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ABRAHAM LINCOLN AND THE POLITICS OF PRINCIPLE

HEATHER COX RICHARDSON*

For decades, Americans have perceived President Abraham Lincoln as either a principled crusader for African-American rights or a crafty politician. Lincoln was, certainly, deeply principled as well as a brilliant politician, but his sights were not focused on either racial equality or political dominance. Horrified by what he believed was a Democratic attempt to hijack the government in the interests of an economic elite, Lincoln envisioned a new kind of American politics that would guarantee economic advancement for all. His approach dominated the actions of the Republican Party during the Civil War, when party members created a new activist American government which sponsored economic progress for individuals: its measures included homestead legislation, the creation of the Department of Agriculture, and the Land-Grant College Act.

At the time of his death, Lincoln did not leave a secure political legacy behind. His approach came under immediate attack by President Andrew Johnson, a former Democrat who used his veto of Congress's 1866 extension of the Freedmen's Bureau to reject government support for Southern homesteads and badly needed Southern schools; Johnson incorrectly called their contemplated establishment an unprecedented use of government power. In response to that assault, the Republican Party split between those calling for a return to old party systems and those clinging to the new ways. By 1890, machine Republicans had won the struggle, and it seemed that Lincoln's new approach was dead.

This was misleading. We can now see that Lincoln left a legacy of a new vision of American politics, a vision that reformers have used ever since to challenge an entrenched political and economic elite.

I. LINCOLN AND BIPARTISAN POLITICS

Abraham Lincoln began his political life as a Whig. This party identification was no small thing for his later political development. The Whigs are remembered today primarily for their support for internal

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improvements and domestic manufacturing, but their focus on developing the country was not isolated. It was, in fact, a reflection of their larger belief in a “nonpartisan” government, a government that acted in the best interests of all the citizens of the country, regardless of party.¹

In reality, of course, that non-partisanship was an illusion. The Whigs promoted the economic development that benefited their primary constituency, the urban professionals and businessmen who needed better transportation systems and safer harbors for their ships so that they could transport goods more easily. But Lincoln’s Whig background made him a good candidate to become a politician who called for a new kind of politics.²

The Whigs’ purported “nonpartisanship” gave them an understanding of larger societal interests and a language to support them that Democrats did not have. For the Democrats, formed by the nation’s first generation of professional politicians, men such as Martin Van Buren, politics were about *party*, and about advancing the party’s interest through patronage and power. Only by attaching individuals to the machinery of politics could the nation command their allegiance, Democrats argued. In practice, the two parties were similar, but in rhetoric and ideas, they were very different.³

In the 1850s, many Northerners came to believe that the Democratic Party was actively working for the rich. Southern slave owners, the leaders of the Democratic Party and the wealthiest men in America, seemed intent on controlling the national government. Northerners had begun to worry about the growing power of Southerners in government with the 1844 election of Southern Democrat James K. Polk.⁴ Polk had run on the promise that he would take Texas and all of the territory that both the United States and Great Britain claimed in the Pacific Northwest, up to the line of 54° 40’. Once in office, though, Polk quickly came to a settlement with Britain establishing the 49th parallel as the northern boundary of the United States, a boundary that gave the enormously valuable Vancouver ports to Britain. Almost as quickly, the President went to war with Mexico over Texas, embroiling the country

1. See generally DANIEL WALKER HOWE, THE POLITICAL CULTURE OF THE AMERICAN WHIGS 16, 18–19, 21–22 (1979). On the Whig mindset and Lincoln, see *id.* at 264.

2. *Id.* at 273, 275.

3. *Id.* at 23–42.

4. MICHAEL S. GREEN, POLITICS AND AMERICA IN CRISIS 1–4 (2010).

in a war that most interpreted as a way to get more territory for Southern expansion.⁵

Events of the 1850s only exacerbated Northern suspicions that Southern slave owners wanted to control the national government. In 1854, Illinois Democrat Stephen A. Douglas introduced in the Senate a bill to organize the western Territory of Nebraska in order to promote a transcontinental railroad through it. But while Northerners of all parties liked the idea of westward expansion, there was a hitch to the Nebraska plan. Southern Senators told Douglas in no uncertain terms that they would never permit the organization of a new non-slave-holding Territory without a corresponding slave-holding one. Eager to get Nebraska organized one way or another, Douglas agreed. He added to his bill a plan for organizing the Territory of Kansas without restriction on slavery in it.⁶

The problem with this plan was that the Kansas Territory lay on the northern side of the Missouri Compromise line, which had divided the newly acquired Louisiana territory between slavery and freedom. In the thirty-four years since the passage of the compromise, Northerners had watched the South settle all the land that fell to it under the plan and then, when that ran out, involve the nation in a war to take more land from Mexico. Now, just as Northerners began to spread into their half of the territory, Southerners abruptly changed the rules.⁷ Northerners howled. Stephen Douglas remarked that he could travel from Boston to Chicago by the light of his own burning effigies.⁸

This bill struck horror into the hearts of Northerners. It was not so much that they opposed slavery: most did not care one way or another about the fate of African Americans. Rather, they believed that free workers could not compete against slaves, who could be forced to work with less food, poorer housing, and less medical care than free workers would endure.⁹ Southern planters wanted to spread the slave system, Northerners believed, because it would enable them to dominate the Western economy the same way they dominated the Southern. Eventually, the competition of slave labor would force free workers into, at best, a quasi-slavery of their own, dependent on the wealthy for

5. *Id.* at 5–13.

6. *Id.* at 67–71.

7. WILLIAM E. GIENAPP, *ABRAHAM LINCOLN AND CIVIL WAR AMERICA: A BIOGRAPHY* 49–51 (2002).

8. GREEN, *supra* note 4, at 74.

9. HEATHER COX RICHARDSON, *THE GREATEST NATION OF THE EARTH: REPUBLICAN ECONOMIC POLICIES DURING THE CIVIL WAR* 24–27 (1997).

whatever pittance they could get for their work. No longer would a hard-working man be able to rise.¹⁰

It seemed that Southern leaders would stop at nothing to spread their economic grasp across the country. Despite the bill's unpopularity in the North, Democratic President Franklin Pierce put enormous pressure on Democratic Congressmen to pass the Kansas–Nebraska Bill. They caved. Like other Northerners, Abraham Lincoln saw the passage of this measure as evidence that Southerners were bent on dominating the government for their own economic interest.¹¹ Evidence of a slave owners' plot to control the government continued to mount. In the effort to organize the Kansas Territory, where the settlers were staunchly anti-slavery, Pierce tried to ram a pro-slavery government down the unwilling settlers' throats. When Massachusetts Senator Charles Sumner protested the "Crime Against Kansas" on the floor of the Senate in May 1856, Congressman Preston Brooks of South Carolina beat Sumner unconscious with a cane as the Senator sat writing letters at his desk on the Senate floor. While Sumner hovered between life and death, exultant Southerners feted Brooks, his attacker.¹² Then, in 1857, the Southern-dominated Supreme Court under Chief Justice Roger Taney pronounced the Missouri Compromise unconstitutional and declared that Congress had no power to legislate concerning slavery in the Territories.¹³ This infamous *Dred Scott* decision seemingly opened the way for the slave system all over the new West, which, thanks to the 1848 Treaty of Guadalupe Hidalgo ending the Mexican War, included much of the land that is now the lower forty-eight of the United States. The new Democratic President, James Buchanan, cheerfully announced that the Supreme Court had settled the vexing question of slavery in the Territories.¹⁴

Most Northerners disagreed. In the famous 1858 "House Divided" speech, which launched his Senate candidacy, Lincoln portrayed the leaders of the march toward slavery as carpenters building a house, and charged that Stephen (Douglas), Franklin (Pierce), Roger (Taney), and James (Buchanan) were turning the nation into a house of slavery.¹⁵

10. *See id.* at 210.

11. DAVID HERBERT DONALD, *LINCOLN* 168–71 (1995).

12. DAVID HERBERT DONALD, *CHARLES SUMNER AND THE COMING OF THE CIVIL WAR* 278–311 (1960).

13. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857). *See generally* DON E. FEHRENBACHER, *THE DRED SCOTT CASE* (1978).

14. *See* GREEN, *supra* note 4, at 109–18.

15. GIENAPP, *supra* note 7, at 60–61.

Lincoln spoke for a new party, the Republican Party, which had begun to organize in opposition to what seemed to be the destruction of American liberty by Southern slave owners determined to control the American economy.

In 1858, leading Southern politician James Henry Hammond explained to the Senate the slave owners' version of how American politics and economics worked.¹⁶ Of course the South controlled the country, he said, and well it should. It was the wealthiest part of the nation, and it alone had figured out a true system of political economy. At the bottom of society, there would always be a class of drudges: stupid, unskilled workers who were strong, docile, and loyal to their betters. On this "mud-sill" rested all of higher civilization, those gentlemen who lead "progress, civilization, and refinement."¹⁷ Members of the lowest class were born into their way of life, were "happy, content, unambitious, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations."¹⁸ They could not possibly rise. Indeed, if they did so, all of human society would be perverted since, given a say in society, they would inevitably demand a more equal division of wealth. Hammond explained that the South had defined its "mud-sill" class by race, but warned Northerners that they, too, had such a class. "[Y]our whole hireling class of manual laborers and 'operatives,' . . . are essentially slaves."¹⁹ Hammond insisted that his way was the true genius of America, enshrined in the Constitution. Hammond stood firm on the nation's basic law, believing that the American government must protect slave property to support an economic elite.

Abraham Lincoln denied that the government should be yoked to the wealthy through partisan rule. Instead, he charted a new direction for the American government. In his striking speech to the Wisconsin Agricultural Fair on September 30, 1859, Lincoln explained his vision of how America should work. Taking on Hammond, he destroyed the premise that some men could never rise, that they were destined forever to be the mudsill of society.²⁰ Instead, Lincoln outlined a worldview that

16. See CONG. GLOBE, 35th Cong., 1st Sess. App. 68, 71 (1858).

17. *Id.*

18. *Id.*

19. *Id.*

20. Abraham Lincoln, *Address Before the Wisconsin State Agricultural Society, Milwaukee, Wisconsin*, SENTINEL (Milw., Wis.), Oct. 1, 1859, reprinted in 3 THE COLLECTED WORKS OF ABRAHAM LINCOLN 471 (Roy P. Basler et al. eds., 1953) [hereinafter COLLECTED WORKS].

would stand against that of Hammond, and that would become the heart of the fledgling Republican Party.

In Milwaukee, Lincoln told his audience of farmers that all economic wealth came from labor, that “capital is the fruit of labor, and could never have existed if labor had not first existed.”²¹ A healthy American society worked so that “[t]he prudent, penniless beginner in the world, labors for wages awhile, saves a surplus with which to buy tools or land, for himself; then labors on his own account another while, and at length hires another new beginner to help him.”²² This was the idea behind free labor, “the just and generous, and prosperous system, which opens the way for all—gives hope to all, and energy, and progress, and improvement of condition to all.”²³

But Lincoln did not stop, as he could easily have done, with assuring farmers that hard-working producers were the backbone of the American system. He went on to call for education to help every man use his labor most efficiently, to help them rise more quickly and further. This was not idle on his part, and it was not necessarily popular. Nineteenth-century Americans, especially those in the West, often scoffed at “book learning” and insisted that the only way to learn farming was in the field.²⁴ Lincoln had lived with this prejudice in his own life, and must have thought long and hard before including his call in a speech to an audience, especially a hard-drinking audience (as many of the fairgoers surely were), that was unlikely to agree.

Those who believed that workers were the mudsill of society wanted their workers uneducated, with strong backs and weak minds. To this, Lincoln responded, “Free Labor says ‘no!’”²⁵ A man’s brain guides, directs, and protects his labor, and every mind “should be cultivated, and improved, by whatever will add to its capacity for performing its charge.”²⁶ “In one word,” Lincoln somewhat imprecisely thundered, “free labor insists on universal education.”²⁷ The world was changing, he explained, and people would need to be able to farm intelligently, “deriving a comfortable subsistence from the smallest area of soil.”²⁸

21. *Id.* at 478.

22. *Id.* at 478–79.

23. *Id.*

24. RICHARDSON, *supra* note 9, at 157.

25. Lincoln, *supra* note 20, at 479.

26. *Id.* at 480.

27. *Id.*

28. *Id.* at 481.

Only this could prevent oppression, whether from “crowned-kings, money-kings, [or] land-kings.”²⁹

While Hammond and his ilk rested their worldview on the Constitution’s protection of property, Lincoln looked instead to the ideas of equality outlined in the Declaration of Independence to create a new prosperous future. “All men” were included in the Declaration of Independence, he insisted, and, when given an opportunity to create new societies in the West, it was imperative for a just and prosperous society that the principle of equality of opportunity be honored for every man.³⁰ He concluded his Milwaukee speech: “[B]y the best cultivation of the physical world, beneath and around us; and the intellectual and moral world within us, we shall secure an individual, social, and political prosperity and happiness, whose course shall be onward and upward, and which, while the earth endures, shall not pass away.”³¹

Lincoln’s concern about the growing power of Southern slave owners in the 1850s convinced him that the government must not privilege an economic elite. Rather, it must leave the economic playing field free for hard-working individuals to rise. By 1859, the idea of government support for individuals had combined with his conception of a “nonpolitical” politics to suggest that “equality” might mean something more active than simply staying out of the way of the man on the make. For decades, men had called for government promotion of individual economic advancement, an idea that Republicans like Lincoln were ready to adopt.

II. WARTIME GOVERNMENT

Lincoln’s tentative foray into the idea of advancing individual economic opportunity might well have gone unlaunched had it not been for the Civil War. The need to finance the war effort helped to create an economically active government, while the war effort increased Democrats’ willingness to think in bipartisan ways.³² Much has been made of Lincoln’s appointment of rivals to his Cabinet, a move that certainly weakened his opponents and also gave Lincoln access to a

29. *Id.*

30. Lincoln put this best in his speech at Alton, Illinois, during the 1858 Lincoln–Douglas Debates. See *Seventh and Last Debate with Stephen A. Douglas at Alton, Illinois*, CHI. PRESS & TRIB., Oct. 15, 1858, reprinted in 3 COLLECTED WORKS, *supra* note 20, at 297–318.

31. Lincoln, *supra* note 20, at 482.

32. RICHARDSON, *supra* note 9, at 8–15.

wide range of ideas.³³ His deliberate construction of a bipartisan cabinet, though, was also a reflection of a new approach to politics, one that would be based on the principle of universal economic opportunity rather than party.

Lincoln left Congress in charge of producing legislation, and wartime congressional Republicans shared his economic vision of legislation to promote widespread economic advancement. Their first job was to find money to fight the war. When it became clear they could not raise enough money by selling war bonds, they imposed new national taxes.³⁴ By 1862, new comprehensive taxes covered virtually every product in America.³⁵ In the same year, Congress imposed income taxes as well, graduating them according to different wealth levels.³⁶

Republican Congressmen imposed taxes in the certainty that they must pay for the war as they went, or face terrible inflation, but they did not levy taxes in a vacuum. They believed that they must develop policies enabling Americans to pay the new taxes. In order to do that, they took a page from Lincoln's book. They believed that agriculture was the primary stage of economic development, farming the primary job for any man rising in American society.³⁷ A farmer would produce more than he and his family could consume and would thus accumulate capital or, as they called it, "preexerted labor."³⁸ He would invest this capital in more land or by hiring workers, further increasing his stock of capital. Thus, hard workers in America were part of a never-ending upward economic spiral.

For the Republicans, it seemed imperative for the government to speed up this fundamental economic process. To do so, they started in an obvious place, with legislation to get people onto their own farms faster. In 1862, Congress passed a bill offering a homestead of 160 acres to anyone who settled on it and farmed for five years.³⁹ A key argument for the Homestead Act was that it would prevent land monopolies in America, preventing the consolidation of wealth into a few hands. Instead, it would allow individuals not only to support their families, but to "contribute to the greatness and glory of the Republic," developing

33. See, e.g., DORIS KEARNS GOODWIN, *TEAM OF RIVALS: THE POLITICAL GENIUS OF ABRAHAM LINCOLN* (2005).

34. RICHARDSON, *supra* note 9, at 62–65.

35. *Id.* at 126.

36. Act of July 1, 1862, ch. 119, 12 Stat. 432.

37. RICHARDSON, *supra* note 9, at 140–43.

38. *Id.* at 19.

39. Act of May 20, 1862, ch. 75, 12 Stat. 392.

both economic production and “the elements of a higher and better civilization.”⁴⁰ The Homestead Act would establish the free-labor model across the West, making it impossible for the “mud-sill” model of rich and poor to take hold in those new lands.⁴¹

Republicans utterly rejected the argument of opponents that “giving” away land was a welfare measure for the indigent. Rather, it was a way to develop the economy for everyone. “Every smoke rising from a new opening in the wilderness marks the foundation of a new feeder to Commerce and the Revenue,” Republican newspaper editor Horace Greeley explained.⁴² To complaints that the government had no constitutional authority to meddle in the economy, Illinois Republican Owen Lovejoy retorted: “[W]hat is beneficial to the people cannot be detrimental to the Government; for in this country the interests of both are identical With us the Government is simply an agency through which the people act for their own benefit.”⁴³ Enough Democrats agreed that the homestead bill passed with bipartisan support in the House, and two Democrats crossed over to vote *yes* in the Senate.⁴⁴

But Congress did not stop there. As Lincoln had suggested in his Milwaukee speech, scientific knowledge would increase the efficiency of farming. Those anxious to increase development called for a Department of Agriculture to promote new farming techniques.⁴⁵ Every penny the government spent distributing agricultural information would come back threefold, supporters claimed. In 1862, Congress passed a bipartisan bill establishing a Department of Agriculture to collect agricultural statistics and distribute information, seeds, and plants.⁴⁶ To complaints that such an appropriation of money was unconstitutional, budget hawk William Pitt Fessenden responded that the country would be repaid in spades, “richly paid over and over again in absolute increase of wealth. There is no doubt of that.”⁴⁷

40. Galusha Grow, *quoted in* RICHARDSON, *supra* note 9, at 147. Grow, a Republican, was speaker of the House in the Thirty-seventh Congress and later known as “the father of the Homestead Law.” *Id.* at 11.

41. *Id.* at 147–48.

42. DAILY TRIBUNE (N.Y.), Feb. 1, 1862, at 4, *quoted in* RICHARDSON, *supra* note 9, at 146.

43. CONG. GLOBE, 36th Cong., 1st Sess. App. 174 (1860).

44. RICHARDSON, *supra* note 9, at 148–49.

45. *Id.* at 149–54.

46. Act of May 15, 1862, ch. 72, 12 Stat. 387. *See also* RICHARDSON, *supra* note 9, at 154.

47. RICHARDSON, *supra* note 9, at 154.

The capstone of the new program to advance individual economic progress came, as Lincoln had suggested it would, in the field of education. In 1862, Congress passed a law offering to states 30,000 acres of unappropriated public land for each of a state's senators and representatives, land that the states could sell to establish a permanent fund for supporting agricultural colleges.⁴⁸ Higher education in America had always been the privilege of the wealthy, but this Land-Grant College Act, dubbed the Morrill Act after its main advocate Justin Smith Morrill, would make learning accessible to all young men.⁴⁹ As individuals learned to make their labor more effective, they would "increase the prosperity of agriculture, manufactures, and commerce," and guarantee that Americans would not fall behind well-educated Europeans, supporters argued.⁵⁰ The passage of this bipartisan bill in July 1862 established the funding for the country's state universities.⁵¹

This wartime legislation marked a new direction in government. The fledgling Republican Party was directing an activist federal government to promote widespread economic equality under the premise of nonpartisanship.⁵² This nonpartisanship was possible on account of Northerners' strong support for the Union, which brought Democrats into the Republican fold, but also because Lincoln and farsighted members of the new party really saw the role of government as the advancement of a new free-labor society of individual, well-educated workers.

Nowhere was this new vision of government more evident than in Congress's 1866 extension of the Freedmen's Bureau, only a year after it had been created.⁵³ When it became clear by late 1865 that recalcitrant Southern white employers would not pay freedmen the wages due them, and that Southern elites continued to control the Southern economy—such as it was—Congress tried to jumpstart the Southern economy with a program mirroring the one it had tried in the North.

In 1866, Congress passed a bill that expanded the scope of the Freedmen's Bureau to enable it to put impoverished black and white Southerners onto homesteads and to get the education that they so

48. Morrill Act of 1862, Pub. L. No. 37-108, 12 Stat. 503.

49. RICHARDSON, *supra* note 9, at 154–60.

50. *Id.* at 158.

51. *Id.* at 154–55.

52. On the political ramifications of nonpartisan rhetoric, see ADAM I.P. SMITH, *NO PARTY NOW: POLITICS IN THE CIVIL WAR NORTH* (2006).

53. For a discussion of the 1865 act creating the Freedmen's Bureau, see RICHARDSON, *supra* note 9, at 239–40.

sorely lacked.⁵⁴ While today we generally know the Freedmen's Bureau by this nickname, it was, in fact, named the Bureau of Refugees, Freedmen, and Abandoned Lands, and it helped white Southerners as well as freed people. Republicans were eager to spread small farms across the South as they were doing across the North, and the 1866 bill provided for the President to appoint commissioners who would oversee the settlement of refugees and freedmen on homesteads. The bill also provided for the commissioners to buy land and establish schools on it, funding them in a manner similar to that used for the land-grant colleges, with the caveat that the government could not sell land for less money than it had paid.⁵⁵ Critically, Congress did not limit the operation of the measure to the states in rebellion, seeking to reach the black and poor white populations in the border states that had stayed loyal.⁵⁶

Republicans considered this an uncontroversial bill, designed to repair the South from the damage inflicted on it by the monopolization of its resources by wealthy Southern slave owners.⁵⁷ It would integrate the South into a national free-labor economy which appeared so successful in the North and West.⁵⁸

III. POLITICS AS USUAL?

The conviction that this was an obvious and uncontroversial piece of legislation did not reckon with the old-fashioned politics of Andrew Johnson. Unlike Lincoln, Johnson had been a Democrat before the war and was steeped in Democratic conceptions of party politics as a divisive war. The difference between his approach and that of the Lincoln Republicans showed up starkly as soon as Johnson assumed the presidency after Lincoln's assassination. While Republicans wanted to reintegrate Southern states into the Union slowly, after their economic systems stabilized, Johnson wanted Democrats back in the national government immediately.⁵⁹ Initially, he gave the impression of sharing Republicans' dislike of Southern leaders when he refused amnesty to anyone who owned more than \$20,000 worth of property, but it turned

54. HEATHER COX RICHARDSON, *WEST FROM APPOMATTOX* 45, 54–56 (2007).

55. *Thirty-Ninth Congress: Freedmen's Bureau*, N.Y. TIMES, Jan. 13, 1866, at 5.

56. *Thirty-Ninth Congress: The Freedmen's Bureau*, N.Y. TIMES, Jan. 21, 1866, at 5.

57. RICHARDSON, *supra* note 54, at 53–54.

58. *Thirty-Ninth Congress: The Amendment to the Constitution*, N.Y. TIMES, Jan. 25, 1866, at 1.

59. RICHARDSON, *supra* note 54, at 52.

out that this restriction was more posturing than principle. In the summer of 1865, he pardoned more than 150 Southern leaders a day, and ultimately permitted Southern state governments to reorganize under the same leaders who had made up the prewar elite.⁶⁰ In December 1865, Johnson cheerfully told Congress that Reconstruction was over and that all it had to do was to seat the South's newly elected representatives. Republicans found this prescription hard to swallow: those representatives were the very same men against whom they had organized their party in the 1850s.⁶¹ Indeed, one of the men waiting to be seated in Congress was the former Confederate vice president, Alexander H. Stephens.

Johnson firmly believed in the old-fashioned rule of party. From the very beginning of his assumption of the presidency, he worked hard to undercut the Republicans, returning Democrats to power as quickly as he possibly could, even if it meant siding with the South's traditional leaders.⁶² Worried about the power of the Republicans after the war, he saw government activism as politics, and did not want the passage of popular measures to bring more voters to the Republican ticket.

Johnson issued an ultimatum to the Republican Party with his veto of the extension of the Freedmen's Bureau.⁶³ Ignoring the work of the war years, Johnson announced in his veto message that homestead and education legislation was far beyond the scope of Congress's authority. Johnson utterly rejected the Republican idea that the job of government was to promote the economic advancement of average Americans.⁶⁴ He denied that legislation benefiting farmers and workers would help the nation, and insisted instead that homestead legislation was welfare for "indigent persons."⁶⁵ Further, he went on, the government "has never founded schools for any class of our own people,"⁶⁶ a comment technically correct, since the federal government had provided *means* to the states to provide those schools, but one that essentially ignored the momentous Land-Grant College Act.

Johnson thus rejected the role of government as a sponsor of individual economic achievement because of his determination to

60. *Id.* at 42.

61. *Id.* at 53.

62. *Id.*

63. *Id.* at 54-55.

64. CONG. GLOBE, 39th Cong., 1st Sess. 915, 916 (1866) (veto message of Andrew Johnson).

65. *Id.*

66. *Id.*

protect the Democratic Party from what he saw as the dangerously powerful Republicans.⁶⁷ He knew that, if they were allowed to go forward, the measures that he was killing would be widely popular in the South and the border states. The bill promised to establish schools and homes for white refugees as well as black freedpeople. Indeed, it looked rather like an effort to establish free-labor homesteads of educated Americans across the South, as the Republicans had tried to do across the North and West during the war.

To construct attacks on this new Republican approach to governance, Johnson also fell back on traditional Democratic racism and growing opposition to the newly imposed taxes.⁶⁸ He ignored the bill's benefits for white Southerners, and built up the idea that it was intended to give a handout to lazy African Americans, paid for by hard-working white men. According to Johnson, Congress had "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," a conclusion he could only reach by a tortuous parsing of the popular Homestead Act.⁶⁹ He went on to undermine the argument that homesteads and education benefited the entire country, instead insisting that the homestead provisions of the new bill were simply a "system for the support of indigent persons."⁷⁰ Why, he asked in a rhetorical question which misrepresented the bill, should the government do this for ex-slaves, when it had never done it for whites? Freedmen should work hard to succeed, not look for handouts, he preached.⁷¹

Johnson went on to tie the proposed legislation to the idea that the Republicans were using tax money to create an army of partisan bureaucrats who would suck the nation's new taxpayers dry. The new requirements would cost more than \$23 million, he insisted, and would create "an immense patronage," including agents and officers and clerks, all of whom would suck up tax dollars.⁷²

Johnson's equation—that government activism equaled special help for blacks paid for by hard-working taxpayers—became the equation that opponents of government activism have used ever since. Johnson's

67. RICHARDSON, *supra* note 54, at 54.

68. *Id.* at 56–57.

69. CONG. GLOBE, 39th Cong., 1st Sess. 915, 916 (1866) (veto message).

70. *Id.*

71. *Id.*; see RICHARDSON, *supra* note 54, at 55.

72. CONG. GLOBE, 39th Cong., 1st Sess. 915, 916 (1866) (veto message).

attack on the new Republican approach to government established a connection between racism and government activism that stretched far into the future.⁷³

IV. LINCOLN'S REFORM LEGACY

And, in the short term, it seemed to work. Lincoln Republicans responded to Johnson's attack with shocked surprise. Senator Lyman Trumbull of Illinois, one of the nation's most distinguished constitutional lawyers, took Johnson's argument apart point by point.⁷⁴ But men such as Trumbull could not muster the two-thirds vote necessary to override Johnson's veto, and the homestead and education provisions were taken out of the new bill.

Republicans in Congress tried to achieve their aims by falling back on wartime precedents. They extended the 1862 Homestead Act to include public land in five Southern states, a plan that passed, this time, only by a party vote.⁷⁵

They then went on to establish the Department of Education, using the precedent of the Department of Agriculture, to study education and make suggestions for its propagation, insisting that America could have neither liberty nor economic growth without education. Democrats, in contrast, explicitly connected the bill to establish a Department of Education with the Freedmen's Bureau bill and attacked it accordingly. It was simply a plan to provide Republican appointees with salaries, they charged, and it would interfere with states' internal affairs, a complaint that was a code for their determination to maintain white racial supremacy.⁷⁶ A newspaper reporter from Savannah, Georgia, charged that radicals wanted to control education so that young Southerners of all races would be "taught to shoot in the right direction."⁷⁷

The bill for the Department of Education, too, passed by a party vote, with Republicans supporting the measure and Democrats opposing it, rather than by the bipartisan votes of the war years.⁷⁸ As it

73. RICHARDSON, *supra* note 54, at 62.

74. Speech of Hon. Lyman Trumbull, of Illinois, on the Freedmen's Bureau—Veto Message (Feb. 20, 1866).

75. EDWARD MCPHERSON, A POLITICAL MANUAL FOR 1866, at 116 (1866).

76. *The Department of Education—Its Duties and Costs*, DAILY NEWS & HERALD (Savannah, Ga.), June 25, 1866 (available in 19th Century U.S. Newspapers database, Harvard College Library).

77. *Id.*

78. The debates over the establishment of the Department of Education are in the

turned out, the establishment of a department to study education was a weak substitute for actual schools.⁷⁹

After Johnson's attack, Republicans split between those determined to protect their party and hold onto government at all costs and those who continued to argue that the role of government was to advance the interests of average Americans, even if it meant sharing power with reform Democrats. This split was completed in Grant's term, when Grant moved to embrace machine politicians, notably those in the adjutant general's office, for reasons unique to his presidency.⁸⁰ The straight Republicans followed Grant and cast their lot with traditional party politics. In their 1872 platform, they explicitly endorsed the capitalists who funded their party war chest.⁸¹

But they did not speak for the whole party. Liberal Republicans, as they called themselves (after the Lockean liberalism at the heart of the Declaration of Independence), split off from the party Republicans and tried to regain Lincoln's politics of principle.⁸² At their own political convention, they complained that the extreme partisanship of both Democrats and Republicans was destroying the nation and keeping it from progressing. They castigated the "partisan tyranny" of traditional party politics and tried to break the power of party by calling for impartial civil servants to run government. They endorsed the idea behind the Homestead Act, insisting that western land should go to "actual settlers" rather than railroad companies. After the Chairman of the Committee on Platform read the platform, delegates cheered for "the Second Declaration of Independence."⁸³

Grant Republicans won the election in 1872, of course, and worked more and more closely with a rising industrial elite.⁸⁴ In the mid-1870s,

Congressional Globe. For the House debates, see CONG. GLOBE, 39th Cong., 1st Sess. 2966–70, 3044–51, 3053, 3269–70 (1866); for the House vote on June 19, 1866, see *id.* at 3270. For the Senate debates, see CONG. GLOBE, 39th Cong., 2d Sess. 1842–44, 1893, 1949–50 (1867); for passage (recorded without a roll call), see *id.* at 1893; for the roll-call vote on the motion to reconsider on March 1, 1867, see *id.* at 1950. Johnson signed the bill on March 2, 1867. CONG. GLOBE, 39th Cong., 2d Sess. App. 199 (1867).

79. For a denunciation of the management of the new department, see *National Department of Education*, DAILY NAT'L INTELLIGENCER (Wash., D.C.), Nov. 23, 1868, at 2 (available in 19th Century U.S. Newspapers database, Harvard College Library).

80. RICHARDSON, *supra* note 54, at 89–92; DONALD B. CONNELLY, JOHN M. SCHOFIELD AND THE POLITICS OF GENERALSHIP 214–18 (2006).

81. RICHARDSON, *supra* note 54, at 146–47.

82. See generally *id.* at 121–45.

83. PROCEEDINGS OF THE LIBERAL REPUBLICAN CONVENTION 18–21 (New York, Baker & Godwin 1872).

84. RICHARDSON, *supra* note 54, at 125, 141–42.

they rejected popular measures to ease a severe recession and instead contracted the currency, a measure that hammered average Americans even as it pleased businessmen.⁸⁵ The association of the Republicans with big business grew. By 1890, with Benjamin Harrison in the White House thanks to the money of industrialists and Harrison's men trumpeting that his would be a "BUSINESS MAN'S ADMINISTRATION," it seemed that Lincoln's hatred of politics to propagate an economic elite was dead.⁸⁶

This was wrong. In fact, reformers determined to use the government to advance the interests of average Americans have used Lincoln's construction of a politics of principle ever since the 1860s. After the Harrison administration, Progressives began to insist that the government must cut ties to industrialists; their insistence helped to usher in the Progressive Era, the period when, not coincidentally, the Department of Education finally became active.⁸⁷ Once established, this pattern has recurred throughout American history. Just as opponents rely on racism and complaints of taxation, those calling for the government to level the economic playing field for all Americans use the example of Lincoln's politics of principle. Lincoln's political legacy is that, ever since his day, reformers of all parties have tried to get the American government to work hard for hard-working Americans.

85. *See id.* at 153.

86. *A Business Man's Administration*, FRANK LESLIE'S ILLUSTRATED NEWSPAPER, Jan. 4, 1890, at 387.

87. RICHARDSON, *supra* note 54, at 338–40.