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THE U.S. ARMY & RECONSTRUCTION: CHANGING THE "ESTABLISHED POWER" IN THE SOUTHERN STATES (1865-1877)

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Abstract

The period following the American Civil War was one of the most controversial eras in U.S. history, as the U.S. Army was by Northern politicians to dismantle the defeated Confederacy's traditional power structure by dramatically limiting the power of White planters, merchants and small farmers in the former slave states and increasing the political power of Black people in the South. Between 1865 and 1877, the occupied the former Confederate states and its mission, at least in part, was to ensure that the defeated Confederate states to extend the rights now guaranteed to Black people by the U.S. Constitution as well as ensure equal treatment by the courts and civil and criminal law for all Black people. While this so-called Reconstruction ultimately failed, the Army did change the established power structure in the Southern States between 1865 and 1877.

Introduction

The period following the U.S. Civil War was one of the most controversial eras in U.S. history. Not only did newly freed Black Americans respond to the radical changes

unleased by the end of slavery, but the victorious Northern states also attempted to overturn forever the "established power" in the South through the "Reconstruction" of the states that had rebelled against the United States.

Central to this reconfiguring of the South's traditional power structure through Reconstruction was the U.S. Army. As Robert W. Coakley writes:

> "Never before or after, within the continental boundaries of the United States, did it [the Army] exercise police and judicial functions, oversee local governments, or deal with domestic violence on the scale it did in the eleven ex-Confederate states from 1865 to 1877."[1]

> "Perhaps this was to be expected since the million-man Union Army, having defeated the Confederate military and being physically located in the South, could not help but be part of post-Civil War Reconstruction after 1865—at least to some extent. But Coakley's words underscore that the Army played what he calls an "abnormal role in civil government."[2]

While the Army ultimately failed to transform *forever* the political and social environment of the defeated South, it did play a critical role in changing the established power structure in the former Confederate states between 1865 and 1877—and this remains a unique episode in the history of the U.S. Army in American history.

In explaining the Army's role in the Reconstruction of the defeated Confederate states, this paper first examines Presidential Reconstruction under President Johnson from 1865 to 1867. It then looks at the Army's occupation and Congressional Reconstruction of the defeated South between 1867 and 1872. It concludes with a look at the last years of Reconstruction from 1872 to 1877 and then provides some final thoughts on the subject.

Some Context: The Army

The Army's task of reconstructing the South was monumental—considering the size of the post-Civil War Army. In 1865, at the end of hostilities, the Army consisted of 1,034,064 volunteer troops. By the end of 1866, it was down to 38,545 men. From 1866 to 1869, the average Army troop strength in the Southern states was 21,000 men. In 1869, there were only 11,000 Union troops occupying the South.

During the 1870s, the average troop strength in the South was 7,500. By 1875, the number was down to 3,327.[3] In any event, regardless of the number of troops present

1. Robert Coakley, *The Role of Federal Military Forces in Domestic Disorders 1789-1878* (Washington, D.C.: Center of Military History, 1988), 268.

2. Ibid.

3. The radical reduction in numbers resulted from the demobilization of volunteer regiments after 1865. Only Regulars remained, and these were never adequate for the Reconstruction mission assigned to it. Louis A. DiMarco, *Anatomy of a Failed Occupation: The U.S. Army in the Former Confederate States 1865-1877* (Arlington, Va.: Land Warfare Institute

in the defeated southern states, these soldiers had the difficult, if not impossible, mission of policing an area of 770,000 square miles and a population of about nine million, of whom approximately five million were hostile Whites and four million were impoverished Freedmen.[4]

Presidential Reconstruction (1865-1867)

Beginning in April 1861, when rebels attacked Fort Sumter in South Carolina, eleven Southern states waged war against the Union. Four years later, with the surrender of Confederate troops commanded by Generals Robert E. Lee in April 1865, fighting was at an end.[5]

While this paper focuses on "Presidential Reconstruction" after Lee's surrender, it is worth noting that Reconstruction actually had started before April 1865. This is because, as Union troops liberated Confederate territory as early as 1862, state and local civil governments collapsed and the Army had to improvise a system of government to maintain law and order. It ultimately used provost marshals to police the occupied districts.

These Army provost marshals determined which Southern civilians should be taken into custody and which should remain free to pursue their usual business. They also regulated travel and traffic and, when necessary, distributed food, clothing and other goods to locals. In addition to provost marshals, there also were military governors in much of the re-occupied South. These were civilians functioning with military support.[6] In any event, until he was murdered in April 1865, President Lincoln decided how the Army would treat this occupied territory while the fighting continued.[7]

After President Lincoln's assassination in April 1865, President Andrew Johnson continued Presidential Reconstruction. His policy was lenient toward the defeated South, in that he encouraged the states that had seceded in 1861 to quickly return to the Union by ratifying the Thirteenth Amendment *(which had abolished slavery)*. To be readmitted, a defeated state also had to nullifying the legislation under which it had seceded in 1861.

Johnson also pursued a Presidential Reconstruction plan that was predicated on his pardoning power. This meant that Johnson pardoned most former Confederates when they took a loyalty oath *(to the U.S. Constitution)*, and then allowed these men to reestablish a civil state government.

2007), 8.

4. Ibid.

5. Troops under Generals Joseph E. Johnston and E. Kirby Smith surrendered after Lee at Appomattox but Lee's surrender of the Army of Northern Virginia was the practical end of hostilities.

6. Russell F. Weigley, *History of the United States Army* (New York: MacMillan, 1977), 256.

7. As early as 1862, Lincoln had appointed military governors in Tennessee, North Carolina and Louisiana, where parts of the state had been under Union control since 1862.

Johnson's actions meant that Southerners returned quickly to the same political views that they had held before secession in 1861. This was reflected in the Black Codes of the restored state legislatures, which restricted a Black person's right to own property, conduct business, buy and lease land, and move freely through public spaces. A central element of the Black Codes were vagrancy laws. States criminalized men who were out of work, or who were not working at a job that whites recognized as legitimate employment.

The so-called Radical Republicans in Congress were outraged by the unwillingness of Whites in the South to accept that, with the passage of the Thirteenth Amendment outlawing slavery, Freedman must have new opportunities in the political, economic and social culture of the South. Consequently, Congress overturned these state Black Codes by enacting the Civil Rights Act of 1866. Passed after Congress re-convened in December 1866, and passed over President Johnson's veto, the legislation prohibited racial discrimination by either state or local law or custom—and it placed enforcement in the hands of Federal courts and U.S. marshals.[8]

Despite Congressional action, it soon was apparent that Johnson's opposition to civil rights for Black people encouraged White resistance. In Tennessee, for example, the Fourteenth Amendment was ratified only after members of its state legislature were forcibly detained to secure a quorum.[9]

The Army, alarmed that its mission to complete the pacification of the South was in jeopardy—and fearing for the safety of soldiers in the face of increasing violence from disaffected Southern Whites—now turned to Congress for support. At the same time, Republicans in Congress, increasingly frustrated with the leniency of President Johnson's Reconstruction program, decided to bring Reconstruction under Congressional oversight. The result was the Reconstruction Act of 1867, under which Congress ended Johnson's Presidential Reconstruction process and implemented a program of *direct involvement in the reconstruction of the former rebel states*. The key component of this new Reconstruction Act was the decision to use the Army to enforce Congress's vision of how the ex-rebel states should be re-constructed before being permitted to re-join the United States.[10]

Occupation and Congressional Reconstruction (1867-1872)

In March 1867, the Congress enacted (once again over President Johnson's veto), a law entitled: "An Act to Provide for the More Efficient Government of the Rebel States." The new statute declared that, with the exception of Tennessee (because it had been re-admitted to the Union in July 1866), any state government previously approved by

8. Croakley, *Federal Military in Domestic Disorders*, 271.

9. Ibid., 273.

10. Robert Wooster, *The United States Army and the Making of America* (Lawrence: University Press of Kansas, 2021), 212.

Johnson as part of presidential reconstruction was "provisional" only and would now be under Army rule until Congress was satisfied that "loyal, republican governments" had been created.[11]

This was outright military rule in the South. Not only was the Army now directly tasked with ensuring that the unreconstructed states ratified the Fourteenth Amendment and drafted new constitutions with "loyal republican governments,"[12] but they also were empowered to enforce Federal justice in the South and protect the voting rights of Freedmen in the former Confederate states. The intent was for the Army to dramatically limit the power of White planters, merchants and small farmers in the former slave states and increase the political power of Black people.

Congress divided the defeated South into five military districts and directed the Army to supervise civilian officials and voter registration. The Army also was tasked with supervising state constitutional conventions, as every state that had been a part of the Confederacy was required to hold a convention to author a new state constitution and apply for readmission to the Union. All males over the age of 21 years were eligible to vote, except for those who had participated in the rebellion. The newly drafted constitution then would be presented to the voters for approval. Once the new constitution was approved by the electorate, and the Fourteenth Amendment ratified, then military rule would end and he state would resume its place in the Union.[13]

Yet neither the legislation creating these military districts nor precedent offered much guidance to Federal military forces. Military commanders were very much on their own in deciding how to register voters, supervise the creation of state constitutions and oversee the election of civil governments.

To ensure that the civil rights of newly freed Blacks were protected, and to give these ex-slaves a fresh start in life, Congress directed the Army to take an active rule in the previously created Freedmen's Bureau. The Bureau, which had been created in March 1865 to "grapple with the human problems posed by Reconstruction" was now staffed by more Army officers, if only because freedmen could not receive their "just [civil] rights" without "a considerable military force."[14]

Ultimately the essential tasks of military government were accomplished—constitutions were written, voters registered, local and state elections held—and the military governors turned over administration to elected civil authorities. By the summer of 1868 seven states had been returned to civil control.

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11. Wooster, *Army and Making of America*, 268; Foner, *Reconstruction*, 276-8.

12. Foner, *Reconstruction*, 276.

13. Ibid.

14. On March 3, 1865, Congress passed "An Act to establish a Bureau for the Relief of Freedmen and Refugees" to provide food, shelter, clothing, medical services, and land to displaced Southerners, including newly freed African Americans. Wooster, *Army and the Making of America*, 205.

Unfortunately, after authority was turned over to civil leaders, disgruntled Whites increased the use of terror and intimidation to erode Freedmen and Unionist White political power. In fact, the Southern White population was increasingly defiant in the face of the Army's success in imposing Reconstruction policy. A Democratic newspaper vowed, "These constitutions and governments will last just as long as the bayonets which ushered them into being, shall keep them in existence, and not one day longer."[15]

Local Army commanders, after turning power over to elected civil officials in 1867–68, were not unaware of what was happening. They knew that terrorists were discouraging Blacks and Republican Whites (so-called carpetbaggers and scalawags) from voting. But the Army had inherent limitations as a tool of social transformation. First, it was relatively small in numbers. There were sufficient Union soldiers to maintain "a general armed supervision over southern government and elections," but these troops were not enough to "effect by force" the Freedmen's rise to full citizenship and the force the acquiesce of White people in the South, almost all of whom were bitterly opposed to both civil and voting rights for Black people.[16]

The result was that the Ku Klux Klan and other supremacist organizations, such as the White League in Louisiana, were able to carry out a wave of counterrevolutionary terror at newly freed Black people and their White allies. Eric Foner records that between 1868 and 1871, one out of every ten black members of the 1867–68 state constitutional conventions became the victim of Klan-type violence. Seven were murdered by white groups. The rule of law broke down in many places in the South, and Union General Terry reported from Georgia, "In many parts of the state there is presently no government."[17] It was no surprise that in the 1868 presidential election the two Southern states that Grant did not carry were Louisiana and Georgia, where violence decimated the Republican organizations and made it impossible to get out the black vote.[18]

The Army response to the terrorist threat was initially haphazard but by 1871, the Grant administration made a priority of reestablishing the rule of law. President Grant, writes Robert Wooster, was a "steadfast supporter of the most aggressive use of armed forces to affect social and political change in U.S. history."[19] But fighting the Klan was not easy. Federal forces were limited by the number of Army troops, budget constraints, the difficulty of securing evidence and witnesses, hostile juries and well-funded defense attorneys. However, they made steady progress. In North Carolina, troops helped make arrests. In Mississippi nearly 700 indictments were obtained, though most cases that went to trial resulted in suspended sentences. South Carolina was the only state where

15. DiMarco, *Failed Occupation*, 6.

16. Weigley, *History of Army*, 262.

17. Alfred H. Terry, "Report of Brevet Major General Alfred H. Terry, Commander, Headquarters Department of the South," in *Annual Report of the Secretary of War* (Washington, D.C.: Government Printing Office, 1869), 89.

18. Eric Foner, *Reconstruction*, 343.

19. Wooster, *Army and Making of America*, 219.

troops were used on a large scale as the President suspended the writ of *habeas corpus* in nine counties. It is thought that as many as 2,000 Klansmen may have fled the state to avoid arrest. Most of the Klan leadership was arrested and imprisoned.[20]

The legal offensive of 1871 broke the Klan's back and drastically reduced violence. By the mid-1870s the capability of the terrorists was broken, and the Army had been relatively successful in keeping order in the readmitted states. However, the war against White terrorists came too late, in that by the early 1870s, terrorists like the Klan had succeeded in undermining several state governments and reestablishing white political dominance in much of the South.

The End of Reconstruction (1872-1877)

Despite the Army's successes in transforming the South between 1867 and 1872, any lasting change was undone by the replacement of Republican party governments (which had consisted chiefly of Blacks and White Unionists) with Democratic party governments. The former, elected originally under military supervision, disappeared by the end of 1874, as the Democrats had carefully used a combination of court suits, intimidation, voter registration, terrorism and ballot-box stuffing to regain control of Tennessee, Virginia, North Carolina, Georgia, Alabama, Arkansas and Texas.

Additionally, by 1872 the leading Radicals in the U.S. Congress were gone—through death, retirement or political defeat. They were replaced by men who were more interested in the North's "urban political machines" and economic interests in oil, railroads, steel and textiles. Transforming the South—and ensuring a better life for Black people—was no longer so important. The result was the end of Reconstruction.[21]

In terms of its relationship to the Army's occupation duties, the final phase ended in 1877 with the compromise that awarded the 1876 presidential election to Republican Rutherford B. Hayes in exchange for federal recognition of Democratic party control in Louisiana and South Carolina. After taking office, President Hayes ended the Army's post-conflict missions in the Southern states; the last Reconstruction government was replaced in Louisiana in 1877. [22]

As for the Army's future as having an "abnormal role in civil government," that ended forever when Congress passed the Posse Comitatus Act in 1878. That Act prohibited the employment of the Army as a "posse comitatus" for the purpose of executing the laws. This meant that Army commanders in the field could no longer employ their troops to enforce obedience to any laws—federal, state, or local. There were some exceptions to

20. Foner, *Reconstruction*, 425-444; Croakley, *Federal Military in Domestic Disorders*, 300-01. For a fuller treatment of the Grant administration's conflict with the Klan, see Fergus M. Bordewich, *Klan War: Ulysses S. Grant and the Battle to Save Reconstruction* (New York: Knopf, 2023).

21. Foner, *Reconstruction*, 426.

22. Ibid.

the Act, but in general its passage signaled that the use of Federal troops to transform the South was at an end.[23]

Conclusion

Despite some initial success, the Army was unable to achieve the strategic goals expected of it—it failed to transform the political and social environment of the former Confederate states. But why? Why did Reconstruction—and the Army's role in it—ultimately fail?

One major reason was that the Army was simply ill-suited as a tool to carry out political, economic and social reform. Soldiers train to fight and win wars, and the Army during Reconstruction did not have soldiers in it who had the education and training to re-make Southern society. Additionally, starting in 1866, the Army faced a new threat in the western states and territories from Indians, who resisted White settlers encroaching on their lands. Whatever Army leaders may have thought about Reconstruction, their focus was increasingly on the struggle with the Sioux, Apaches, Cheyenne, and other tribes who attacked Americans moving west.[24]

The political will in Congress also dissipated over time, as Radical Republicans left office and newly elected officials were more focused on matters other than Reconstruction policy. The plight of the Southern Freedmen did not attract as much sympathetic support as the issue of slavery had. Public support for Reconstruction policy faded to the point of disinterest. Without enthusiastic public support, the political energy to provide resources for Reconstruction, supporting legislation and supervision of Reconstruction policy could not be generated. By the mid-1870s the only constituency for Reconstruction policy comprised a dwindling group of radical congressional Republicans and the South's Freedmen—a large portion of whom were unable to register their views through the vote.

But the most important blow to Reconstruction may have come from issues unrelated to Reconstruction policy. In 1874, the United States entered a severe economic depression after a decade of prosperity fueled by Civil War-inspired economic expansion. In the face of economic hardship, the American people—most important, the influential population of the Northern industrial centers—focused their priorities on those economic issues that had immediate local effects. National issues relating to a war that had ended a decade before were much less important.

While Reconstruction—and the Army's role in it—ultimately failed, the Army did change the established power structure in the Southern States between 1865 and 1877. Consequently, it remains a unique example in military history of a military force being used to effect transformational change in a society.[25]

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23. Coakley, *Federal Military in Domestic Disorders*, 348.

24. The struggle with Indians began in 1866 and did not end until 1890.

25. For another excellent examination of the Army activities in Reconstruction, see James E. Sefton, *The United States*

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