

## REVIEW

CALIFORNIA CONTENT  
STANDARD 8.11.5*The Constitution and  
Reconstruction*

**Specific Objective:** Understand the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution and analyze their connection to Reconstruction.

Read the summary below to answer the questions on the next page.

**Changing the Constitution**

Sometimes it is necessary to amend, or formally change, the Constitution to adapt to social change and historical trends, such as the end of slavery. That was the case with the Thirteenth, Fourteenth, and Fifteenth amendments. These amendments were an important part of Reconstruction. The Republicans wanted equality to be protected by the Constitution itself.

**Thirteenth Amendment (1865)**

- It ended slavery in the United States.
- Lincoln's Emancipation Proclamation applied to enslaved people in the Confederacy. Many African Americans in the border states were still enslaved. The Thirteenth Amendment banned slavery in every part of the country.

**Fourteenth Amendment (1868)**

- It stated that all people born in the United States were citizens and had the same rights.
- All citizens, including African Americans, were to be granted "equal protection of the laws."

**Fifteenth Amendment (1870)**

- Citizens could not be stopped from voting "on account of race, color, or previous condition of servitude."
- The Fifteenth Amendment was not aimed only at the South. African-American men had not been allowed to vote in 16 states. With this amendment, the nation turned more toward democracy.

**Outcome of the Amendments**

- In most cases, the success of these amendments was limited. White Southerners could not bring back slavery. However, they did everything in their power to make sure that the new amendments were not enforced in the South. They intimidated former enslaved people and prevented them from voting, and they violated the civil rights of black Southerners in other ways.
- The amendments did not apply to women or Native Americans living on tribal lands.
- It would be almost 100 years before African Americans would truly gain civil rights. It would not be until 1920 that women would gain the right to vote.



## Topics / The Constitution / U.S. Constitution / U.S. Constitution (Overview)

The U.S. Founding Fathers faced the daunting task of crafting a governing document to both establish a national government structure and legally ensure each citizen basic rights. This was accomplished within the lines of the U.S. Constitution, which remains the supreme law of the United States.

### Concerns at the Constitutional Convention

Many concerns existed among the delegates to the 1787 Constitutional Convention, particularly among those from smaller states, who feared any plan where national representation would be based on population because the larger states would have more control. Another area of concern was what powers were to be given to the national government. The Connecticut Plan called for a legislature with two houses. The larger states would have more representatives in the House of Representatives while each state would have an equal number of representatives in the Senate. A second compromise dealt with the issue of slavery and how many representatives each state would have in the House based on its population of slaves. After much debate, it was decided that a slave would be counted as three-fifths of a person in determining congressional representation.

Led by Alexander Hamilton, James Madison, and John Jay, the Federalists supported the Constitution's strong central government with shared state powers, believing that checks and balances among the three branches would maintain a balanced central government. Anti-Federalists supported strong state governments and a weaker central government. Their members included John Hancock, George Mason, Patrick Henry, and James Monroe. They did not support the Constitution as written because it did not contain a bill of rights outlining the basic freedoms of all citizens. They also published writings outlining their points of opposition. It took several years for each state to individually ratify the Constitution due to the differences in opinion over how the national government should be structured. Special conventions were held in each state by the document's framers to explain it in detail. The Constitution was officially ratified on June 21, 1788, when New Hampshire became the ninth state out of the original 13 colonies to approve it.

### Democracy and Federalism

The basic foundation of the new government was one based on democracy, where people choose those who represent their interests. The Constitution begins with the words "We the People," which stipulates that the people both establish and control the government. Any actions taken by the government are done so under the consent of its citizens. Citizens control the government by selecting the representatives that speak for them, in essence delegating their voices to their representatives. The government's purpose is to represent the people, protect their right to liberty and justice, and provide for their defense. If citizens feel their needs are not being met, they can make changes to the government through voting and communicating their needs to their representatives.

The government was further established under the concept of federalism (i.e., a federal republic), the principle that the national government shares sovereign power with the state governments. Establishing the government according to this principle was a compromise that solved the debate over sovereignty and whether more power should be under the national or state governments. Both federal and state governments hold concurrent powers under federalism,



including the power to levy and collect taxes, establish courts, and to make and enforce laws.

The Constitution gave the federal government powers absent under the Articles of Confederation. For example, the Constitution declares that all laws created by the federal government take precedence over conflicting state laws. The federal government also has the power to collect taxes, coin money, and regulate commerce. Madison devised the model of government in which the powers of the government are separated into three branches of government, which is the principle of separations of powers outlined in Articles I–III of the Constitution. The separation of powers principle specifically divides the government into three sectors or branches: the executive, the judicial, and legislative.

### **Three Branches of Government**

The new Constitution established three branches of government versus just the legislative branch that existed before the Constitution was written. Congress was reestablished as the Congress of the United States with an upper chamber composed of two senators from each state and a lower chamber with the number of state representatives determined by the population of each state. The office of the president was established as the chief executive in the executive branch. The president was to be elected by an Electoral College whose members would be selected by each state's legislature. It was decided that the general public was not educated or informed enough to choose the holder of such an important office. The judicial branch was formed with a Supreme Court, consisting of judges nominated by the president and ratified by the Senate for lifelong terms, and lower courts.

The government was established with a system of checks and balances to balance the actions of each branch and ensure each does not exert control not granted to it under the Constitution, but most important to ensure that the president does not dominate the government. In basic terms, the legislative branch makes the laws, the executive branch executes the established laws, and the judicial branch ensures that the laws are being written and executed according to the Constitution.

### **Types of Federal Power**

The Constitution grants three types of powers to the federal government while prohibiting it from exercising other powers: expressed powers, implied powers, and inherent powers. Expressed powers are those that are specifically provided by the Constitution or congressional laws. A notable expressed power is Congress's ability to coin money and to regulate interstate commerce. An example of an expressed power that was created through a congressional amendment is the ability of Congress to impose an income tax, which was added in 1913 (the Sixteenth Amendment). Article II, Section 2 gives the president the power to make treaties and appoint certain federal office holders.

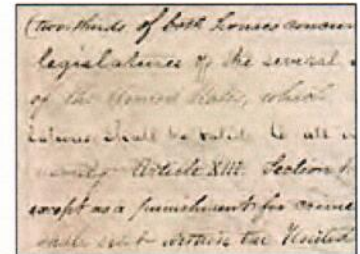
Implied powers are those powers of the federal government that are not specifically stated in the Constitution but implied by the expressed powers in the Constitution. The implied powers are granted in Article I, Section 8, Clause 18, also called the necessary and proper clause, which states that Congress has the power to make "all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Inherent powers, the third type of powers, are presidential powers that ensure the nation's integrity and survival as a political entity. These include, for example, the power to wage war. Inherent powers are not expressly granted by the Constitution, but are derived from the executive power vested in the president in the document.

### **Further Reading**

## Topics / Reconstruction, 1865-1877 / 40 Acres and a Mule / Thirteenth Amendment (ratified 1865)

The first of three Reconstruction Amendments enacted in the years immediately following the Civil War, the Thirteenth Amendment officially prohibited slavery in the United States and its territories. Originally proposed by Senator John Henderson in January 1864, the amendment failed to secure enough votes. It was reintroduced in January 1865, when Republicans had more members in the House and the amendment had President Abraham Lincoln's support. The amendment was almost immediately adopted by the U.S. Congress, although not without considerable debate. It received the requisite number of state endorsements on December 18, 1865.



Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

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### MLA

"Thirteenth Amendment (ratified 1865)." *American History*. ABC-CLIO, 2016. Web. 7 Feb. 2016.



## Topics / Reconstruction, 1865-1877 / 40 Acres and a Mule / Fourteenth Amendment (ratified 1868)

*One of the most controversial and debated provisions of the U.S. Constitution, the Fourteenth Amendment was one of three Reconstruction amendments enacted in the years immediately following the Civil War. The Fourteenth Amendment was remarkable for two primary reasons. First, it expanded the definition of U.S. citizenship to include people of all races, specifically African Americans; and second, it commanded the federal government to ensure the protection of certain fundamental rights at the state level. Suggested by a congressional committee of 15 members that began drafting the amendment in 1866, it received congressional endorsement on June 13, 1866 and had garnered sufficient state support by July 28, 1868 to be officially adopted and enacted.*



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. 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.

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 power to enforce, by appropriate legislation, the provisions of this article.

## Topics / Reconstruction, 1865-1877 / 40 Acres and a Mule / Fifteenth Amendment (ratified 1870)

*One of three Reconstruction amendments enacted in the years immediately following the Civil War, the Fifteenth Amendment was adopted by the U.S. Congress on February 26, 1869 to protect the voting rights of African-American men. The requisite number of states quickly followed suit, and the amendment was officially ratified on March 30, 1870. Before the adoption of the Fifteenth Amendment, the matter of suffrage had been purely a matter for the states.*



Section 1. 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.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

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"Fifteenth Amendment (ratified 1870)." *American History*. ABC-CLIO, 2016. Web. 7 Feb. 2016.



## Topics / Reconstruction, 1865-1877 / Resistance and Triumph / Resistance and Triumph (Overview)

At the close of the Civil War in 1865, the South's economic and social systems had been destroyed. Although for the most part well-intentioned, Reconstruction activities in the postwar years had caused deep resentment among Southern whites. The South had relied on an economy based on slave labor, and now there were no more slaves. Laborers were needed to help rebuild the South, but how would they be paid, and who would pay them? As for the social structure, by government decree, people who had been considered inferior and whose "rightful place" was in the service of the white race were now to be treated as equals.

As the Compromise of 1877 and the election of Republican Rutherford B. Hayes heralded the end of Reconstruction, a powerful resistance to these changes emerged among white Southerners known as Redeemers. With northern interest and intervention in southern affairs receding, the Redeemers began putting in place repressive legislation called Jim Crow laws. These laws, paired with voter restrictions and the establishment of the sharecropping system, ushered in a period where African Americans continually faced discrimination and exploitation, lasting until the 1960s.

### Jim Crow Laws and Segregation



Jim Crow was the name of a minstrel character portrayed by white actors who used burned cork to blacken their faces. The character danced and sang, portraying the stereotypical grinning, slave-era "Negro." It isn't clear how the name for this character became associated with the discriminatory and segregationist laws that plagued the South, but Jim Crow laws gave a legal basis for whites to retain control over the black population.

The first set of Jim Crow laws originated in the transportation industry, where railway cars were designated for "white" or "colored" passengers. This soon led to laws that sought to control every facet of an African American's life. Everything from where freedmen could live, how they could travel, who they could or could not interact with, even the types of jobs they could have were controlled by these state-issued laws.

In 1892, an African American civil rights organization in New Orleans, Louisiana, attempted to contest a Louisiana law passed in 1890 designating African Americans to different railway cars than whites. Homer Plessy, who was one-eighth black and seven-eighths white but was considered black by the one-drop rule, served as their test case when police arrested him for refusing to move to the section assigned to African Americans. Plessy's case, known as *Plessy v. Ferguson* (1896), made it all the way to the Supreme Court, where the justices ruled segregation constitutional, laying down the precedent of "separate, but equal." As a result, African Americans experienced limited access to educational, economic, and political opportunities.

### Voting Restrictions

The most effective way for whites to gain back control in the South was to ensure that white interests controlled government. Devising a means to prevent blacks from voting would achieve this, so in addition to the actual Jim Crow



laws, there were unspoken laws that regulated who would be allowed to vote. Rigged literacy tests, poll taxes, property and education qualifications, corrupt voting officials, and outright threats all conspired to control the political process in the South.

Soon, despite the right to vote guaranteed by the Fifteenth Amendment to the Constitution, very few African Americans felt safe enough to exercise that right. Despite these restrictions, the freedmen were still required to pay taxes just like everyone else. Ironically, even though their taxes supported public institutions like libraries and universities, in many cases, African Americans were not permitted to set foot in these places if the institution was designated "for whites only."

### **Sharecropping: A New Kind of Slavery**

With their right to vote and their access to educational opportunities hindered, African Americans had very few economic options outside of agriculture. Due to the fact that white landowners, formerly plantation slaveowners, needed agricultural laborers and that African Americans possessed agricultural skills from working on the plantations during slavery, a system of sharecropping was instituted. In this system, landowners rented their land and equipment to African Americans who grew and cultivated the crops. When the crops were harvested, a share of the yield would go to the landowner.



With the hope that they would make enough money to eventually buy their own land, many African Americans entered into these types of agreements.

However, this system kept African Americans in debt to the white landowners. Although African Americans had attained their freedom, they still lacked the capital to buy land and equipment and such basic necessities as clothes, food, and medicine. Thus, they borrowed money to obtain these goods from the white landowners, accruing debt. A bad harvest season could spiral a sharecropper into a cycle of debt. In addition, sharecroppers had to sell their crops through the landowner's furnishing merchant, allowing the landowner to exploit his sharecroppers. This imbalance of power created a system similar to slavery, where those who owed the landowner money could not leave the plantation. Grinding poverty once again became the norm for many freedmen.

### **Challenging Jim Crow**



In response to the repressive new system of the Jim Crow South, several organizations and individuals sought to improve the conditions African Americans faced. Booker T. Washington and W. E. B. Du Bois were both leaders of the African American community that put forth two diverging theories on how to accomplish this feat. Through his strategy of accommodation, Washington advocated for working within the system of segregation. As the founder of the Tuskegee Institute, he focused on developing economic opportunities and vocational training for African Americans, believing self-sufficiency and increasing the importance of African Americans in the economy would lead to social change and equality.

Contrary to Washington's method, W. E. B. Du Bois argued against segregation and helped organize the National Association for the Advancement of Colored People (NAACP). Evidenced by his concept of the "Talented Tenth," Du Bois believed social and political equality was the highest priority and that a select group of educated black intellectuals would uplift the entire African American community. Although some Jim Crow laws were challenged as early as 1915, it wasn't until the 1950s and 1960s that African Americans aggressively pursued the repeal of these discriminatory laws in all states.



## Topics / Reconstruction, 1865-1877 / 40 Acres and a Mule / Black Codes of Mississippi (1865)

*A series of laws passed by state legislatures throughout the South in the early days of Reconstruction, black codes were intended to impose limits on the newly freed African Americans by enacting strict regulations regarding everything in black life from jobs to marriage. Mississippi was among the first to enact such codes and imposed the most stringent limits of all the Southern states. The codes were a direct attempt by the former Confederate states to subvert federal Reconstruction policies, and they were surprisingly successful in establishing a form of second-class citizenship for African Americans that would later develop into the system of Jim Crow laws and segregation that the U.S. Supreme Court recognized in Plessy v. Ferguson (1896).*



### An Act to Confer Civil Rights on Freedmen, and for other Purposes

Section 1. All freedmen, free negroes and mulattoes may sue and be sued, implead and be impleaded, in all the courts of law and equity of this State, and may acquire personal property, and chooses in action, by descent or purchase, and may dispose of the same in the same manner and to the same extent that white persons may: Provided, That the provisions of this section shall not be so construed as to allow any freedman, free negro or mulatto to rent or lease any lands or tenements except in incorporated cities or towns, in which places the corporate authorities shall control the same.

Section 2. All freedmen, free negroes and mulattoes may intermarry with each other, in the same manner and under the same regulations that are provided by law for white persons: Provided, that the clerk of probate shall keep separate records of the same.

Section 3. All freedmen, free negroes or mullatoes who do now and have herebefore lived and cohabited together as husband and wife shall be taken and held in law as legally married, and the issue shall be taken and held as legitimate for all purposes; and it shall not be lawful for any freedman, free negro or mulatto to intermarry with any white person; nor for any person to intermarry with any freedman, free negro or mulatto; and any person who shall so intermarry shall be deemed guilty of felony, and on conviction thereof shall be confined in the State penitentiary for life; and those shall be deemed freedmen, free negroes and mulattoes who are of pure negro blood, and those descended from a negro to the third generation, inclusive, though one ancestor in each generation may have been a white person.

Section 4. In addition to cases in which freedmen, free negroes and mulattoes are now by law competent witnesses, freedmen, free negroes or mulattoes shall be competent in civil cases, when a party or parties to the suit, either plaintiff or plaintiffs, defendant or defendants; also in cases where freedmen, free negroes and mulattoes is or are either plaintiff or plaintiffs, defendant or defendants. They shall also be competent witnesses in all criminal prosecutions where the crime charged is alleged to have been committed by a white person upon or against the person or property of a freedman, free negro or mulatto: Provided, that in all cases said witnesses shall be examined



in open court, on the stand; except, however, they may be examined before the grand jury, and shall in all cases be subject to the rules and tests of the common law as to competency and credibility.

Section 5. Every freedman, free negro and mulatto shall, on the second Monday of January, one thousand eight hundred and sixty-six, and annually thereafter, have a lawful home or employment, and shall have written evidence thereof as follows, to wit: if living in any incorporated city, town, or village, a license from that mayor thereof; and if living outside of an incorporated city, town, or village, from the member of the board of police of his beat, authorizing him or her to do irregular and job work; or a written contract, as provided in Section 6 in this act; which license may be revoked for cause at any time by the authority granting the same.

Section 6. All contracts for labor made with freedmen, free negroes and mulattoes for a longer period than one month shall be in writing, and a duplicate, attested and read to said freedman, free negro or mulatto by a beat, city or county officer, or two disinterested white persons of the county in which the labor is to be performed, of which each party shall have one: and said contracts shall be taken and held as entire contracts, and if the laborer shall quit the service of the employer before the expiration of his term of service, without good cause, he shall forfeit his wages for that year up to the time of quitting.

Section 7. Every civil officer shall, and every person may, arrest and carry back to his or her legal employer any freedman, free negro, or mulatto who shall have quit the service of his or her employer before the expiration of his or her term of service without good cause; and said officer and person shall be entitled to receive for arresting and carrying back every deserting employee aforesaid the sum of five dollars, and ten cents per mile from the place of arrest to the place of delivery; and the same shall be paid by the employer, and held as a set off for so much against the wages of said deserting employee: Provided, that said arrested party, after being so returned, may appeal to the justice of the peace or member of the board of police of the county, who, on notice to the alleged employer, shall try summarily whether said appellant is legally employed by the alleged employer, and has good cause to quit said employer. Either party shall have the right of appeal to the county court, pending which the alleged deserter shall be remanded to the alleged employer or otherwise disposed of, as shall be right and just; and the decision of the county court shall be final.

Section 8. Upon affidavit made by the employer of any freedman, free negro or mulatto, or other credible person, before any justice of the peace or member of the board of police, that any freedman, free negro or mulatto legally employed by said employer has illegally deserted said employment, such justice of the peace or member of the board of police issue his warrant or warrants, returnable before himself or other such officer, to any sheriff, constable or special deputy, commanding him to arrest said deserter, and return him or her to said employer, and the like proceedings shall be had as provided in the preceding section; and it shall be lawful for any officer to whom such warrant shall be directed to execute said warrant in any county in this State; and that said warrant may be transmitted without endorsement to any like officer of another county, to be executed and returned as aforesaid; and the said employer shall pay the costs of said warrants and arrest and return, which shall be set off for so much against the wages of said deserter.

Section 9. If any person shall persuade or attempt to persuade, entice, or cause any freedman, free negro or mulatto to desert from the legal employment of any person before the expiration of his or her term of service, or shall knowingly employ any such deserting freedman, free negro or mulatto, or shall knowingly give or sell to any such deserting freedman, free negro or mulatto, any food, raiment, or other thing, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars and not more than two hundred dollars and costs; and if the said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding two months imprisonment in the county jail, and he or she shall moreover be liable to the party injured in damages: Provided, if any person shall, or shall attempt to, persuade, entice, or cause any freedman, free negro or



## Topics / Reconstruction, 1865-1877 / Resistance and Triumph / literacy test

The literacy test was one of the techniques used in the Jim Crow South to disenfranchise African Americans.

After President Abraham Lincoln issued the Emancipation Proclamation (1863), the federal government guaranteed through the support of its troops, the right of African Americans to vote in the South. However, when the federal government decided to withdraw its troops from the South after the Compromise of 1877, the white supremacist governments in the Southern states slowly took away most of the civil rights of black residents. One of the first rights taken was voting.

Since the Fifteenth Amendment gave blacks the right to vote in 1869, the Southern states could not legally prevent African Americans from voting. Therefore, they instituted a literacy test and other measures. The literacy test required that a citizen be able to read to be eligible for voting. Blacks had a much lower literacy rate than whites, so it systematically eliminated them from voting. Moreover, the test was usually arbitrary and depended on the whim of the white registrar. For example, in Florida, one of the questions included in the test was "How many windows are in the White House?"

Although the law required every voter to take the literacy test, it was actually African Americans who faced all the intimidations and humiliations incurred from taking the test. When they passed it, they were still denied the right to vote. With the passage of the Civil Rights Act of 1964, the federal government abolished the literacy test as a condition for voting. This decision enabled Southern blacks to exercise their right to vote and to elect their own representatives to local and national offices.

### Further Reading

Perman, Michael. *Struggle for Mastery: Disenfranchisement in the South, 1888–1908*. Chapel Hill: University of North Carolina Press, 2001.

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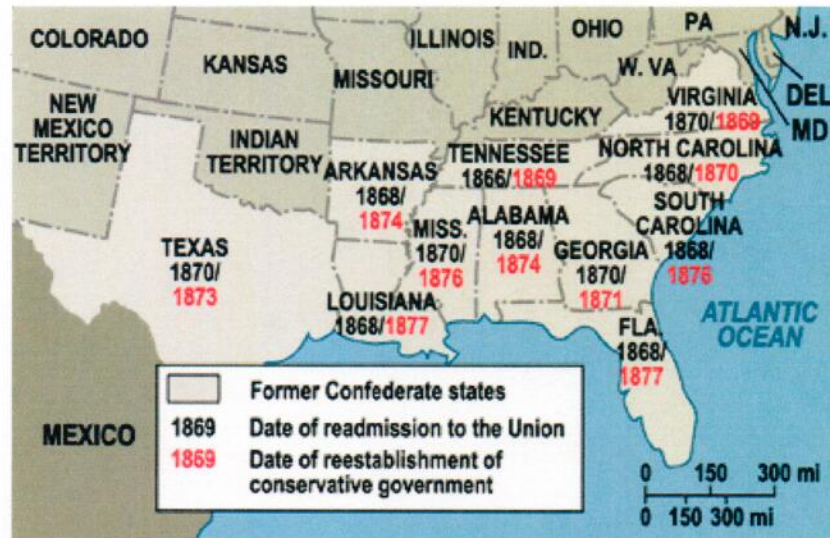
Entry ID: 1888964

### MLA

Pierre-Louis, Francois . "literacy test." *American History*. ABC-CLIO, 2016. Web. 7 Feb. 2016.



## Topics / Reconstruction, 1865-1877 / 40 Acres and a Mule / Reconstruction, 1860-1870s



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## Topics / Reconstruction, 1865-1877 / Reconstruction Plans / Reconstruction Plans (Visual)

# THREE PLANS

Each successive Reconstruction plan became more aggressive as Northern Republicans in Congress pressed their advantage over the defeated Southern states.

**LINCOLN'S PLAN (PROPOSED 1863)**

- 10% loyalty oath
- no protection for freed African Americans

**JOHNSON'S PLAN (1865)**

- amnesty to most Southern whites
- states must abolish slavery and pay war debts
- states could form own governments
- no role for freed African Americans in new governments
- no vote for African Americans

**RADICAL REPUBLICAN PLAN (1867-1877)**

- Freedmen's Bureau Act, Civil Rights Act, Reconstruction Acts
- military supervision
- states must accept Fourteenth and Fifteenth Amendments
- states must enfranchise freed African Americans

Map labels: TEXAS, ARKANSAS, LOUISIANA, MISSISSIPPI, ALABAMA, TENNESSEE, GEORGIA, FLORIDA, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA.

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