themselves; while no power of the national Executive to prevent an abuse is abridged by the proposition.

The suggestion in the proclamation as to maintaining the political framework of the States on what is called reconstruction, is made in the hope that it may do good without danger of harm. It will save labor and avoid great confusion.

But why any proclamation now upon this subject? This question is beset with the conflicting views that the step might be delayed too long or be taken too soon. In some States the elements for resumption seem ready for action, but remain inactive, apparently for want of a rallying point--a plan of action. Why shall A adopt the plan of B, rather than B that of A? And if A and B should agree, how can they know but that the general government here will reject their plan? By the proclamation a plan is presented which may be accepted by them as a rallying point, and which they are assured in advance will not be rejected here. This may bring them to act sooner than they otherwise would.

The objections to a premature presentation of a plan by the national Executive consists in the danger of committals on points which could be more safely left to further developments. Care has been taken to so shape the document as to avoid embarrassments from this source. Saying that, on certain terms, certain classes will be pardoned, with rights restored, it is not said that other classes, or other terms, will never be included. Saying that reconstruction will be accepted if presented in a specified way, it is not said it will never be accepted in any other way.

The movements, by State action, for emancipation in several of the States, not included in the emancipation proclamation, are matters of profound gratulation [Lincoln is saying here that he approves of these movements and that he "congratulates" these states for their efforts.]. And while I do not repeat in detail what I have hertofore so earnestly urged upon this subject, my general views and feelings remain unchanged; and I trust that Congress will omit no fair opportunity of aiding these important steps to a great consummation.

In the midst of other cares, however important, we must not lose sight of the fact that the war power is still our main reliance. To that power alone can we look, yet for a time, to give confidence to the people in the contested regions, that the insurgent power will not again overrun them. Until that confidence shall be established, little can be done anywhere for what is called reconstruction. Hence our chiefest care must still be directed to the army and navy, who have thus far borne their harder part so nobly and well. And it may be esteemed fortunate that in giving the greatest efficiency to these indispensable arms, we do also honorably recognize the gallant men, from commander to sentinel, who compose them, and to whom, more than to others, the world must stand indebted for the home of freedom disenthralled, regenerated, enlarged, and perpetuated

Document 2: Lincoln's Proclamation on the Wade-Davis Bill, July 8, 1864:

<http://www.let.rug.nl/usa/P/al16/writings/wdveto.htm>

[In this message, Lincoln explained his decision not to sign the Wade-Davis Bill.]

Whereas, as the late Session, Congress passed a Bill, "To guarantee to certain States, whose governments have been usurped or overthrown, a republican form of Government," a copy of which is hereunto annexed:

And whereas, the said Bill was presented to the President of the United States, for his approval, less than one hour before the sine die adjournment of said Session, and was not signed by him:

And whereas, the said Bill contains, among other things, a plan for restoring the States in rebellion to their proper practical relation in the Union, which plan expresses the sense of Congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that, while I am, (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared, by a formal approval of this Bill, to be inflexibly committed to any single plan of restoration; and, while I am also unprepared to declare, that the free-state constitutions and governments, already adopted and installed in Arkansas and Louisiana, shall be set aside and held for nought [Lincoln is here saying that there is a danger of undoing all the work already done in some Southern states—like Louisiana and Arkansas—where free-state constitutions were already established upon their acknowledged defeat by Union forces. He doesn't want Congress to override the efforts already in effect there.], thereby repelling and discouraging the loyal citizens who have set up the same, as to further effort; or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same sincerely hoping and expecting that a constitutional amendment, abolishing slavery throughout the nation, may be adopted, nevertheless, I am fully satisfied with the system for restoration contained in the Bill, as one very proper plan for the loyal people of any States choosing to adopt it; and that I am, and at all times shall be, prepared to give the Executive aid and assistance to any such people, so soon as the military resistance to the United States shall have been suppressed in any such States, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States,—in which cases, military Governors will be appointed, with directions to proceed according to the Bill.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States to be Affixed.

Done at the City of Washington this eighth day of July, in the year of Our Lord, one thousand eight hundred and sixty-four, and of the Independence of the United States the eighty-ninth

Abraham Lincoln

By the President:

William H. Seward, Secretary of State

RADICAL REPUBLICAN GROUP

Document 1: The Wade-Davis Bill, July 2, 1864:

<http://www.ourdocuments.gov/doc.php?flash=true&doc=37&page=transcript>

[Congress responded to Lincoln's plan for Reconstruction with this bill, which offered a significantly different plan. It also made the case that Congress, and not the President, should direct Reconstruction policy.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the states declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisiona1 governor, whose pay and emoluments shall not exceed that of a brigadier-general of volunteers, who shall be charged with the civil administration of such state until a state government therein shall be recognized as hereinafter provided.

SEC. 2. And be it further enacted, That so soon as the military resistance to the United States shall have been suppressed in any such state, and the people thereof shall have sufficiently returned to their obedience to the constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States, resident in the state in their respective counties, and to request each one to take the oath to support the constitution of the United States, and in his enrolment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall amount to a majority of the persons enrolled in the state, he shall, by proclamation, invite the loyal people of the state to elect delegates to a convention charged to declare the will of the people of the state relative to the reestablishment of a state government subject to, and in conformity with, the constitution of the United States.....

SEC.5. And be it further enacted, That the said commissioners, or either of them, shall hold the election in conformity with this act, and, so far as may be consistent therewith, shall proceed in the manner used in the state prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by or proved to, the commissioners to have held or exercised any office, civil or military, state or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded, though he offer to take the oath ; and in case any person who shall have borne arms against the United States shall offer to vote he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

SEC. 6. And be it further enacted, That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the state, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside over the deliberations of the

convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form above prescribed.

SEC. 7. And be it further enacted, That the convention shall declare, on behalf of the people of the state, their submission to the constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guarantee a republican form of government to every state, and incorporate them in the constitution of the state, that is to say:

First. No person who has held or exercised any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, state or confederate, under the usurping power, shall vote for or be a member of the legislature, or governor.

Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said state.

Third. No debt, state or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the state.....

SEC. 9. And be it further enacted, That if the convention shall refuse to reestablish the state government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the state entitled to vote under this act, in number not less than a majority of those enrolled, as aforesaid, are willing to reestablish a state government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention, or to certify the state government reestablished by it to the President.

SEC. 10. And be it further enacted, That, until the United States shall have recognized a republican form of state government, the provisional governor in each of said states shall see that this act, and the laws of the United States, and the laws of the state in force when the state government was overthrown by the rebellion, are faithfully executed within the state ; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such state, and the laws for the trial and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. The President shall appoint such officers provided for by the laws of the state when its government was overthrown as he may find necessary to the civil administration of the slate, all which officers shall be entitled to receive the fees and emoluments provided by the state laws for such officers.

SEC. 11. And be it further enacted, That until the recognition of a state government as aforesaid, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected, for the year eighteen hundred and sixty-four, and every year thereafter, the taxes provided by the laws of such state to be levied during the fiscal year preceding the overthrow of the state government thereof, in the manner prescribed by the laws of the state, as nearly as may be; and the officers appointed, as aforesaid, are vested with all powers of levying and collecting such taxes, by distress or sale, as were vested in any officers or tribunal of the state government aforesaid for those purposes. The proceeds of such taxes shall be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such state, subject to the direction of the

President, and the surplus shall be deposited in the treasury of the United States to the credit of such state, to be paid to the state upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

SEC. 12. And be it further enacted, that all persons held to involuntary servitude or labor in the states aforesaid are hereby emancipated and discharged there from, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretence of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

SEC. 13. And be it further enacted, That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than fifteen hundred dollars, and be imprisoned not less than five nor more than twenty years.

SEC. 14. And be it further enacted, That every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, in the rebel service, state or confederate, is hereby declared not to be a citizen of the United States.

Document 2: The Wade-Davis Manifesto, August 4, 1864:

<http://www.let.rug.nl/usa/D/1851-1875/reconstruction/wdmani.htm>

[This was Congress' response to the President's pocket veto of the Wade-Davis Bill and his accompanying message.]

We have read without surprise, but not without indignation, the Proclamation of the President of the 8th of July. . .

The President, by preventing this bill from becoming a law, holds the electoral votes of the Rebel States at the dictation of his personal ambition.

If those votes turn the balance in his favor, is it to be supposed that his competitor, defeated by such means will acquiesce?

If the Rebel majority assert their supremacy in those States, and send votes which elect an `enemy of the Government, will we not repel his claims?

And is not that civil war for the Presidency, inaugurated by the votes of Rebel States?

Seriously impressed with these dangers, Congress, "the proper constitutional authority," formally declared that there are no State Governments in the Rebel States, and provided for their erection at a proper time; and both the Senate and the House of Representatives rejected the Senators and Representatives chosen under the authority of what the President calls the Free Constitution and

Government of Arkansas.

The President's proclamation "holds for naught" this judgment, and discards the authority of the Supreme Court, and strides headlong toward the anarchy his Proclamation of the 8th of December Inaugurated.

If electors for President be allowed to be chosen in either of those States, a sinister light will be cast on the motives which induced the President to "hold for naught" the will of Congress rather than his Government in Louisiana and Arkansas.

That judgment of Congress which the President defies was the exercise of an authority exclusively vested in Congress by the Constitution to determine what is the established Government in a State, and in its own nature and by the highest judicial authority binding on all other departments of the Government. .

A more studied outrage on the legislative authority of the people has never been perpetrated.

Congress passed a bill; the President refused to approve it, and then by proclamation puts as much of it in force as he sees fit, and proposes to execute those parts by officers unknown to the laws of the United States and not subject to the confirmation of the Senate!

The bill directed the appointment of Provisional Governors by and with the advice and consent of the Senate.

The President, after defeating the law, proposes to appoint without law, and without the advice and consent of the Senate, Military Governors for the Rebel States!

He has already exercised this dictatorial usurpation in Louisiana, and he defeated the bill to prevent its limitation. .

The President has greatly presumed on the forbearance which the supporters of his Administration have so long practiced, in view of the arduous conflict in which we are engaged, and the reckless ferocity of our political opponents.

But he must understand that our support is of a cause and not of a man; that the authority of Congress is paramount and must be respected; that the whole body of the Union men of Congress will not submit to be impeached by him of rash and unconstitutional legislation; and if he wishes our support, he must confine himself to his executive duties-to obey and execute, not make the laws-to suppress by arms armed Rebellion, and leave political reorganization to Congress.

If the supporters of the Government fail to insist on this, they become responsible for the usurpations which they fail to rebuke, and are justly liable to the indignation of the people whose rights and security, committed to their keeping, they sacrifice.

Let them consider the remedy for these usurpations, and, having found it, fearlessly execute it

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