

Congressional Reconstruction

A clash between President Johnson and Congress over Reconstruction was now inevitable. By the end of 1865, Radical Republican views had gained a majority in Congress, and the decisive year of 1866 saw a gradual diminishing of President Johnson's power.

In June of 1866, the Joint Committee on Reconstruction determined that, by seceding, the southern states had forfeited "all civil and political rights under the Constitution." The Committee rejected President Johnson's Reconstruction plan, denied seating of southern legislators, and maintained that only Congress could determine if, when, and how Reconstruction would take place. Part of the Reconstruction plan devised by the Joint Committee to replace Johnson's Reconstruction proclamation is demonstrated in the Fourteenth Amendment.

Northern Republicans did not want to give up the political advantage they held, especially by allowing former Confederate leaders to reclaim their seats in Congress. Since the South did not participate in Congress from 1861 to 1865, Republicans were able to pass legislation that favored the North, such as the Morrill Tariff, the Pacific Railroad Act, and the Homestead Act. Republicans were also concerned that the South's congressional representation would increase since slaves were no longer considered only three-fifths of a person. This population increase would tip the congressional leadership to the South, enabling them to perpetuate the Black Codes and virtually re-enslave blacks.

The strained relations between Congress and the president became increasingly apparent in February 1866 when President Johnson vetoed a bill to extend the life of the Freedmen's Bureau. The Freedmen's Bureau had been established in 1865 to care for refugees, and now Congress wanted to amend it to include protection for the black population. Although the bill had broad support, President Johnson claimed that it was an unconstitutional extension of military authority since wartime conditions no longer existed. Congress did override Johnson's veto of the Freedmen's Bureau, helping it last until the early 1870s.

Striking back, Congress passed the Civil Rights Bill in March 1866. This Bill granted American citizenship to blacks and denied the states the power to restrict their rights to hold property, testify in court, and make contracts for their labor. Congress aimed to destroy the Black Codes and justified the legislation as implementing freedom under the Thirteenth Amendment. Johnson vetoed the Civil Rights Bill, which prompted most Republicans to believe there was no chance of future cooperation with him. On April 9, 1866, Congress overrode the presidential veto, and from that point forward, Congress frequently overturned Johnson's vetoes.

The Republicans wanted to ensure the principles of the Civil Rights Act by adding a new amendment to the Constitution. Doing so would keep the Southerners from repealing the laws if they ever won control of Congress. In June 1866, Congress sent the proposed Fourteenth Amendment, which in the context of the times was a radical measure, to the states for ratification:

- It acknowledged state and federal citizenship for persons born or naturalized in the United States.

- It forbade any state to diminish the “privileges and immunities” of citizenship, which was the section that struck at the Black Codes.
- It prohibited any state to deprive any person of life, liberty, or property without “due process of law.”
- It forbade any state to deny any person “the equal protection of the laws.”
- It disqualified former Confederates from holding federal and state office.
- It reduced the representation of a state in Congress and the Electoral College if it denied blacks voting rights.
- It guaranteed the federal debt, while rejecting all Confederate debts.

All Republicans agreed that no state would be welcomed back to the Union without ratifying the Fourteenth Amendment. In contrast, President Johnson recommended that the states reject it. Johnson’s home state of Tennessee was the first to ratify the Fourteenth Amendment, while the other 10 seceded states rejected it. During this same time, bloody race riots erupted in several southern cities, adding fuel to the Reconstruction battle. Radical Republicans blamed the indiscriminate massacre of blacks on Johnson’s policies.

The congressional election of 1866 widened the divide between President Johnson and Congress. President Johnson embarked on a “swing around the circle” tour where he gave speeches at various Midwestern cities to rally the public around his policy of lenient Union recognition for the southern states. His tour was a complete failure as he exchanged hot-tempered insults with the critics in the crowd. To counter Johnson’s rhetoric, Congressional Republicans took to “waving the bloody shirt”--appealing to voters by reminding them of the sacrifices the Union made during the Civil War. When the congressional election was complete, the Republicans won more than the two-thirds majority in the House and the Senate that they needed to override any presidential vetoes.

If the southern states had been willing to adopt the Fourteenth Amendment, coercive measures might have been avoided. On March 2, 1867, Congress passed the Military Reconstruction Act, which became the final plan for Reconstruction and identified the new conditions under which the southern governments would be formed. Tennessee was exempt from the Act because it had ratified the Fourteenth Amendment.

This legislation divided the former Confederacy into five military districts, each occupied by a Union general and his troops, whom Southerners contemptuously called “bluebellies.” The officers had the power to maintain order and protect the civil rights of all persons. The southern states were required to ratify the Fourteenth Amendment and adopt new state constitutions guaranteeing blacks the right to vote in order for their representatives to be admitted to Congress and military rule to end (which paved the way for easy ratification of the Fifteenth Amendment later). However, the Act did not go as far as giving freedmen land or education at federal expense.

Although peacetime military rule seemed contrary to the spirit of the Constitution, the Supreme Court allowed it. The hated “bluebellies” remained until the new Republican regimes were firmly established in each state. It was not until 1877 that the last federal troops left the south.

Radical Republicans were still concerned that once the states were re-admitted to the Union, they would amend their constitutions and withdraw black suffrage. They moved to safeguard their legislation by adding it to the federal Constitution with the Fifteenth Amendment. The amendment prohibited the states from denying anyone the right to vote “on account of race, color, or previous condition of servitude.” In 1870, the required number of states had ratified the amendment, and it became part of the Constitution.

The Fifteenth Amendment did not guarantee the right to vote regardless of sex, which outraged feminists like Elizabeth Cady Stanton and Susan B. Anthony. Equally disappointing to feminists was the fact that the Fourteenth Amendment marked the first appearance of the word “male” in the Constitution. Efforts to include female suffrage in the Fifteenth Amendment were defeated, and 50 years passed before an amendment to the Constitution granted women the right to vote.

While most of the southern states had quickly ratified the Fifteenth Amendment under pressure from the federal government, Democratic Party dominance in those states assured the Fourteenth and Fifteenth Amendments were largely ignored. Literacy tests and poll taxes were often used to keep blacks from voting. Intimidation and lynching were also common means to keep blacks from the polls. Full suffrage for blacks was not realized until 1965.

The Civil Rights Act of 1875 was the last congressional Reconstruction measure. It prohibited racial discrimination in jury selection, transportation, restaurants, and "inns, public conveyances on land or water, theaters, and other places of public amusement." It did not guarantee equality in schools, churches, and cemeteries. Unfortunately, the Act lacked a strong enforcement mechanism, and dismayed Northerners did not attempt another civil rights act for 90 years.