

## **Document Background**

The Reconstruction: Lest You Forget Letter is located in the Governor's Papers Collection, Folder – Education Letters, Out of State, Box 087418. This letter was sent to Governor Boggs in 1954 at the height of controversy concerning the Milford Desegregation Crisis.

The Governor Saulsbury's Message to Legislature document is located in the Executive Papers Collection, Record Group 1300, Box 391142, Folder – 1865 Governor Gove Saulsbury Message to Legislature.

The Bureau of Refugees, Freedmen, and Abandoned Lands document is part of a collection at the National Archives titled The Bureau of Refugees, Freedmen, and Abandoned Lands. This document is part of a report sent in May 1868 from John Kimball, the Superintendent of Education in the District of Columbia Region. Although the Delaware Public Archives does not have the original documents for this collection the National Archives has provided a microfilm copy of these records for use by patrons at the Delaware Public Archives. The Record Group number for this collection is 0775.011.

**Background Information** The Reconstruction period was an emotionally charged period in United States history that lasted roughly from 1863 through 1877 and was punctuated by the passage and ratification of three Constitutional Amendments, the Thirteenth, Fourteenth, and Fifteenth.

Deciding on an effective plan to reintegrate the Southern states into the Union was no easy task. The country faced three major issues determining its course of action over the next years: determining the role of the freedmen in post Civil War America, clearly defining the role and acceptable power of former Confederates within their states and within the nation, and, finally, determining which branch of the federal government was responsible for overseeing Reconstruction: the executive or legislative branch of the Federal Government.<sup>1</sup> Three separate and distinctly different reconstruction plans were presented for consideration; each was in force for varying periods of time. These initial courses of action embodied the beliefs of the key spokesperson for each plan on whether the object of reconstruction should be the reformation of an insoluble union of states or whether those states that chose to leave the Union, as well as their military leaders, should be severely punished. Much of the rationale for the different plans appears to focus on the ideology of the men advocating the particular proposal. In initially proposed plans, inclusion of African Americans as voting members of the community was never

proposed.

President Lincoln appreciated the importance of presenting the Southern states with ways to rejoin the Union quickly and with minimum punishment or humiliation. This underscored his belief in the importance of shortening the war and ensuring emancipation of the black slaves. His plan was initiated before the final defeat of the South.

1. Lincoln's plan [Proclamation of Amnesty and Reconstruction of December 8, 1863]:

- Primary concern: reintegration of southern states into the Union.
- Not punitive in orientation
- Executive Branch to oversee process
- Required that 10% of white men swear loyalty/allegiance to Constitution, to the Union, and to slave emancipation;
- Former Confederates to run local governments;
- Upon 10% agreement, republican government could be established in state;
- Restoration of all property EXCEPT ownership of slaves;
- No role for freedmen identified;
- No guarantee of rights or future rights.<sup>ii</sup>

The Senate during this time was in the control of a group of men referred to as Radical Republicans. These men believed that the legislative branch of the government, not the executive branch, should be the key overseers and implementers of the reconstruction of the Union. Their philosophy was that the Confederacy had, by their actions, brought about the bloody war in which the country was engaged, and consequently, should be punished for their actions. They did not agree with Lincoln's Plan, believing it too lenient and advocating inconsistent treatment of the Southern confederacy. In fact, they had had strong disagreements with the President over his entire war strategy.

2. Wade-Davis Bill [passed Congress July 2, 1864. Vetoed by President Lincoln. Lincoln issued a Proclamation stating that the bill was vetoed because it was presented to him moments before adjournment and would have required an inflexible system of reintegration.<sup>iii</sup>]

- Primary concern: removal of control from executive branch and punishment of rebellious southern states;
- Provided for control of states by provisional military governors until the end of the war;

- “Iron-clad oath” signed by those who demonstrated continued loyalty to the Union and made them eligible to vote, effectively eliminating former Confederates.
- Required 50% signatures before new government could be formed;
- No speedy reintegration into the Union;
- Blacks excluded from participation.
- Vetoed by President Lincoln.<sup>iv</sup>

In December 1865 the 13<sup>th</sup> Amendment officially ended slavery in all of the United States; becoming law when ratified by the required number of states. Prior to this time, President Lincoln had, by proclamation, freed all slaves effective January 1, 1863 in those confederate states still in rebellion. As a Border State loyal to the Union, Delaware was exempt from the effects of the Proclamation but was not exempt from the manumitting resulting from the Amendment. Stating that it violated states’ rights to determine their own course of action, Delaware’s General Assembly rejected the amendment on February 8, 1865 and did not officially approve it until February 12, **1901.**<sup>v</sup>

With the death of President Lincoln and with the successful ratification of the anti-slavery amendment which also declared “Congress shall have power to enforce this article by appropriate legislation,”<sup>vi</sup> President Andrew Johnson took matters into his own hands, imposing a “new” policy of reconstructing the Union through a series of proclamations. Johnson, a Southern Democrat and a former slave owner and intimately tied to his southern roots, administered the plan, which ultimately allowed for reinterpretation of rules and conditions. In almost all instances, identified men who had to seek individual pardons did, in fact, receive those pardons and moved again into positions of leadership.

#### Johnson Plan [Democrat; Executive oversight of Reconstruction]

- Primary concern: maintenance of pre-Civil War status quo (minus slavery) in South while reintegrating the states into the Union.
- Instituted by Presidential Proclamation;
- Granted amnesty to former Confederates who signed a loyalty oath to Constitution and federal laws;
- All property restored, except slaves or confiscated lands;
- Some people not eligible for amnesty had to make individual application for reinstatement of their citizenship [former high ranking Confederate officers, former federal employees or Congressmen, those with property

worth in excess of \$20,000.00;]

- President to appoint government run by Union officials who were to oversee election, insuring only eligible citizens voted, blacks excluded and most former Confederates included;
- Southern states to nullify secession laws, ratify the 13th amendment, and repudiate the Confederate war debts;
- Johnson not consistent in administering his plan, for example, some states were even exempt from ratifying 13<sup>th</sup> Amendment.<sup>vii</sup>

In addition to the 13<sup>th</sup> Amendment, the 14<sup>th</sup> and 15<sup>th</sup> Amendments moved, among other things, to secure some protection for the rights of the newly freed slaves as well as all black men. The importance of all of these amendments was to ensure that the South could not overturn in their own legislatures federally passed legislation since the federal government received the “power, to enforce by appropriate legislation, the provisions of” the Amendments. The 14<sup>th</sup> Amendment, in the first of its four clauses, granted citizenship to all “persons born or naturalized in the United States.” Additionally, with the 15<sup>th</sup> Amendment, freed slaves and all African Americans were granted the right to vote in elections. Delaware also vetoed these Amendments. Once again the issue of the usurpation of states’ rights by the Federal government was a key issue as expressed by the words of Willard Saulsbury, one of Delaware’s senators, on the floor of the Senate. He chided the Senate on their actions to pass legislation that directly impacted the “rebellious states” while excluding them from participation in the discussions or final vote.

Senator Saulsbury’s address to the entire Senate on Apportionment of Representation is a most stirring presentation of the right of states to disagree with their country, with their legislators, and with the Constitution. He reminded the senators from the Northern states of the fact that famous jurists of the past, from the North, advocated the rights of each state to disagree with the Union and to choose to leave the Union and establish an independent form of government similar to or totally different from that which exists in the United States.

Open your doors, sir; admit the representatives of the southern States to seats in this body; require no miserable degrading oath of them; administer to them the very oath that you first took when you entered this body, and the only oath which Congress of the United states requires; and the only oath which the congress has any right to exact, an oath to support the United States;....<sup>viii</sup>

Ironically, Saulsbury's fellow senator, James Bayard, was called to account for the fact that he refused to sign a loyalty oath in 1862, the so-called "iron-clad oath", believing as Saulsbury had stated, that there was only one oath to which any senator had to attest and that was done upon entering the Senate for the first time. In 1864 in a very poignant moment in Senate history and for a Delaware senator, when he was challenged again to sign the oath, he responded

...the oath prescribed in that act [of 1862] has been frequently designated as the 'oath of loyalty;' and doubtless there are those who may consider my declining to take that oath as evidence of disloyalty. *Loyalty and disloyalty* ... have become familiar terms during the progress of this disastrous civil war.... Accepting the term as applicable, I define loyalty in a Government such as ours . . . to mean a steadfast adherence to the Constitution .... I have sworn to support that Constitution; ... I call upon the tribunal ... to decide judicially whether the act is constitutional, and give to it its proper legal construction. If it be disloyal to support the Constitution of my country, then I cheerfully accept the imputation of disloyalty.<sup>ix</sup>

Senator Bayard signed the oath on January 26, 1864 and immediately resigned with these words: "Standing, therefore, almost alone in this body, I have lost the hope that I can longer be of service to my country or my State.... I have lived to see the elective franchise trodden under foot in my native State by the iron heel of the soldier .... I have lived to see her citizens torn from their homes and separated from their families . . . Without any charge expressed ... and without any known accuser."<sup>x</sup>

During the war years and Reconstruction Democratic activity in Delaware brought about actions by President Lincoln to safeguard the voting rights of the average citizen: federal troops were sent in to monitor the polls. In 1862 William Cannon, a Republican, was elected Governor of the State of Delaware. Democrats throughout the state railed about the miscarriage of justice perpetrated on the citizenry of Delaware, calling for an end to "negro equality" and to an end to the external presence of troops. Governor Cannon died in 1865 and from that time until 1879, after the "official end" of Reconstruction, Delaware was governed by Democrats; its Congressional delegation was composed almost exclusively of Democrats, and its General Assembly usually operated under the auspices of a Democratic speaker.<sup>xi</sup>

The Congress moved rapidly to regain control over the reintegration process that

President Johnson had usurped with his reconstruction by proclamation. Congress found their Freedmen's Bureau legislation ignored, the loyalty oaths and the required affirmation of Amendment 13 unevenly applied. In 1866, 1867, and 1868 the Congress passed several acts in which they sought to ensure that oversight of the Reconstruction of the Union be placed squarely into the hands of the legislative branch of the Federal government. Some of the elements reaffirmed President Johnson's plan restoring land to pardoned rebels. The 1867 act divided the South into five military districts, each overseen by a major general. Additionally, elections were held in which freed African Americans were allowed to vote; readmission to the Union was now tied to acceptance of the right of universal male suffrage espoused in Amendment 14. While President Johnson vetoed the law, the Senate overrode the veto on the same day. Supplemental Reconstruction Acts were passed granting the military commanders of the districts powers to oversee elections and ensure rights and safety of African Americans.<sup>xii</sup> During the years following the end of the Civil War, and even with the passage of three Constitutional Amendments, African Americans discovered that more and more restrictions were placed on them in the period following the Civil War. Delaware, a state with a very small number of slaves, opted to remain, primarily for safety reasons, within the Union. The state had been in the hands of the Democratic Party throughout most of the Civil War years and the Reconstruction period, and the General Assembly ensured that there was no confusion as to the place of black people in white Delaware society. The Democratic General Assembly, in 1866, resolved that blacks were not the political or social equals of whites and found ways to reduce opportunities for them to experience full citizenship as whites did during the time period.<sup>xiii</sup> Demonstrating the wide variance in treatment is the case of the Mackey [a black man] murder by one Mr. Taylor. Mr. Taylor allegedly pushed Mr. Mackey into the river. No charges were filed and after an inquest, where it was presumed that Mackey was pushed into the creek and drown, the police again filed no charges. Mr. Lore, Attorney General of the State, stated, "that unless the family of the deceased interests themselves, probably none [charges] will be."<sup>xiv</sup> 1870 census data for Delaware shows population by race distribution as follows: total population 125,021; of that number, 102,221 were listed as white and 22,794, as black.<sup>xv</sup> African Americans in the Border States called a convention in 1868 to attempt to politicize the black communities in the area and begin to effect changes in their status within their states and within the region. Their goal, after coming together and forming a political machine to alert the American public as to the true condition of the black man, was to "devise the best means for successfully agitating the reform of the present unrepudican constitutions of the States, unrepudican in disfranchising not less than one hundred and fifty thousand voters on account of color only...."<sup>xvi</sup> In the country as a whole concentration began to focus on the conditions in the South as a whole and on the rights of the "colored person" in particular. Party politics found ready people to blame for the unimproved conditions

in the South. Senator James G. Blaine reported that the minority report presented to the Senate from the Reconstruction committee, and signed by “Senator Bayard of Delaware,” averred, “the broad and bold doctrine of the political rights of the colored man, as conferred by the Constitutional Amendments, would go down with the Republican Party.” The article continued, “that the state of the public mind sustaining negro suffrage will gradually wear away and public opinion will vibrate back to its old condition as it existed prior to the disturbing influences of the War.” Blaine also pointed out that not one Democratic convention, state or national, approved the Reconstruction amendments; in fact, the members went so far as to condemn them.

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Reconstruction was an attempt by the Federal Government to legislate equality, total “reunionization” of rebel states under specific conditions, and integration. The attempt was not successful. There was no legislation or legislative procedure that could counteract two centuries of heritage, of agricultural traditions, of economic dependency, and of mistreatment. Very slowly the process was overturned through laws passed in the Congress and ultimately followed or ignored in the individual states.

Reconstruction officially ended as all federal troops were withdrawn from the South. White rule was restored, and black people were over time deprived of many civil and political rights and their economic position remained depressed. The radicals' hopes for a basic reordering of the social and economic structure of the South, beyond the abolition of slavery, died. The results, instead, were the one-party “solid South” and increased racial bitterness.<sup>xviii</sup>

<sup>i</sup> Burson, George. “Civil War and Reconstruction,” *U.S. History Curriculum*. [Online: <http://www.jmu.edu/madison/teach/burson/cw.htm>] May 14, 2003. <sup>ii</sup> Burson, “Civil War...

<sup>iii</sup> Simkin, John. “Radical Republicans,” Spartacus Educational. [Online: <http://www.spartacus.schoolnet.co.uk/USASradical.htm>] May 18, 2003. <sup>iv</sup> Burson, “Civil War... v 13<sup>th</sup>

Amendment to the U.S. Constitution. Martin Luther King National Historic Site. [Online: <http://www.nps.gov/malu/documents/amend13.htm>] May 14, 2003. <sup>vi</sup> “Amendment XIII,” *Grolier*

*Presents the American Presidency*. [Online: <http://gi.grolier.com/presidents/aae/side/amend.html>] May 14, 2003. <sup>vii</sup> Burson, “Civil War... <sup>viii</sup> Saulsbury, Willard. “Apportionment of Representation, Speech of

Hon. W. Saulsbury of Delaware.” *Congressional Globe*, Senate, 39th Con., 1st Sess. 150. (1866). [Online: <http://memory.loc.gov/cgi-bin/ampage?collId=llcg&fileName=074/llcg074.db&recNum=671>] May 14,

2003. <sup>ix</sup> Bayard, James A. “Speech of Hon. James A. Bayard of Delaware delivered in the Senate of the United States, January 19, 1864, against the Validity of the Test Oath,” from the University of Delaware Special Collections Exhibit, *Delaware in Wartime*. [Online:

[http://www.lib.udel.edu/ud/spec/exhibits/wartime.html#civil\\_war](http://www.lib.udel.edu/ud/spec/exhibits/wartime.html#civil_war) ] May 15, 2003. x Ibid. xi Pickett, Russ. U.S. and Delaware History. [Online: <http://www.russpickett.com/history/index.htm> } May 18, 2003. xii Simkin, John. "Reconstruction Acts," Spartacus Educational. [Online: <http://www.spartacus.schoolnet.co.uk/USASreconstruction.htm> ] May 18, 2003. xiii Newton, James E. "Black Americans in Delaware: an Overview," *A History of African Americans of Delaware and Maryland's Eastern Shore*. [Online: <http://www.udel.edu/BlackHistory/overview.html> ] May 18, 2003. xiv "The Mackey Murder: Additional Facts Connected with the Affair." *New York Times*, August 10, 1874. [Online: <http://hn.umi.com/pqdweb?Did=000000079079205&Fmt=10&Deli=1&Mtd=1&Idx=16&Sid=1&RQT=309> ] May 18, 2003. xv "The census of 1870: Official statement of the Population of the Country According to Color," *New York Times* (1857-Current File), July 8, 1871. [Online: <http://hn.umi.com/pqdweb?Did=000000078767627&Fmt=10&Deli=1&Mtd=1&Idx=34&Sid=1&RQT=309> ] May 18, 2003. xvi "A Convention of Border State Colored Men." *New York Times (1857-Current file)*, New York, N.Y.; Jun 12, 1868; pg. 5, 1 pgs. [Online: <http://hn.umi.com/pqdweb?Did=000000078919267&Fmt=10&Deli=1&Mtd=1&Idx=43&Sid=1&RQT=309> ] May 18, 2003. xvii "Speaker Blaine on the South: its Disturbed Condition due to the Attitudes of Northern Democrats," *New York Times*, October 30, 1874. [Online: <http://hn.umi.com/pqdweb?Did=000000079234630&Fmt=10&Deli=1&Mtd=1&Idx=12&Sid=2&RQT=309> ] May 18, 2003. xviii "Reconstruction's End," *The Columbia Electronic Encyclopedia* Copyright © 1994, 2000, Columbia University Press. [Online: <http://www.factmonster.com/ce6/history/A0860650.html> ] May 19, 2003.