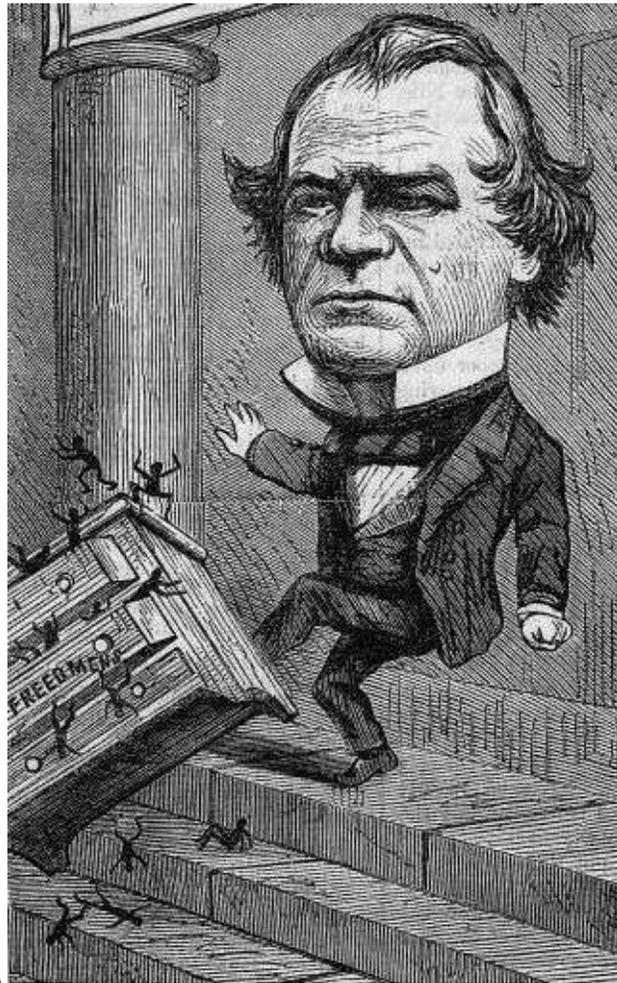


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Andrew Johnson's Pardoning Policy and the Failure of Freedmen's Land
Ownership During Reconstruction



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During the Civil War, and especially after emancipation, an idea emerged from within the radical faction of the Republican Party and from the freedmen themselves, that land ownership was crucial to the ex-slaves' hopes for self-sufficiency, and that the government should facilitate freedman's landownership by reserving portions of the confiscated and abandoned lands in the rebel states for their settlement.ⁱⁱ Various plans to settle freedmen on these lands began as early as 1861 and solidified in 1864 in a federal law, enacted as part of the Freedman's Bureau Bill, to assign a – now famous – “forty acres” to each head of a black family.ⁱⁱⁱ Despite this law, however, ultimately, the effort to secure widespread black land ownership during Reconstruction failed, resulting in a disappointment of the freedman's hopes and needs that impacted black Americans for generations to come.^{iv} My question in initiating this research was: why did this noble and necessary mission fail? In beginning to search for answers, I discovered that most accounts chalk it up to four words: Andrew Johnson's pardoning policy. Of course, the winding and uncertain course towards freedman's land ownership was plagued throughout the Civil War and Reconstruction by many problems, including and especially the ambivalence on the part of those in government about what to do with the freed slaves.^v However, indeed, no impediment was ever nearly as destructive to the cause as was Andrew Johnson's pardoning policy and subsequent restoration of rebel lands.^{vi} Therefore, this paper will endeavor to investigate more deeply into this decisive policy. First, this analysis will look into what attempts at land redistribution were made and why Johnson's pardoning policy was so detrimental to those attempts. Second, this paper will delve much more deeply into how exactly Johnson's policy managed to invalidate an established law and supersede a growing number of powerful voices in government calling for land redistribution, effectively quashing the possibilities of the land reform mission. And most importantly, this paper will endeavor to determine the reasons *why* Johnson did so. Ultimately, Johnson's reasons for restoring nearly all the land intended for redistribution to its traitorous owners, at the expense of the freedmen, were manifold. Johnson's reasons stemmed from his character, his politics, his constitutional philosophies,

and perhaps, most fundamentally, from his background and the racial views that it instilled in him. Amid all the contributing reasons how and why Johnson neglected the freedmen through his restoration policy, the one reason that appears at the basis of many others is that, because of Johnson's deeply seeded racial views, he never truly wanted to act to advance the black person.

The first section of this paper provides a brief overview of the journey towards securing some freedmen's land ownership, including what pieces of legislation played an important role in that journey. In addition to establishing important factual context for the topic of the failure of black landownership during Reconstruction, this overview also demonstrates one important reason why President Johnson was so easily able to foil the project: the motion to get freedmen settled on their own land was never a sufficiently well-planned, focused, or unified government effort to begin with.^{vii} During most of the war, the Union government was far from agreeing that federal planning for black land ownership was a good idea, let alone a priority. For this reason, the series of southern land seizures that ultimately enabled some success in freedmen's land ownership were not originally enacted out of intentions to fortify the ex-slaves' freedom.^{viii} Those *were* the intentions of a small minority in government who were often at the helm of the land seizure laws, and their intentions for the freedmen did slowly, by 1866, become more widely accepted throughout the Republican Party.^{ix} However, initially, for most of the government, much of the legislation that enabled freedmen's land ownership was passed out of the immediate necessities of war: financial warfare, funding of the war, and makeshift solutions to the refugee problems.^x

In the beginning of the war, Congress enacted a series of confiscation acts with the intention of making the war costly to its secessionist enemies.^{xi} The First Confiscation Act of August 6, 1861, gave the president power to confiscate property used in aid of the rebellion and to strip rebels of any claim to their slaves.^{xii} Thaddeus Stevens, a congressman from Pennsylvania and a leader of the radical faction within the Republican Party who had

championed the bill envisioned reconstructing the South by seizing these rebel lands and redistributing them to the slaves once they were freed.^{xiii} However, Stevens' intentions for the bill were not those of the majority at this time.^{xiv} There was still much debate in government regarding the constitutionality of such confiscations and the fate of the slaves, who, though no longer slaves after the First Confiscation Act, were not technically freed either. Because of the need to keep the border states in the Union, Lincoln had to be persuaded to sign the bill, and once he did, he interpreted the act conservatively, to not include public lands in seceded states. Thus, the act ultimately enabled very little territory confiscation.^{xv} As the costs and casualties of war mounted over the following year, and the possibility of a negotiated settlement with the Confederacy became less and less likely, Congress approved a Second Confiscation Act on July 17, 1862 that provided for the confiscation of property from more classes of disloyal persons, and forever freed their slaves once their area of residence came under United States military control.^{xvi} The power of this second bill to provide for land redistribution plans was still limited, however, by a joint explanatory resolution limiting the effect of confiscation to the life of the guilty party. In fact, Lincoln nearly vetoed the bill before this amendment for being an unconstitutional bill of attainder.^{xvii} At this point, neither Lincoln nor Congress was at all sure of what should be done with the slaves once they were freed. The Second Confiscation Act even contained a recommendation from Lincoln that provisions be made for colonization of the emancipated outside the country, although Congress later repealed this clause.^{xviii} Aside from the Confiscation Acts, a much larger scale confiscation of rebel lands became possible through a direct tax enacted on August 6, 1861 to raise funds for the war, which was to be levied throughout the United States including the seceded states.^{xix} Through this tax act, as soon as the Union regained control of, for example, the Sea Islands of South Carolina, in 1862, federal courts were able to seize 76,775 acres of land for non-payment of the direct tax. Furthermore, as the planters fled the recaptured islands, a new category of lands also became available, termed "abandoned lands."^{xx} These larger scale land seizures would eventually

provide the land for several wartime experiments in freedman's land ownership and cultivation organized by Northern abolitionists, including, most notably, the successful Port Royal Experiment.^{xxi}

By 1862, Lincoln's thinking on what might be done about the emancipated slaves had clearly started shifting, as he appointed a commission (including future champion of freedmen's land ownership General Rufus Saxton) to determine what lands should be reserved for governmental purposes, including freedmen's "charitable" needs.^{xxii} Through a series of tax sales in 1863, over 40,000 acres of the 60,296 acres of Lincoln's reserved lands were put up for sale at public auction. While a few freedmen who had earned or pooled enough wages since being freed were able to buy a few tracts of land, a far greater portion went to wealthy northern capitalists, many of who did not have the freedmen's interests at heart.^{xxiii} Lincoln thus ordered that 20,000 acres be set aside to be divided into twenty acre plots and sold exclusively to heads of Afro-American families at the preferred rate of \$1.25 per acre, "for the charitable purpose of providing homes for...families... so as to give them an interest in the soil."^{xxiv} This land provision, however, only provided for one thousand families, so General Saxton and missionary Mansfield French attempted to circumvent these limitations by instructing freedmen on November 3, 1863 in the *Free South* newspaper to exercise a squatter's right called the right to preemption, which allowed settlers of public land to reserve claim to the land they'd settled before it was offered at public auction.^{xxv} Saxton even succeeded in getting Secretary of the Treasury Salmon P. Chase to approve the plan on December 31, 1863.^{xxvi} However, disagreement between officials in the Sea Islands as well as in the capital about this application of the right to preemption, and complaints from other parties interested in buying the confiscated lands ended in Chase having to withdraw his December instructions.^{xxvii} When further land sales took place, the freedmen – without preemption rights – were mostly outbid by wealthier white capitalists.^{xxviii}

As the Union continued to regain control of more territory and to emancipate slaves, the need to find a solution for what to do with them became more urgent, and the

northeastern states and Washington especially began calling for a more unified plan.^{xxix} Guided by Secretary of War Stanton and radical Republican Senator Charles Sumner, the War Department, in March, 1863, created a commission to investigate and “report what measures will best contribute to [the freedmen’s] protection and improvement, so that they may support and protect themselves.”^{xxx} After extensive journeys through the South, the Commission recommended that freedmen should be established on confiscated and abandoned lands where they would work for wages and have the opportunity to buy the land, and that a bureau should be created to help the freedmen make their transition to freedom.^{xxxi} The movement in Congress to create such a bureau began in 1863. However, because of debate over what department should control this bureau and what powers it should have, a bill was not introduced until 1865.^{xxxii}

In the interim, as Congress debated, General William T. Sherman required a more immediate solution to the problem of the thousands of refugees and slaves, trailing his army during his March to the Sea at the end of 1864. These thousands of refugees and former slaves left behind by their fleeing masters trailed Sherman’s army for lack of anywhere else to go or anywhere else to get the basic provisions for their survival.^{xxxiii} After consulting with a group of twenty local black ministers on January 12, 1865, Sherman issued Special Order No. 15, on January 16, which reserved the Sea Islands and a swath of adjacent territory for the exclusive settlement of the ex-slaves. General Saxton was appointed to assign to each head of family forty acres of land and to “furnish” him a possessory title^{xxxiv} – possessory meaning “until such time as they [the possessor could] protect themselves, or until Congress [might] regulate their title.”^{xxxv} Saxton began dividing the reservation into forty-acre tracts and by June 1865, approximately 40,000 Negroes has been settled on about 400,000 acres of land reserved by Sherman’s Special Field Order.^{xxxvi}

On March 3, 1865, the lengthy confusion regarding the establishment of freedmen on seized lands finally solidified in a general law: The first Freedman’s Bureau Act.^{xxxvii} Voting on a bill by Thomas Elliot with help from Charles Sumner, Congress created, within

the War Department, a self-supporting Bureau of Refugees, Freedmen, and Abandoned Lands, charged with the supervision and management of all abandoned lands and the control of all subjects relating to refugees and freedmen.^{xxxviii} The bill did not ensure permanent tenure of the land for the freedmen. And with opinion still divided on the project of black landownership, the first versions of the bill did not even include any provision for black settlement.^{xxxix} However, persuaded by the positive example of successful freedmen's settlements such as the Port Royal Experiment, by the Freedman's Inquiry Report recommendations, and by the need to fully legalize Sherman's land directive,^{xl} Section Four of the compromise version of the bill provided for the distribution of "not more than forty acres of such [abandoned or confiscated] land," with the guarantee that the "person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rate not exceeding six per centum upon the value of such land," and that, at any point during the term or at the end, the occupants could purchase the land.^{xli} Unfortunately for the freedmen and their friends, despite Congress' compromise in the final hour on Section Four of the first Freedman's Bureau Bill, the continuing ambiguity of purpose in the project of establishing the freedmen ultimately made the land ownership project relatively easy to overturn. For one thing, the lack of unified support for establishing the project meant that there was a lack of unified support to defend it once Andrew Johnson started to nullify its provisions.^{xlii}

While the newly appointed commissioner of the Freedman's Bureau General Oliver Otis Howard was beginning to organize the Bureau and lay the groundwork for executing Section Four, President Johnson, on May 29, 1865, issued his first and most impactful amnesty proclamation, pardoning most former rebels and restoring their lands.^{xliii} Initially, Johnson's Amnesty Proclamation seemed much like Lincoln's from December 8, 1863, offering full pardon to all those –except certain exempted classes of particularly treasonous person – who were willing to resume allegiance and swear an oath to the Union.^{xliv} Johnson's pardon could even have been construed as harsher than Lincoln's as Johnson's excluded a

class that Lincoln's had not: all persons who had voluntarily participated in the rebellion and whose estimated taxable property exceeded \$20,000. This provision seemed designed to exclude members of the planter class, whom Johnson held personally responsible for secession. However, this exclusion never held because of another provision of Johnson's policy that allowed those persons excluded from the amnesty to apply for special pardons.^{xlv} Thousands of requests for special pardons poured in and Johnson soon began bequeathing them in alarming volumes. Continuing through the period of presidential reconstruction, this policy came to the point where Johnson had granted 13,500 so called "special" pardons and only three hundred of the country's traitors remained unpardoned. By pardoning so many traitors and thus restoring their lands, Johnson effectively nullified Section Four of the Freedman's Bureau Bill, forcing the restoration of almost all of the land intended for rent and sale to the freedmen.^{xlvi}

So how did Johnson manage this? Firstly, when Johnson came to the presidency after Lincoln was assassinated on April 15, 1865, Congress was not in session and wouldn't be for another eight months. Most republicans, especially the radicals, expected Johnson to call a special session or at least to wait until Congress was back in session to begin Reconstruction. However, Johnson began his own restoration plan, issuing his pardoning policy almost right away.^{xlvii} Upon hearing about Johnson's pardon, Commissioner of the Freedman's Bureau O.O Howard, asked Attorney General James Speed whether this proclamation affected his authority to redistribute land as provided by the first Freedman's Bureau Bill. Speed assured Howard that he retained his authority to distribute the land in question. Therefore, Howard decided to resist the efforts of returning Southerners to reclaim the abandoned or confiscated lands.^{xlviii} Howard issued new instructions to the Freedmen on how to lease land and issued Circular No. 13 to his agents, stating that "The pardon of the President will not be understood to extend to the surrender of abandoned or confiscated property which by law has been 'set apart for Refugees and Freedmen'" and that, "no part or parcel of said confiscated or Abandoned property shall be surrendered and or restored" unless the owner could prove non-

abandonment.^{xlix} Howard urged his agents to instead assign as much of this land to freedmen as soon as possible, before the President's policy solidified.¹ Through a series of executive orders beginning in early July, however, the president intervened stubbornly to stymie the Bureau's tactics and gradually force the restoration of all the property except the few lands that had already been sold outright by the Tax Commission.^{li} When Howard, for example, informed his assistant commissioners that at least existing leases to freedmen were not to be broken under any circumstances, Johnson issued an executive order on September 7, 1865, suspending his previous instructions to the Treasury to turn over funds collected from abandoned and confiscated lands to the Freedmen's Bureau.^{lii} In doing so, Johnson took away the bureau's financial support and significantly weakened the bureau and Howard.^{liii} Saxton, however, still refused (despite many complaints and petitions from returning rebels) to restore the plots assigned to freedmen under Sherman's Special Order 15.^{liv} General Saxton implored the President to honor those distributions. However, Johnson ordered Howard to recall Circular No. 13 and issue Circular No. 15, restoring the lands to *all* those Southerners who'd procured presidential pardons, including lands settled under the Sherman order. Circular No. 15 also changed the definition of "confiscated lands" to be much more narrowly interpreted, making the possession of confiscated lands by the Bureau so vague that many bureau agents halted their policy of assigning land to the freedmen.^{lv} Furthermore, General Saxton was removed by order of the President on January 15, 1866 for having resisted presidential instructions^{lvi} and the Bureau was now to be tied to and in many ways controlled by the regular military occupation forces, in order to quell any further obstructions to the restoration of Sherman lands.^{lvii} In 1865, the Freedman's Bureau controlled 858,000 acres of land. However, after having to restore nearly 400,000 acres between 1865 and '66 alone, by 1866, the Bureau controlled only half what it had (464,000 acres), and by 1868, only controlled a meager 139,543 acres.^{lviii}

So why did Johnson bestow so many special pardons and restore lands so rapidly to even the worst traitors? Accurately assessing a person's manifold motivations is of course

never an exact science. This analysis, however, will begin in this task by examining the timing of Johnson's conferring of pardons in the months after the policy's enactment. The details behind the pace of Johnson's conferring of pardons –very slow at first and then very fast– reveals that one significant, contributing reason why Johnson ended up giving so many special pardons stemmed from a curious combination of Johnson's personal character, his constitutional ideologies, and his political purposes.

Contrary to what it looked like by the autumn of 1865, Johnson did take the treason of the secessionists seriously.^{lix} During Johnson's campaign for vice-president, he frequently made statements against the traitors such as "Treason must be made odious, and traitors must be punished and impoverished."^{lx} Johnson was a devotee of the Union because he felt that its unified system of democracy was what gave him – a former tailor who'd been poor most of his life – his chance to rise up the social ladder.^{lxi} So Johnson held the traitors who had endangered that democracy in personal contempt, and, in the first months after issuing his policy, although lengthy, pleading letters were piling up, he issued relatively few pardons.^{lxii} While this sparse pardoning initially made it look as though Johnson was discriminating carefully between the pardons, holding to the exemptions he had put in his Amnesty Proclamation, there is evidence to suggest that Johnson's apparent, initial moderation was actually motivated by his feeling that it was only right that the disloyal be chastised by being kept in a little bit of suspense.^{lxiii} Several scholars including Kenneth M. Stamp, Patrick W. Riddleberger, Eric L. McKittrick, and David Warren Bowen suggest that Johnson exempted certain classes from the amnesty and then waited to begin pardoning them because he was "enjoying his power over the aristocrats."^{lxiv} Stamp suggests that Johnson's initial hesitation to bestow pardons, followed by his profuse bestowing of them stemmed from a weakness in Johnson's character –a raw need for recognition and respect from the condescending members of the aristocratic class who had snubbed him and whom he grudgingly admired– that was common among men of Johnson's poor background. Thus, for Johnson, being the one to withhold and then give these critical pardons was, "an intoxicating experience, and he

became a little giddy as delegation after delegation of contrite Southerners assured him that the fate of the South was in his hands.^{lxv} One piece of evidence to support this theory about the intention behind the pardons is that, before the impending elections forced Johnson to share his pardoning workload a little, he initially refused advice from many of his advisors telling him to share the responsibility for pardoning by establishing a pardoning board.^{lxvi} Another piece of evidence that seems to reflect this theory of Johnson's personal motivations is Editor of the New York Herald Tribune Whitelaw Reid's description of a summer day at the White House in 1865. On a day during the early months of summer when Johnson was taking his time with the pardons, Reid described Johnson deliberately withholding a number of approved pardons: "Sundry gentlemen would be greatly obliged if they could be handed their pardons now...they were made out and lying on the table, but he [the President] wasn't just prepared to deliver them yet... 'They're not quite enough humiliated yet,' whispered an official onlooker."^{lxvii} Why Johnson's personal motivations matter and what they prove is that, although Johnson's class exceptions seemed harsher than those in Lincoln's Amnesty, and although Johnson initially waited to bestow pardons, he may never have actually intended to withhold them. Johnson admitted in an interview with George L. Stearns on October 3, 1865 that he did not really expect to deny pardon to the excepted classes, "...but," he declared, "I intended they should sue for pardon, and so realize the enormity of their crime."^{lxviii} So it seems that Johnson knew all along that he would soon pardon all the traitors excepted from his Amnesty Proclamation and return all the land that other parties in government fiercely hoped would remain in the possession of freedmen.^{lxix} What looked like careful discrimination in the first few months of Johnson's pardoning was likely Johnson's wanting to savor the "vindication of himself and his principles" that the "heaps of petitions" pleading for his pardon, represented.^{lxx}

This insight into Johnson's character and his motivations still does not quite explain, however, what caused Johnson to start issuing pardons in such high volumes as soon as fall began approaching. For this, one must consider that, even stronger than Johnson's genuine

desire to make the traitors repent, was his belief that the states were never really out of the Union because it was not constitutionally possible to secede.^{lxxi} Johnson held the traitors in contempt on an individual level for –as he saw it– “having attacked the element in American society and the political system that granted him the means to act as their equal.”^{lxxii}

However, on the institutional level, Johnson was wedded to the belief that no state had ever really been out of the Union, and, therefore, for Johnson, the steps needed to resume the normal inter-functioning of the states were perfunctory.^{lxxiii} Radical Republicans wanted to take advantage of their hard fought victory, and of the economic turmoil in the southern states to enact change and secure rights for freedmen as a condition for reentry into Union, and they had urged Johnson to adopt the same approach.^{lxxiv} However, Johnson seemingly had no interest in this approach. In a private conversation with Union General John A. Logan, Johnson stated very clearly, “there’s no such thing as reconstruction. These States have not gone out of the Union. Therefore reconstruction is unnecessary.”^{lxxv} Johnson’s ideal for “reconstruction” was more so a rapid restoration of the antebellum status quo. Therefore, as masses of pardon-seekers began to crowd Johnson’s hallways daily throughout the summer, two things happened: Johnson’s enthusiasm for punishment waned due to the huge excess of work from these pardons and petitions^{lxxvi} and, more importantly, Johnson’s delay in pardoning began to threaten his basic creed that the states had never been out.^{lxxvii} As even Johnson’s own supporters began criticizing the magnitude of requests for his bottlenecked pardoning policy, Johnson had to lower his standards, allowing himself to depend on various informal channels to expedite pardons, including turning over a portion of the work to provisional governors –many of whom distributed pardons for their own political gain– and hiring a clerk –a Southerner– who had been a Confederate colonel.^{lxxviii} Johnson was depending on the upcoming Southern elections to set civil governments in motion, so, as the fall approached, he faced the problem that bunches of unpardoned men might be elected to office, which would cause embarrassment to Johnson’s whole restoration program. For this reason, Johnson began giving pardons even to ex-traitors of highly questionable loyalty just

because they had been, or were about to be elected to office.^{lxxxix} Some of these candidates and officials weren't even able to take the obligatory test oath^{lxxx} and had already begun passing the "black codes" discriminating against blacks that were anathema to many republicans in Congress.^{lxxxii}

Aside from the personal and the constitutional reasons for Johnson's generous bestowing of special pardons, there was also very likely a political motivation. Johnson had "a sharp eye for the fulcrum of political power"^{lxxxiii} and knew he could not hope to keep the support of the Republican Party as a whole as his policies unfolded, and would be forced to accrue some support from the Democrats.^{lxxxiii} For this reason, McKittrick suggests that Johnson wanted to be the sole, magnanimous, granter of pardons because "the grantor of this boon was by no means without power...such power...could conceivably be used to some advantage as a fulcrum for policy."^{lxxxiv} Johnson perhaps realized the political leverage and potential future support from the South that he might accrue by saying yes to these critical pardons.

Unlike McKittrick, who had the benefit of hindsight, most republicans at the time did not clearly see Andrew Johnson's early actions as distancing him from their party and their views. Though some radical republicans interpreted Johnson's early actions this way—as Johnson's aligning himself with other political parties besides the Union Party that nominated him and the Republican Party that put him on the ticket. Although there were rumors of Johnson "going over" to the Democrats,^{lxxxv} most reserved judgment and allowed Johnson's actions to play out. The pressing goal of government at this time, to somehow put the country back together, made most statesmen quite conciliatory. They were willing to wait and give Johnson—one of few loyal Southerners—the benefit of the doubt in the ambiguous beginning of his presidency,^{lxxxvi} and unwilling to yet denounce, for example, his pardoning policy as having deeper political and ideological implications.^{lxxxvii} After Johnson vetoed the Second Freedman's Bureau Act and the Civil Rights Act in 1866, many Republicans who perhaps didn't know Johnson very well suddenly saw Johnson's true colors and felt that

Johnson had undergone a “metamorphosis”^{lxxxviii} –a “startling...transformation.”^{lxxxix} However, in reality, Johnson had already been exhibiting significant departures from the Republican platform as of early in his presidency, before the vetoes that began the executive-legislative fallout, in, for example, his attitude towards the politically charged Freedman’s Bureau. The Bureau meant different things to different groups within the Republican Party. More extreme radicals hoped that it would be the way to settle freedmen on confiscated land while others saw it as needed in the short term but perhaps too paternalistic.^{xc} However, virtually every Republican favored the Bureau enough to vote in favor of the Second Freedman’s Bureau Bill to extend and increase its powers in 1866.^{xc1} Democrats, however, were threatened by the Bureau as an accessory to the Republican Party in the South.^{xcii} To most Southern authorities “the Freedman’s Bureau was an irritant that prevented blacks from working out contracts with their former masters.”^{xciii} So, as the president pardoned traitors, restored land, and gained Democratic supporters, those supporters grew insistent upon the abolition of the Bureau, and the president –who also strongly disliked the Bureau–^{xciv} answered their call with the series of executive orders designed to weaken it, and by generally “undermining it wherever [he] could without making an outright attack on it.”^{xcv} Rather than undergoing a political or ideological metamorphosis, there is more evidence to suggest that Johnson had always –especially ideologically– been more aligned with the South, particularly when it came to the freedmen.^{xcvi}

Although Johnson’s personal, constitutional, and political motivations certainly played a role in Johnson’s decisions to give so many special pardons, Johnson must have had deeper reasons for his actions. With the land distribution provision of the Freedman’s Bureau Bill made law, and the distribution of land to freedmen underway, Johnson knew that there was more at stake in his pardoning decision than his own personal vindication or political career, or a theoretical idea of whether or not the Union had ever been broken. A vital piece of the freedman’s future was at stake. So, to understand why Johnson wanted to begin restoration without the rest of Congress, and why he was willing to break promises to the

freedmen and actively intervene to kick them off of land they had cultivated, one must consider Johnson's deeper ideological reasons, his background, and his racial views.

Johnson, ideologically speaking, especially, was never who the republicans thought he would be. When it came time for Lincoln to choose a running mate, Johnson stood out as the only senator from a rebel state to remain loyal to the Union. Lincoln believed that, as such, Johnson's name on his ticket would help persuade Democrats to vote Republican. Also, during the 1864 campaign, Johnson had made numerous statements about secessionists that seemed to place his views within the radical camp.^{xcvii} However, while Johnson's humble beginnings in the South as part of the southern mechanic class had instilled in him a strong resentment of the powerful, monopolistic, planter class that had only increased when they seceded from the democracy that Johnson so prized,^{xcviii} it did not follow that he was, like the radical republicans, a champion of black slaves or freedmen's rights.^{xcix} On the contrary, before the war, while in Congress, for example, on direct questions of slavery, Johnson's voting record often shows him voting the same way as the strongest pro-slavery extremists.^c Johnson owned slaves himself. Johnson publicly defended slavery and argued repeatedly that it had its foundation in the constitution^{ci} until, for reasons of political survival, he grudgingly had to change his position.^{cii} Johnson remained loyal to the Union despite being from a southern slave state because he wanted to preserve the democracy that made him, and also because, with his "aggressive sense of class" he was aware that his opportunities would be more limited in a government dominated by the southern planter "aristocracy."^{ciii} However, as Lincoln began to take more concrete steps toward the Emancipation Proclamation, Johnson and the other southern unionists had to either move with Lincoln for the preservation of the Union or be left behind.^{civ} Therefore, Johnson prioritized his desire to preserve the Union over his desire to defend slavery, and, as of that point, began to publicly advocate for emancipation: "if you persist in forcing the issue of slavery against the Government, I say in the face of Heaven, Give me my Government, and let the negroes go!"^{cv} Johnson made several public professions of good will and friendship towards the freedmen as of his

apparent conversion to the emancipation cause. However, Johnson's private letters and conversations often paint a different picture. A Tennessee friend recalled, in a letter to Johnson, Johnson's having stated, "I am for a White Man's Government in America"^{cvii} and another friend recalled Johnson's assuring him that he was "in favor of free white citizens controlling this country."^{cviii} Similarly, in a letter from another friend Benjamin B. French to Johnson on February 8, 1866, French recalled of Johnson, "You said to me then that everyone would, and *must* admit that the white race was superior to the black, and that...the relative position of the two races should [remain] the same."^{cxiii} Furthermore, according to the President's private secretary who was present when a delegation headed by Frederick Douglass came to visit Johnson, when the –what Johnson called– "darkey delegation" left his office, Johnson "uttered the following terse saxon: 'Those d—d sons of b—s thought they had me in a trap! I know that d—d Douglass; he's just like any nigger, and would sooner cut a white man's throat than not.'^{cxix} The prejudices and ideas of white supremacy revealed in these and other first hand accounts suggest that Johnson's apparent support for the freedman's advancement was not entirely sincere, nor true to own personal convictions.^{cx} Thus, Johnson's decisions to quash the freedman's prospects of land ownership were unlikely to have been incidental.

Johnson's lack of support for freedmen's land ownership while he was president was especially surprising and disappointing to some because Johnson had always been a staunch advocate of agrarianism, and campaigned very hard while in Congress to try to enact a homestead act, to assure the rural yeomanry of its place in American society.^{cxii} Along the campaign trail with Lincoln in 1864, Johnson even seemed to agree that seizing and redistributing rebel property was the right course of action: "Their great plantations must be seized, and divided into small farms, and sold to honest, industrious men."^{cxiii} It seems though that by men Johnson did not mean black men, because, though in some more radical seeming speeches the governor had seemed to endorse some form of land confiscation, he made it clear to the commission that he opposed such a scheme if it involved placing negroes on the

land.^{cxiii} With his pardoning policy, not only did Johnson restore 80% of the land that many hoped would be sold to freedmen, but he also pardoned a number of traitors such as Humphries, a confederate brigadier general elected on October 2, 1865 who promised administrations based on white supremacy that would enact laws to keep blacks “in their place.”^{cxiv} Furthermore, Johnson vetoed the Second Freedman’s Bureau Act even though it passed the House and Senate with vast majorities.^{cxv} The Second Freedman’s Bureau Act not only reestablished the law to distribute forty acres to each head of a black family, but also expanded the Bureau’s powers to execute that policy and, most importantly, confirmed the many possessory titles given under the Sherman Special Order.^{cxvi} Essentially, the passage of the Second Freedman’s Act as it was written in early 1866 would have dramatically changed the freedman’s prospects of land ownership. Johnson, however, vetoed the bill, disparaging the land policy as an unconstitutional “system of support for indigent persons.”^{cxvii}

Part of Johnson’s reasoning for pardoning and restoring lands to traitors and for vetoing the Second Freedman’s Bureau Bill did have to do with his strongly held constitutional views. However, “in practice, Johnson’s constitutional and States’ rights scruples were not unyielding,”^{cxviii} and his career is full examples of circumstances in which Johnson put aside those scruples.^{cxix} There is more evidence to suggest that Johnson’s veto, and his reversal of land opportunities through the pardoning policy were also caused by the influence of deeply seeded racial prejudices^{cxx} that made Johnson loath to act to enfranchise the freedman, even by state action.^{cxxi} In a speech to defend slavery in 1844, Johnson argued his view that the black man is biologically and inherently less than the white man – something less than human: “the black race of Africa [are] inferior to the white man in point of intellect – standing as they do, many degrees lower in the scale of gradation that expresses the relative relation between God and all that he has created than the white man: hence the conclusion against the black man and in favor of the white man.”^{cxxii} Johnson was certainly not alone in this viewpoint, which was common at this time especially in the South and especially among men such as Johnson from the non-slaveholding class of southerners.

Historian David Warren Bowen explains, “the non-slaveholder harbored an intense prejudice against the Negro, which...carried over to include the master class”^{cxxiii} because they were shut out of all share in the benefits of the institution of slavery, stuck in poverty, and, worst, “forced to bear the airs of superiority in the...impudent blacks.”^{cxxiv} Johnson, in fact, once defined exactly this prejudice in a private conversation with fellow unionist Thomas Shackleford on a train. Shackleford recalled Johnson relaying an anecdote about a poor white man who’d once come to Johnson while he was governor of Tennessee, infuriated that a neighboring slave had been stealing his turkeys and that the slave’s owner hadn’t punished the slave for his offense against a fellow white man. Johnson told this story to convey the idea that—in Johnson’s words—the “poor man disliked the negro and his prejudice extended to his Master.”^{cxxv} Bowen suggests that Johnson, growing up poor in Raleigh, and as a struggling tradesman in Greeneville, must have shared in this bitterness towards the slaves, who were for many poor white men “a constant reminder—a symbol—of a poor man’s lack of status, and, especially if the Negro appeared in any way better off than the observing white...the focal point for frustration.”^{cxxvi} We can see this bitterness and frustration, in, for example, the rhetoric of Johnson’s stump speeches, where he expressed a vitriolic opposition to the ideas of abolitionists wanting to make blacks equal to whites, or as Johnson put it, to “place every splay-footed, bandy-shanked, hump-backed, thick-lipped, flat-nosed, woolly-headed, ebon-colored negro in the country upon equality with the poor white man.”^{cxxvii} One could imagine that Johnson’s vehement opposition could have lessened by the 1860’s, as the creed of abolitionists gradually spread. However, as late as 1860, in a senate debate, although Johnson was no longer a non-slaveholder, he expressed insight into the strong reluctance of his original class of persons to the idea of black equality:

I say that if the day ever does come when the effort is made to emancipate the slaves, to abolish slavery, and turn them loose on the country, the non-slaveholder of the South will be the first man to unite with the slaveholder to reduce them to subjugation again; and if one would be more ready to do so than the other, it would be the non-slaveholder...if their resistance to subjugation were obstinate and stubborn, the non-slaveholder would unite with the slaveholder, and all this abolition philanthropy, all this abolition sympathy, when pressed to its ultimatum, would result in the extirpation of the negro race.^{cxxviii}

The last sentence of this statement, which suggests that the non-slaveholder would rather see the slave eradicated through genocide than see him freed or enfranchised, seems particularly extreme. However, Bowen explains of the prevailing attitudes at the time that, for poor, southern whites, “anything approaching equality with blacks would destroy the meaning of white lives.”^{cxxxix} For Johnson, to make the former slave a free, full (not two-thirds) “man,” and worse still, to give him a vote, would pervert the meaning of Johnson’s cherished democracy and threaten the theoretical “equality” of poor and rich white Americans.^{cxxx} It is difficult to say exactly how much these strong views affected Johnson’s decisions and lack of support for the freedmen while he was president. However, that those views did influence Johnson’s presidential decisions in some measure is highly likely.^{cxxxi} There’s evidence, for example, of the influence of a personal idea about white superiority in Johnson’s veto message for the Second Freedman’s Bureau Bill. According to a very interesting study by John H. Abel Jr. and LaWanda Cox of the various drafts of the Second Freedman’s Bureau Bill veto message, although Johnson typically did not actually write the prose for many of his speeches, some significant passages in this message appear in none of the six drafts contributed by his advisors. This fact means that Johnson himself wrote and added those passages and thus that they may “reflect in a special sense Johnson’s own attitudes and position.”^{cxxxii} One of those sections is where Johnson argues against those sections of the bill that provided for the rental and purchase of land for the freedmen’s benefit:

It [Congress] has never deemed itself authorized to expend the public money for the rent or purchase of homes for *the thousands, not to say millions of the white race, who are honestly toiling from day to day for their subsistence...* nor can any good reason be advanced why, as a permanent establishment, it should be founded for one class or color of our people more than another.^{cxxxiii}

Cox suggests that the section put in italics, is “either a deliberate appeal to race prejudice and to the self-interest of whites against the grants of special federal assistance to Negroes, or an unwitting reflection of racial antipathy on the part of the President.”^{cxxxiv} At the very least, the emotional language of the sentiment in italics seems personal, and seems to reflect the bitterness towards the idea of enfranchising black people that Bowen suggested Johnson got

from his own beginnings as a poor white “honestly toiling from day to day for [his] subsistence” without special assistance. Since this sentiment played a role in Johnson’s reasoning for opposing the freedman’s land distribution provisions of this bill, one can infer that it also played a role in his reasoning for restoring most of the land that was to be used for this purpose.

In conclusion, this insight into the influence of Johnson’s deeply-seeded prejudices on his presidential actions vis-à-vis the freedmen brings to the fore a deeper understanding of Johnson’s pardoning policy. In light of Johnson’s feelings, it seems that one of the most fundamental reasons why Johnson hastened to enact his Amnesty Proclamation, pardon traitors, and restore their lands before Congress could resume was to prevent the type of reconstruction (enfranchising freedmen) that he saw coming from the republicans and especially the radical republicans. This reconstruction would have been one that was ideologically very different from Johnson’s own plan for restoration, especially regarding the guaranteeing of protection, rights, and betterment to the freedmen.^{cxxxv} In pardoning so many traitors and returning their lands just as the lands were to be rented and sold to freedmen, and by crippling the Bureau responsible for the betterment of the freedmen, Johnson made quite clear that advancing the freedman was –at best– not a matter of interest or priority for him, and –at worst– something he explicitly wanted to suppress.^{cxxxvi}

After Johnson vetoed the Second Freedman’s Bureau Act, unfortunately, Congress was not yet sufficiently unified to achieve the two thirds majority necessary to override. In July, 1866, Congress passed the Second Freedmen’s Bureau Act a second time and President Johnson vetoed it again. Congress was able at that point to override his veto and the bill became law. However, this version of the bill did not guarantee as much to the freedmen as its predecessor would have, providing only up to twenty acres of land for only those freedmen who already held valid warrants to purchase.^{cxxxvii} Furthermore, although Section Seven of the July bill did guarantee those who held valid warrants the right to purchase land, in moving those freedmen to different plots, this action also deprived the freedmen of the

improvements they'd made and crops they'd grown on the previous plots.^{cxxxviii} Lastly, of course, as Johnson's sweeping restoration of rebel lands continued, there was nowhere near enough reserved land for the freedmen and the bill proved inadequate to meet the needs of the millions of former slaves being evicted throughout the South.^{cxxxix} Despite opposing every feature and provision of both the Freedman's Bureau Acts and the Civil Rights Act, Johnson still claimed that he fully recognized "the obligation to protect and defend [former slaves] wherever and whenever it shall become necessary."^{cxli} It seems however, that there was "virtually no point, short of another effort at secession to reestablish slavery, at which Johnson would have been willing to see the federal government define and protect the civil rights of black people."^{cxli}

Notes

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- ⁱⁱ Claude F. Oubre, *Forty Acres and a Mule: The Freedmen's Bureau and Black Land Ownership* (Baton Rouge, LA: Louisiana State University Press, 1978), 54; Patrick W. Riddleberger, *1866: The Critical Year Revisited* (Carbondale: Southern Illinois University, 1979), 62.
- ⁱⁱⁱ Willie Lee Rose, *Rehearsal For Reconstruction: The Port Royal Experiment* (New York, NY: Oxford University Press, 1964), 338
- ^{iv} Eric Foner, *Give Me Liberty!: An American History*, 2nd seagull ed. (New York, NY: W. W. Norton & Company, 2009), 1:530; Oubre, *Forty Acres and a Mule*, 20; Riddleberger, *1866*, 56.
- ^v Riddleberger, *1866*, 76.
- ^{vi} Oubre, *Forty Acres and a Mule*, 37.
- ^{vii} Rose, *Rehearsal For Reconstruction*, 199-200; Riddleberger, *1866*, 23-24.
- ^{viii} Rose, *Rehearsal For Reconstruction*, 200.
- ^{ix} Riddleberger, *1866*, 37.
- ^x Rose, *Rehearsal For Reconstruction*, 200.
- ^{xi} Oubre, *Forty Acres and a Mule*, 1.
- ^{xii} U.S., *Statutes at Large, Treaties, and Proclamations of the United States of America*, vol. 12 (Boston, 1863), 319, accessed July 23, 2014. <http://www.freedmen.umd.edu/conact1.htm>
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- ^{xiv} Riddleberger, *1866*, 23.
- ^{xv} Oubre, *Forty Acres and a Mule*, 2.
- ^{xvi} U.S., *Statutes at Large*, vol. 12, 589-92; Oubre, *Forty Acres and a Mule*, 2; Rose, *Rehearsal For Reconstruction*, 186, accessed July 23, 2014. <http://www.freedmen.umd.edu/conact2.htm>
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- ^{xviii} Oubre, *Forty Acres and a Mule*, 5.
- ^{xix} Rose, *Rehearsal For Reconstruction*, 200; U.S., *Statutes at Large*, vol.12, 294-295. Accessed July 30, 2014. http://www.constitution.org/uslaw/sal/012_statutes_at_large.pdf
- ^{xx} Oubre, *Forty Acres and a Mule*, 8.
- ^{xxi} Riddleberger, *1866*, 55.
- ^{xxii} Abraham Lincoln, *The Collected Works of Abraham Lincoln*, VI. Basler ed. (New Brunswick, N.J. : Rutgers University Press, c1953-55) 98.
- ^{xxiii} Rose, *Rehearsal For Reconstruction*, 214-215; Oubre, *Forty Acres and a Mule*, 9.
- ^{xxiv} Abraham Lincoln, *The Collected Works*, VI, 453-59.
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- ^{xxxii} Oubre, *Forty Acres and a Mule*, 16-17.
- ^{xxxiii} Rose, *Rehearsal For Reconstruction*, 319; Riddleberger, *1866*, 56.
- ^{xxxiv} "Gen. Sherman's Order Providing Homes for the Freed Negroes," *New York Times*, January 29, 1865, accessed July 17, 2014; Rose, *Rehearsal For Reconstruction* 326- 327.
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- ^{xxxix} LaWanda Cox, "The Promise of Land for the Freedmen," *The Mississippi Valley Historical Review*, Vol. 45, No. 3 (Dec, 1958), 414.
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- ^{xlv} Riddleberger, *1866*, 10.
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- ^{xlvii} Riddleberger, *1866*, 10.
- ^{xlviii} Oubre, *Forty Acres and a Mule*, 31-32.
- ^{xlix} O.O. Howard: "Circular No. 13," July 28, 1865, in *Freedom: A Documentary History of Emancipation, 1861-1862*. ed. Hahn et al. (Chapel Hill, N.C.: University of North Carolina Press, 2008) Ser. 3, Vol. 1, pp. 423.
- ^l Hahn et al. *Freedom*, 50-51; Oubre, *Forty Acres and a Mule*, 36; Rose, *Rehearsal For Reconstruction*, 351.
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