

# 1868 Fourteenth Amendment

*"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."*

—FOURTEENTH AMENDMENT

## HISTORICAL BACKGROUND

—IN 1866 Congress passed legislation designed to undo southern Black Codes. Termed the Civil Rights Act, the legislation stipulated:

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude . . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws . . . as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties.

The 1866 Civil Rights Act placed power within "the land or naval forces of the United States, or of the militia" to enforce the law. It packed the political punch sought by Radical Republicans in Congress. However, proponents of the law knew its continuance was dependent upon political winds. The legislation had originally been the victim of a presidential veto, countered by a congressional override. President Andrew Johnson was a firm believer in limited national power. As such, his veto of the controversial legislation rested on the principle that the federal government had no business intruding into the affairs of the states. Johnson's veto also was bolstered by the fact that he was an ardent racist. He simply believed that African-Americans were not equal to whites and thus not deserving of governmental policies designed to promote equality. His pro-Union Civil War stance, in fact, was supported less by a desire

to end slavery than by his wish to dismantle the South's planter aristocracy, of which, as a Tennessee tailor, he had never been a member.

In the spring of 1866, a Joint Committee on Reconstruction worked on a draft of the Fourteenth Amendment. The intent was to permanently guarantee the rights granted by the Civil Rights Act of 1866, rights that then could not be altered by legislative action or presidential whim. By mid-June the amendment had received the necessary two-thirds majority approval from both houses of Congress. It was subsequently sent to the states for ratification.

The Fourteenth Amendment became the cornerstone of the Republican Party platform during the 1866 congressional elections. Meanwhile, racial violence permeated areas of the country. The following excerpt from an 1866 news article by E.L. Godkin describes the violence that resulted in the deaths of forty-six African-Americans in Memphis, Tennessee:

The row which followed was taken up by the citizens at large, and when renewed in the afternoon, after a short pause, it took the form of a general massacre of such of the colored population as showed themselves in the streets. This part of the tragedy appears to have been inconceivably brutal, but its brutality was, after all, not the most remarkable thing about it. Its most novel and most striking incident was, that the *police* headed the butchery.

Ironically, Tennessee, Johnson's home state, was the third state to ratify the Fourteenth Amendment. On July 28, 1868, the amendment became the law of the land. The legislatures of southern states responded to the federal government's imposition of its will with a series of

insidious "Jim Crow" segregation laws that perverted the very meaning of equality. Such laws required separate railroad cars, circus ticket booths, hospital entrances, prison facilities,

drinking fountains, restaurant seating, and more. It would take another hundred years of strife before the equality of African-Americans was truly recognized by the courts.

## NATIONAL ARCHIVES DOCUMENT

### AMENDMENT XIV

#### Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### Section 2.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. . . .

#### Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

#### Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

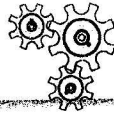
#### Section 5.

The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.



With citizenship came the right to vote. Scenes like the one depicted above, however, were an exception.

# Critical Thinking



## Analyze Cause and Effect

Reread Section 1 of the Fourteenth Amendment. What impact did Section 1 have on the Dred Scott decision? How does this section ensure equality before the law?

## Compare and Contrast

Compare the Constitution's Three-Fifths Compromise with Section 2 of the Fourteenth Amendment. Why was this provision important?

## Assess Significance

In what way did Sections 3 and 4 uphold the power of the federal government over the actions of the former Confederacy?