Supplementary Material

Chapter 6: The Civil War and Reconstruction—Sources/Principles

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Andrew Johnson, **Veto Message (**1866)

Andrew Johnson (1808–75) was a Democratic senator from Tennessee who remained loyal to the Union when Tennessee seceded from the Union in 1861. Lincoln chose Johnson as his running mate in 1864, in part to build a strong bipartisan coalition committed to the Civil War. Johnson became president on April 15, 1865, after Lincoln was assassinated. Although Johnson opposed slavery and hated slaveholders, he was a white supremacist. While president from 1865 until 1869, he used his powers to fight Republican attempts to secure greater racial equality.

The following except is taken from Johnson's veto of the Civil Rights Act of 1866. Johnson's veto message maintained that the post–Civil War Constitution was committed only to the formal end of slavery. While supporting all measures aimed at eradicating slavery, Johnson asserted that the federal government should not interfere with race relationships in the South. What was Johnson's understanding of the constitutional commitment to ending slavery? Why did he think the Civil Rights Act inconsistent with that commitment?

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By the first section of the bill all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. This provision comprehends the Chinese of the Pacific States, Indians subject to taxation, the people called gypsies, as well as the entire race designated as blacks, people of color. Negroes, mulattoes, and persons of African blood. Every individual of these races born in the United States is by the bill made a citizen of the United States. . . .

The right of Federal citizenship thus to be conferred on the several excepted races before mentioned is now for the first time proposed to be given by law. . . . [T]he grave question presents itself whether, when eleven of the thirty-six States are unrepresented in Congress at the present time, it is sound policy to make our entire colored population and all other excepted classes citizens of the United States. Four millions of them have just emerged from slavery into freedom. Can it be reasonably supposed that they possess the requisite qualifications to entitle them to all the privileges and immunities of citizens of the United States? . . . . Besides, the policy of the Government from its origin to the present time seems to have been that persons who are strangers to and unfamiliar with our institutions and our laws should pass through a certain probation, at the end of which, before attaining the coveted prize, they must give evidence of their fitness to receive and to exercise the rights of citizens as contemplated by the Constitution of the United States. The bill in effect proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in favor of the Negro, to whom, after long years of bondage, the avenues to freedom and intelligence have just now been suddenly opened. He must of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who, coming from abroad, has, to some extent at least, familiarized himself with the principles of a Government to which he voluntarily intrusts "life, liberty, and the pursuit of happiness." Yet it is now proposed, by a single legislative enactment, to confer the rights of citizens upon all persons of African descent born within the extended limits of the United States, while persons of foreign birth who make our land their home must undergo a probation of five years, and can only then become citizens upon proof that they are "of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same."

The first section of the bill also contains an enumeration of the rights to be enjoyed by these classes so made citizens "in every State and Territory in the United States." These rights are "to make and enforce contracts; to sue, be parties, and give evidence: to inherit, purchase, lease, sell, hold, and convey real and personal property," and to have "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens." So, too, they are made subject to the same punishment, pains, and penalties in common with white citizens, and to none other. Thus a perfect equality of the white and colored races is attempted to be fixed by Federal law in every State of the Union over the vast field of State jurisdiction covered by these enumerated rights. . . .

I do not say that this bill repeals State laws on the subject of marriage between the two races, for as the whites are forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and therefore cannot under this bill enter into the marriage contract with the whites. I cite this discrimination, however, as an instance of the State policy as to discrimination, and to inquire whether if Congress can abrogate all State laws of discrimination between the two races in the matter of real estate, of suits, and of contracts generally Congress may not also repeal the State laws as to the contract of marriage between the two races. Hitherto every subject embraced in the enumeration of rights contained in this bill has been considered as exclusively belonging to the States. They all relate to the internal police and economy of the respective States. . . . If it be granted that Congress can repeal all State laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal in the same way all State laws discriminating between the two races on the subjects of suffrage and office? If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a State, then Congress can by law also declare who, without regard to color or race, shall have the right to sit as a juror or as a judge, to hold any office, and, finally, to vote "in every State and Territory of the United States." . . .

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It cannot . . . be justly claimed that, with a view to the enforcement of [the Thirteenth Amendment], there is at present any necessity for the exercise of all the powers which this bill confers. Slavery has been abolished, and at present nowhere exists within the jurisdiction of the United States; nor has there been, nor is it likely there will be, any attempt to revive it by the people or the States. If, however, any such attempt shall be made, it will then become the duty of the General Government to exercise any and all incidental powers necessary and proper to maintain inviolate this great constitutional law of freedom.

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. . . To me the details of the bill seem fraught with evil. The white race and the black race of the South have hitherto lived together under the relation of master and slave capital owning labor. Now, suddenly, that relation is changed, and as to ownership capital and labor are divorced. They stand now each master of itself. In this new relation, one being necessary to the other, there will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling the terms, and if left to the laws that regulate capital and labor it is confidently believed that they will satisfactorily work out the problem. Capital, it is true, has more intelligence, but labor is never so ignorant as not to understand its own interests, not to know its own value, and not to see that capital must pay that value.

This bill frustrates this adjustment. It intervenes between capital and labor and attempts to settle questions of political economy through the agency of numerous officials whose interest it will be to foment discord between the two races, for as the breach widens their employment will continue, and when it is closed their occupation will terminate.

In all our history, in all our experience as a people living under Federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish for the security of the colored race safeguards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the distinction of race and color is by the bill made to operate in favor of the colored and against the white race. They interfere with the municipal legislation of the States, with the relations existing exclusively between a State and its citizens, or between inhabitants of the same State—an absorption and assumption of power by the General Government

which, if acquiesced in, must sap and destroy our federative system of limited powers and break down the barriers which preserve the rights of the States. It is another step, or rather stride, toward centralization and the concentration of all legislative powers in the National Government. The tendency of the bill must be to resuscitate the spirit of rebellion and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and peace.

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[I]t only remains for me to say that I will cheerfully cooperate with Congress in any measure that may be necessary for the protection of the civil rights of the freedmen, as well as those of all other classes of persons throughout the United States, by judicial process, under equal and impartial laws, in conformity with the provisions of the Federal Constitution.

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