AMERICAN CONSTITUTIONALISM

VOLUME I: STRUCTURES OF GOVERNMENT

Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

Chapter 6: Secession, Civil War and Reconstruction—Federalism: The Status of Southern States During Reconstruction

**Lincoln’s Last Speech, April 11, 1866[[1]](#footnote-1)**

*Two days after Robert E. Lee surrendered, Abraham Lincoln on April 11. 1866 gave a speech outside the White House on Reconstruction, which had become more pressing after the defeat of the Confederacy. The speech defended his plan to reconstruct Louisiana and offered a way forward on Reconstruction. Lincoln, as often was the case, was deliberately vague on crucial questions, such as the status of Confederate states and what rights were to be given to persons of color. Still, at least one person in the audience interpreted Lincoln as championing racial equality. John Wilkes Booth declared that Lincoln’s speech “means nigger citizenship.” He continued, “That is the last speech he will ever make.” Booth shot Lincoln three days later. Lincoln died on April 15, 1866.*

 *Lincoln on April 11 insisted on keeping options open. He refused to declare whether the Confederate states were out of the Union only that they were “out of their practical relationship with the Union.” What does that phrase mean? Is Lincoln right that whether Virginia was in or out of the Union was a question of constitutional metaphysics with little practical bit? Lincoln insisted on being flexible. Why did he think flexibility on Reconstruction important? What differences on former confederate states might matter? What should not?*

 *Earlier that day, Chief Justice Salmon Chase shared his thoughts on Reconstruction. His letter to Lincoln declared,*

*I am very anxious about the future: and most about the principles which are to govern reconstruction for as these principles are sound or unsound so will be the work & its results. . . .*

*And first as to [West] Virginia.*

*By the action of every branch of the Government we are committed to the recognition & maintenance of the State organization of which Governor Pierpont is the head. You know all the facts. . . . There will be a pressure for the recognition of the rebel organization on condition of profession of loyalty. It will be far easier and wiser, in my judgment, to stand by the loyal organization already recognized.*

*And next as to the other rebel States:*

*The easiest & safest way seems to me to be the enrollment of the loyal citizens without regard to complexion and encouragement & support to them in the reorganization of State Governments under constitutions securing suffrage to all citizens. . . . This you know has long been my opinion. . . .*

*This way is recommended by its simplicity, facility & above all, justice. It will be, hereafter, counted equally a crime & a folly if the colored loyalists of the rebel states shall be left to the control of restored rebels, not likely, in that case, to be either wise or just, until taught both wisdom and justice by new calamities.*

*The application of this principle to Louisiana is made somewhat difficult by the organization which has already taken place: but happily the Constitution enables the Legislature to extend the right of suffrage. . . .*

*The same result can be assured in Arkansas by an amendment of the state constitution; or what would be better, I think, by a new Convention . . . without distinction of color. To all the other states the general principle may be easily applied. . . .*

*Chase wrote a second letter to Lincoln after hearing his speech. That letter asserted,*

*. . . .*

*Ever since questions of reconstruction have been talked about, it has been my opinion that the colored loyalists ought to be allowed to participate in it. . . .*

*You will remember, doubtless, that the first order ever issued for enrollment with a view to reconstruction went to General Shepley & directed the enrollment of all loyal citizens; and I suppose that, since the opinion of Attorney General Bates, no one, connected with your administration, has questioned the citizenship of free colored men more than that of free white men. . . .*

*I fully sympathized with your desire for the restoration of the Union by the change of rebel slave States into Union free States; and was willing, if I could not get exactly the plan I thought best, to take the plan you thought best, & to trust the future for modifications. I welcomed, therefore, with joy the prospects of good results from the cooperation of General Banks with the free state men of Louisiana. I think General Banks' error, & I have said so to him, was in not acting through instead of over the Free State Committee. This Committee had already shown itself disposed to a degree of liberality towards the colored people quite remarkable at that time. They had admitted delegates from the creole colored population into their free State Convention, & had evinced a readiness to admit intelligent colored citizens of that class to the rights of suffrage. I have no doubt that great & satisfactory progress would have been made in the same direction had not the work been taken out of their hands. This created the impression that the advocates of general suffrage were to be treated with disfavor by the representatives of the Government. Discouragement & disinterest were the natural consequences.*

*For one I was glad of all the good that was done; and, naturally, wanted more. So when I came to Washington last winter I saw Gen Banks: and, being now more deeply than ever persuaded of the necessity of universal suffrage, I begged him to write himself & to induce the Senators & Representatives elect from Louisiana to write to members of the Legislature and urge them to exercise their power under the constitution by passing an act extending suffrage to colored citizens. I knew that many of our best men in and out of Congress had become thoroughly convinced of the impolicy and injustice of allowing representation in Congress to States which had been in rebellion and were not yet prepared to concede equal political rights to all loyal citizens. They felt that if such representation should be allowed & such states reinstated in all their former rights as loyal members of the Union, the colored population would be practically abandoned to the disposition of the white population, with every probability against them; and this, they believed would be equally unjust & dangerous.*

*. . . .*

*I know you attach much importance to the admission of Louisiana, or rather to the recognition of her right to representation in Congress as a loyal State in the Union. If I am not misinformed there is nothing in the way except the indisposition of her Legislature to give satisfactory proof of loyalty by a sufficient guaranty of safety & justice to colored citizens through the extension to loyal colored men of the right of suffrage. Why not, then, as almost every loyal man concurs with you as to the desirableness of that recognition, take the shortest road to it by causing every proper representation to be made to the Louisiana Legislature of the importance of such extension.*

*. . . .*

*Once I should have been, if not satisfied, reasonably contented by suffrage for the more intelligent & for those who have been soldiers; now I am convinced that universal suffrage is demanded by sound policy and impartial justice alike.*

*. . . .*

*What the most important differences between Chase and Lincoln on Reconstruction? To what extent was Lincoln guilty of sacrificing principle to prudence? To what extent was Chase guilty of abandoning prudence for principle? How would the course of Reconstruction have been changed had Lincoln lived?[[2]](#footnote-2)*

We meet this evening, not in sorrow, but in gladness of heart. The evacuation of Petersburg and Richmond, and the surrender of the principal insurgent army, give hope of a righteous and speedy peace whose joyous expression can not be restrained. In the midst of this, however, He, from Whom all blessings flow, must not be forgotten. A call for a national thanksgiving is being prepared, and will be duly promulgated. . . .

By these recent successes the re-inauguration of the national authority---reconstruction---which has had a large share of thought from the first, is pressed much more closely upon our attention. It is fraught with great difficulty. Unlike the case of a war between independent nations, there is no authorized organ for us to treat with. No one man has authority to give up the rebellion for any other man. We simply must begin with, and mould from, disorganized and discordant elements. Nor is it a small additional embarrassment that we, the loyal people, differ among ourselves as to the mode, manner, and means of reconstruction.

. . . .

In the Annual Message of Dec. 1863 and accompanying Proclamation, I presented *a* plan of re-construction (as the phrase goes) which, I promised, if adopted by any State, should be acceptable to, and sustained by, the Executive government of the nation. I distinctly stated that this was not the only plan which might possibly be acceptable; and I also distinctly protested that the Executive claimed no right to say when, or whether members should be admitted to seats in Congress from such States. This plan was, in advance, submitted to the then Cabinet, and distinctly approved by every member of it. . . . The Message went to Congress, and I received many commendations of the plan, written and verbal; and not a single objection to it, from any professed emancipationist, came to my knowledge, until after the news reached Washington that the people of Louisiana had begun to move in accordance with it. From about July 1862, I had corresponded with different persons, supposed to be interested, seeking a reconstruction of a State government for Louisiana. When the Message of 1863, with the plan before mentioned, reached New-Orleans, Gen. Banks wrote me that he was confident the people, with his military co-operation, would reconstruct, substantially on that plan. I wrote him, and some of them to try it; they tried it, and the result is known. Such only has been my agency in getting up the Louisiana government. As to sustaining it, my promise is out, as before stated. But, as bad promises are better broken than kept, I shall treat this as a bad promise, and break it, whenever I shall be convinced that keeping it is adverse to the public interest. But I have not yet been so convinced.

. . . .

We all agree that the seceded States, so called, are out of their proper practical relation with the Union; and that the sole object of the government, civil and military, in regard to those States is to again get them into that proper practical relation. I believe it is not only possible, but in fact, easier, to do this, without deciding, or even considering, whether these states have even been out of the Union, than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad. Let us all join in doing the acts necessary to restoring the proper practical relations between these states and the Union; and each forever after, innocently indulge his own opinion whether, in doing the acts, he brought the States from without, into the Union, or only gave them proper assistance, they never having been out of it.

The amount of constituency, so to . . . speak, on which the new Louisiana government rests, would be more satisfactory to all, if it contained fifty, thirty, or even twenty thousand, instead of only about twelve thousand, as it does. It is also unsatisfactory to some that the elective franchise is not given to the colored man. I would myself prefer that it were now conferred on the very intelligent, and on those who serve our cause as soldiers. Still the question is not whether the Louisiana government, as it stands, is quite all that is desirable. The question is ``Will it be wiser to take it as it is, and help to improve it; or to reject, and disperse it?'' ``Can Louisiana be brought into proper practical relation with the Union *sooner* by *sustaining*, or by *discarding* her new State Government?''

Some twelve thousand voters in the heretofore slave-state of Louisiana have sworn allegiance to the Union, assumed to be the rightful political power of the State, held elections, organized a State government, adopted a free-state constitution, giving the benefit of public schools equally to black and white, and empowering the Legislature to confer the elective franchise upon the colored man. Their Legislature has already voted to ratify the constitutional amendment recently passed by Congress, abolishing slavery throughout the nation. These twelve thousand persons are thus fully committed to the Union, and to perpetual freedom in the state---committed to the very things, and nearly all the things the nation wants---and they ask the nation’s recognition, and it's assistance to make good their committal. Now, if we reject, and spurn them, we do our utmost to disorganize and disperse them. We in effect say to the white men ``You are worthless, or worse---we will neither help you, nor be helped by you.'' To the blacks we say ``This cup of liberty which these, your old masters, hold to your lips, we will dash from you, and leave you to the chances of gathering the spilled and scattered contents in some vague and undefined when, where, and how.'' If this course, discouraging and paralyzing both white and black, has any tendency to bring Louisiana into proper practical relations with the Union, I have, so far, been unable to perceive it. If, on the contrary, we recognize, and sustain the new government of Louisiana the converse of all this is made true. We encourage the hearts, and nerve the arms of the twelve thousand to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man too, in seeing all united for him, is inspired with vigilance, and energy, and daring, to the same end. Grant that he desires the elective franchise, will he not attain it sooner by saving the already advanced steps toward it, than by running backward over them? Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, we shall sooner have the fowl by hatching the egg than by smashing it? Again, if we reject Louisiana, we also reject one vote in favor of the proposed amendment to the national constitution. To meet this proposition, it has been argued that no more than three fourths of those States which have not attempted secession are necessary to validly ratify the amendment. I do not commit myself against this, further than to say that such a ratification would be questionable, and sure to be persistently questioned; while a ratification by three fourths of all the States would be unquestioned and unquestionable.

I repeat the question. ``Can Louisiana be brought into proper practical relation with the Union *sooner* by *sustaining* or by *discarding* her new State Government?

What has been said of Louisiana will apply generally to other States. And yet so great peculiarities pertain to each state; and such important and sudden changes occur in the same state; and, withal, so new and unprecedented is the whole case, that no exclusive, and inflexible plan can safely be prescribed as to details and collaterals. Such exclusive, and inflexible plan, would surely become a new entanglement. Important principles may, and must, be inflexible.

In the present “*situation*'' as the phrase goes, it may be my duty to make some new announcement to the people of the South. I am considering, and shall not fail to act, when satisfied that action will be proper.

1. Abraham Lincoln, “Last Public Address,” *Collected Works of Abraham Lincoln* (Vol. 8) (edited by Roy P. Basler) (New Brunswick, NJ: Rutgers University Press, 1953), pp. 400-05. [↑](#footnote-ref-1)
2. For an excellent discussion of all these questions, see Louis P. Masur, *Lincoln’s Last Speech: Wartime Reconstruction & the Crisis of Reunion* (Oxford University Press: New York, 2015). [↑](#footnote-ref-2)