

Helping to Move On? An Analysis of the Reconstruction Amendments

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Grade Level: Middle/ High

Duration: One 90 minute class

Overview: With the end of the American Civil War in 1865, the United States' government was faced with two separate problems. First, the country had to re-integrate the states of the Confederacy into the Union. Second, the legal status of the roughly three million former slaves had to be determined, specifically how the newly-emancipated would be regarded as citizens. In response to both problems, the Congress added three amendments to the Constitution that sought to define what life would be like for the freedmen in the states of the former Confederacy, as well as in the nation as a whole. The story of the 13th, 14th, and 15th Amendments highlights the inherent conflicts of these two goals. By examining the political debates and discussion surrounding the passage of these Amendments, students will begin to see why it would take a so-called second period of Reconstruction in the 1960s before African Americans would realize true equality under the law

Content Standards:

Era 5: Civil War and Reconstruction (1850-1877)

Standard 2: The course and character of the Civil War and its effects on the American people.

Standard 3: How various reconstruction plans succeeded or failed.

Historical Thinking Standards:

Standard 3: Historical Analysis and Interpretation

E. Analyze cause-and-effect relationships and multiple causation, including the importance of the individual, the influence of ideas, and the role of chance.

Standard 5: Historical Comprehension

E. Formulate a position or course of action on an issue.

Objective:

· Students will be able to determine the political, economic, and social effects of Reconstruction by examining the 13th, 14th, and 15th Amendments.

After the Civil War officially ended in 1865, a period of rebuilding the United States began. This political, economic, and social rebuilding process designed to bring the defeated

Confederate states fully back into the Union was known as Reconstruction. Although Reconstruction officially lasted from 1865 until 1877, as Eric Foner argues, “Reconstruction was not merely a specific time period, but the beginning of an extended historical process: The adjustment of American society to the end of slavery.” In other words, the major issue of dispute was how to rebuild the South with an economic system based on free labor rather than slavery. In addition, Americans were forced to deal with the very meaning of citizenship in a re-unified United States.¹

Such fundamental questions made it inevitable for Reconstruction to be a difficult and controversial process. Congress and President Andrew Johnson were often in conflict over the issue of who was responsible for dealing with Reconstruction.² Party politics also played a role with the Republican majority feuding with the Democrats over the details, most importantly, the post-war rights of southern Confederates and the status and rights of black Americans, especially the newly freed men and women.³ From 1865-1870 the federal government and individual states attempted to solve the major issues of Reconstruction through passage and ratification of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution. These important amendments had significant immediate and long term consequences that are essential to understanding American history as well as the rights and privileges of U.S. citizenship.

In September, 1862, President Abraham Lincoln issued the Emancipation Proclamation as a tactic of war. This important presidential decree stated that as of January 1, 1863 slavery was outlawed in all the rebelling states. Although the Emancipation Proclamation did not

¹ Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863-1877* (New York, 1988), in John Hope Franklin and Alfred A. Moss, Jr., *From Slavery to Freedom: A History of African Americans*, (New York: Alfred A. Knopf, 2004), 246, 248.

² *Ibid.*, 253.

³ Herman Belz, *Abraham Lincoln, Constitutionalism, and Equal Rights in the Civil War Era*, (New York: Fordham University Press, 1998), 172.

actually free the slaves living in states controlled by the Confederacy (Lincoln did not have political jurisdiction over the Confederate states at that time), it set the stage for introduction of the first Reconstruction amendment, the Thirteenth Amendment.⁴ Introduced and approved by the Republican-controlled Senate in 1864, the amendment was sent the House of Representatives for approval. After some debate and eventual reconsideration, it also passed through the House and was sent to the states on January 31, 1865 for ratification. Although not all Americans were eager to support the permanent abolition of slavery, the amendment was ratified by the necessary three-fourths of states (27 of 36) by December 6, 1865. The Thirteenth Amendment allowed a final federal and constitutional end to the issue of slavery by outlawing the institution in all states. However, the abolition of slavery was only part of the amendment. The amendment also declared that “Congress shall have the power to enforce this article by appropriate legislation.”⁵ Many southerners and former Confederate officials were opposed to the idea that the federal government would have more power than it already held, however the Republican-controlled state legislatures established under Union occupational authority after the war ratified the amendment.⁶

The language of the Thirteenth Amendment was modeled on the prohibition of slavery outlined in congress’s 1787 Northwest Ordinance. Both the Ordinance and the Thirteenth Amendment outlawed slavery, but neither specified the rights of black men and women. In other words, race remained a possible bar to full citizenship. Instead, reform took place in uneven jumps and starts.

⁴ U.S. National Archives & Records Administration (NARA), *13th Amendment to the U.S. Constitution: Abolition of Slavery (1865)*. <www.ourdocuments.gov> accessed June 30, 2007.

⁵ *Transcript of 13th Amendment to the U.S. Constitution: Abolition of Slavery*, “United States Constitution,” (1865). <www.ourdocuments.gov> accessed June 30, 2007.

⁶ Henry, 106-107.

For example, from June 1865 through 1868, Congress, controlled by the radical wing of the Republican Party, established the Bureau of Refugees, Freedmen, and Abandoned Lands (also known as the Freedmen's Bureau). The Freedmen's Bureau was established with the goal to help educate and obtain better living and working conditions for former slaves remaining in the former Confederate states. Some Radical Republicans like Charles Sumner called for the redistribution of wealth in the former Confederate states as part of this effort. This idea, however, was too radical for even most Republicans. Although never as successful as its sponsors envisioned, the Freedmen's Bureau had some noteworthy achievements. It created the region's first public hospitals. The bureau helped many former slaves find housing and jobs, and, perhaps most important, the agency built and operated some of the region's first public schools.⁷ The educational work was perhaps the greatest success. Thousands of African Americans of all ages took advantage of Freedmen Bureau schools. Education had the potential of helping freed blacks advance to higher paying jobs and better protect their own rights.

The Freedmen's Bureau, however, was short lived and under funded. In hindsight, it is clear that even the majority of Republicans were committed to protecting the rights of free men, women, and children. The agency did not solve the problems of African American men and women living in the South. Instead, southern state legislatures began to pass new laws known as Black Codes that hindered blacks' efforts to gain equality and opportunity. Reminiscent of the Slave Codes that existed prior to the Civil War, Black Codes were designed to maintain white dominance over blacks. For example, under the Black Codes African Americans could not testify in court and could be imprisoned for a variety of seemingly insignificant actions including quitting a job. Clearly, Black Codes were meant to keep blacks from achieving full citizenship.⁸

⁷ Ibid., 255-257.

⁸ Franklin and Moss, 250-251.

In the meantime, conflict over Reconstruction policies between Congress and President Andrew Johnson intensified by 1866. In an attempt by the Radical Republicans to protect blacks' civil rights and maintain control over Reconstruction, Congress passed the Civil Rights Act of 1866. President Johnson vetoed the act, but Congress overrode the veto. The Civil Rights Act provided for equal citizenship for all black Americans and gave the federal government power over the states' infringement on those rights.⁹ In 1866, Congress went a step further and passed the Fourteenth Amendment, which was ratified by the necessary number of states in 1868. In an effort to protect black citizenship, the Fourteenth Amendment provided a universal definition of American citizenship and federal protection of that citizenship in all states.¹⁰ The amendment specifically stated,

all persons born or naturalized in the United States...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...; 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.¹¹

The inclusion of a definition of citizenship made the Fourteenth Amendment a stronger document than the earlier aforementioned Civil Rights Act. In addition, the amendment was a reflection of the times because it included restrictions on the civil rights of former Confederates (individuals that had participated in the rebellion during the war).

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

⁹ Richard O. Curry, ed., Radicalism, Racism, and Party Realignment: The border States during Reconstruction, (Baltimore: The Johns Hopkins Press, 1969), 120.

¹⁰ NARA, *14th Amendment to the U.S. Constitution: Civil Rights (1868)*. <www.ourdocuments.gov> accessed June 30, 2007.

¹¹ *Transcript of the 14th Amendment to the U.S. Constitution: Civil Rights*, "United States Constitution," (1868). <www.ourdocuments.gov> accessed June 30, 2007.

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.¹²

Not surprisingly, many whites in the South, just as they had with the Thirteenth Amendment, objected to the Fourteenth Amendment and on two counts. It defined citizenship to include the freedmen and freedwomen and restricted political participation by former Confederates.

Consequently, several southern states refused to ratify the document. In response, the Republican-led Congress created a series of mandates forcing states to ratify the Fourteenth Amendment.¹³

Although it granted citizenship to African Americans, the Fourteenth Amendment did not explicitly extend the protection of voting rights to black men since it did not specifically mention the right to vote. Legally it could be assumed that the Fourteenth Amendment established equal voting rights for black men, but it was not explicitly clear that voting was a right of individual citizenship. Therefore, many radical Republicans in Congress felt that it was necessary to also pass an amendment guaranteeing the right to vote for blacks equal to that of whites.¹⁴ At the time, the right to vote extended only to white males twenty-one years of age and over. The Fifteenth Amendment, passed by Congress in 1869 and ratified by the necessary number of states in 1870, specifically protected the right to vote for, “the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”¹⁵ For many Americans, the Fifteenth Amendment was seen as the end of the abolitionist crusade.¹⁶

¹² Ibid.

¹³ Henry, 206-207, 221.

¹⁴ NARA, *14th Amendment*.

¹⁵ *Transcript of 15th Amendment to the U.S. Constitution: Voting Rights*, “U.S. Constitution,” (1870). <www.ourdocuments.gov> accessed June 30, 2007.

¹⁶ Dorothy Sterling, ed., *We Are Your Sisters: Black Women in the Nineteenth Century*, (New York: W.W. Norton & Company, 1997), 397.

This remarkable achievement, however, was not without conflict; especially since it specified that the rights of representative citizenship only extended to males. Many women who had been part of the earlier abolitionist movement were also supporters of female suffrage. The call for female suffrage gained national attention at the convention on women's rights held in Seneca Falls, New York in 1849. Some women who had worked in both movements were angered by the specific mention of male voting rights and its associated federal legalization of black male suffrage at the exclusion of female—black or white—suffrage.¹⁷ Section 2 of the Fourteenth Amendment specifically mentioned male voting rights and citizenship in the U.S. Constitution for the first time.

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. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.¹⁸

At the time, however, the protests of women's rights activists were denied. Women were not granted the right to vote at the federal level until the passage and ratification of the Nineteenth Amendment in 1920. Abolitionist leaders such as Frederick Douglass supported female suffrage, but feared that including women in the Fourteenth Amendment would stop the legislation's passage and ratification. In other words, female suffrage was considered too controversial by many people seeking to guarantee black male suffrage.¹⁹ Nevertheless, in the twentieth century, the due process clause and the rights of citizenship guaranteed in the

¹⁷ Sterling, 414.

¹⁸ *14th Amendment*.

¹⁹ Sterling, 414.

Fourteenth Amendment form the foundation for contemporary civil rights protections. For example, the Fourteenth Amendment is the basis of the civil rights protections in the U.S. Supreme Court's *Brown v. Board of Education, Topeka, Kansas* decision in 1954. In 1971, Congress extended the right to vote to eighteen, nineteen, and twenty year olds in the Twenty-sixth Amendment.

The right to vote has been expanded in the twentieth century largely because during Reconstruction, passage and ratification of the Fourteenth and Fifteenth Amendment were intended to cement the political and civil rights of blacks at the federal and state levels. But soon, many southern states found ways to disenfranchise black men. In the years that followed Reconstruction, a lack of will by Congress and Supreme Court interpretations that favored segregation as a means to equal protection led to continued racism and the suppression of civil rights for blacks.²⁰ Restrictions on voting included unfair literacy tests (applied many to blacks), poll taxes (again, applied mainly to poor blacks), and grandfather clauses that eliminated voting rights for anyone who was a descendent of someone not eligible to vote in 1866 or 1867 (before ratification of the Fourteenth and Fifteenth Amendments). Over the next eighty years, southern states used such laws to disenfranchise most black voters.²¹

The end of federal Reconstruction in 1877 further contributed to the denial of rights to black Americans. Corruption, activist groups such as the Ku Klux Klan, and racism continued to plague the government and citizens, in the North as well as the South. However, the Reconstruction Amendments served as a foundation for the second reconstruction of the 1950s and 1960s that set the current parameters prohibiting legal segregation and racial discrimination in the United States. Most important for the time, they helped to officially end the period of

²⁰ Franklin and Moss, 271.

²¹ NARA, *15th Amendment to the U.S. Constitution: Voting Rights (1870)*. <www.ourdocuments.gov> accessed June 30, 2007.

slavery and government-sanctioned white supremacy that had been part of the United States since the American Revolutionary War.

Bibliography:

Belz, Herman. Abraham Lincoln, Constitutionalism, and Equal Rights in the Civil War Era. New York: Fordham University Press, 1998.

Franklin, John Hope and Alfred A. Moss, Jr. From Slavery to Freedom: A History of African Americans, 8th ed. New York: Alfred A. Knopf, 2000.

Vocabulary:

Amendment: a change or addition (to the United States Constitution)

Jurisdiction: power, authority; authority over an area

Naturalized: granted citizenship

Reconstruction: era of rebuilding (in the US, 1865-1877)

Servitude: state of being a slave

MOTIVATION:

1. Distribute “Amendments 1-12” matrix. (Resource Sheet #1)
2. **Students will be able to discuss if each amendment was a political, economic, or social change. (10 minutes)**

PROCEDURES:

3. Distribute “Reconstruction Amendments” to the students.
4. **Students, who will be working in small groups of 3-4 , will be able to read the 13th, 14th, and 15th amendment. (Resource Sheet #2-4)**
5. **Students will be able complete the organizer.(Resource Sheet #5)** This requires them to write the amendment in their own words and determine if the amendment is a political, economic, and/or social effect. (15-20 minutes) *Ability Level Differentiation: Model the completion of the 13th Amendment for the students.
6. **Students will be able to create a 3-flap foldable organizer. (5-10 minutes)**

7. Distribute “Reconstruction Amendments Foldable” to the students. (Resource Sheet #6.) Model the beginning steps for completing the foldable organizer. (The foldable organizer will serve as a Reconstruction Amendments study guide for the students.) (20 minutes)

****Ability-level differentiation**—for “higher-level” students, this activity may not be necessary.

CLOSURE:

8. Distribute “Reconstruction Amendments CR” to the students.(Resource Sheet #7)
9. **Students will be able to respond to the constructed response prompt.** They should use their classwork activities to help them provide support for the response.(20 minutes)

ASSESSMENT:

10. “Reconstruction Amendments CR” will serve as a formal formative assessment for the lesson.
11. **Students will be able to discuss and complete the “Reconstruction Amendments.”** This will serve as the informal formative assessment.

Extension Activities:

1. Provide students with a copy of the Emancipation Proclamation prior to reading the 13th Amendment. **Students will be able to create a comparison chart after analyzing each document.**
2. **Students will be able to create a political cartoon about one of the Reconstruction Amendments.**
3. **Students will be able to role play and debate the issues of the Reconstruction Amendments.**

Transcript of the 13th Amendment to the U.S. Constitution: Abolition of Slavery. “U.S. Constitution,” 1865. *Our Documents*. Retrieved (October 9, 2007) from

<http://ourdocuments.gov/doc.php?flash=true&doc=40>

The 13th Amendment legally abolished slavery in all states in the Union. This document provides students an opportunity to examine an image of the actual document, as well as see a transcript and an analysis of the document. While viewing the 13th Amendment, students should notice the age of the document, the style of writing, and the blanks that are filled in on the amendment page. However, the main focus for students should be significance of the amendment.

Transcript of the 14th Amendment to the U.S. Constitution: Civil Rights. “U.S. Constitution,” 1868. *Our Documents*. Retrieved (October 9, 2007) from

<http://ourdocuments.gov/doc.php?doc=43>

The 14th Amendment declared that all people born in the United States are citizens, and they cannot be denied the rights of citizens based on race. This document provides students an opportunity to examine an image of the actual document, as well as see a transcript and an analysis of the document. Students should notice that the 14th Amendment is much longer in length than the 13th Amendment. Students should focus on the various sections of the document and recognize that the 14th Amendment is a much more comprehensive amendment than the other Reconstruction amendments.

Transcript of the 15th Amendment to the U.S. Constitution: Voting Rights. “U.S. Constitution,” 1870. *Our Documents*. Retrieved (October 9, 2007 from

<http://ourdocuments.gov/doc.php?doc=44>

The 15th Amendment supported the 14th Amendment by providing voting rights to male citizens. This document provides students an opportunity to examine an image of the actual document, as well as see a transcript and an analysis of the document. Students should notice that just like the 13th Amendment, the 15th Amendment is handwritten on an amendment form. Students should focus on the significance of the document.