

# **The Constitutionally Repugnant Reconstruction Acts Imposed the 14th Amendment via Martial Law Powers In Time of Peace:**

*Original Research Compiled by Geoffrey Jacob Caputo for the State Nationals Association.*

## **The Time Line**

**January 31, 1865** — 13th Amendment Proposed to the States.

**May 10, 1865** — President Johnson Proclaimed the end of the Hostilities on land with the only duty left to arrest the former insurgency's vessels at sea.

## **The “States” that Ratified the Thirteenth Amendment**

**February 9, 1865** — Virginia ; February 17 — Louisiana; April 7 — Tennessee ; April 14 — Arkansas; November 13 — South Carolina; December 2 — Alabama; December 4 — North Carolina

**December 4, 1865** — Renegade members of the 39th Congress, at the inception of the First Session, suggested the denial of seats in the House and the Senate to the Southern States on the baseless allegation that they had no legal governments and were in rebellion.

**December 6, 1865** — Georgia ratifies 13th Amendment.

**December 18, 1865** — 13th Amendment was declared ratified.

**December 28, 1865** — Florida (Florida again ratified on June 9, 1868, upon its adoption of a new Constitution ).

**March 3, 1866** — 39th Congress resolves the denial of seats in the House and the Senate to the Southern States in the House on baseless allegations of rebellion.

**April 2, 1866** — President Johnson proclaimed the insurrection at an end in all the Southern States except it was further proclaimed that each State's civil authority was to be restored and that they had shown sufficient evidence of loyalty to the Union by conforming to Johnson's policies of incorporating the 13th Amendment into legislation.

**June 16, 1866** — 14th Amendment (called Article XIV) was proposed by the 39th Congress First Session by Joint Resolution 48 to “the legislatures of the several States”.

**August 20, 1866** — President Johnson further proclaimed Peace on and gave notice of the resumption of civil government in the States which had seceded.

**October 1866 to 1867** — Southern and non-southern States reject the 14th Amendment — Alabama, Arkansas, Florida, Georgia, North Carolina, South Carolina, Virginia, Louisiana Mississippi, and many non- southern states.

**February 8, 1867** — One month before the first Reconstruction Act was colorably implemented, the 39th Congress introduced Bill 1143 entitled, “A Bill To establish an additional Article of War for the more complete suppression of the insurrection against the United States”.

**March 2, 1867** — First Reconstruction Act colorably “enacted”.

President Johnson Vetoes The Act.

March 23, 1867 – Second Reconstruction Act

**President Johnson Vetoes The Act**

**July 19, 1867** — Third Reconstruction Act

**President Johnson Vetoes The Act**

**March 11, 1868** — Fourth Reconstruction Act

**June 25, 1868** — North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida are colorably “re-admitted” back into the Union as a new body politic of a 14th Amendment citizenry due to adopting the 14th Amendment.

**July 9, 1868** — 14th Amendment was imposed under color of law due to 28states alleged ratification of it.

## **Violations Listed: Constitutional Violations of the 39th & 40th Congresses in Imposing The Reconstruction Acts & Amendment XIV**

House Journal — July 22, 1861. p.123 / Senate Journal — July 25, 1861, p.92.

213 STAT 757

Presidential Proclamation 353; additional Presidential Proclamations and Executive Orders

Senate Journal, starting @ p. 74.

13 STAT. 774

House Journal, March 3, 1866. Page 353.

14 STAT 811 — 813

14 STAT 358

14 STAT 814

**Committee on Reconstruction Bill 1143**

**14 Stat. 428 11**

**House Journal March 2, 1867 — Page 563 12**

**15 Stat. 2 13**

**House Journal March 23, 1867 — Page 99 14**

**15 Stat. 14 15**

**House Journal July 19, 1867 — Page 171 16**

**15 STAT 41 17**

**15 STAT 73**

Art. V § 5 of The Constitution of The United States of America (CFUSA) “and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.”

**Violation: The House Journal, March 3, 1866 - Page 353:**

Art. III § 3 CFUSA says, “Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort.”

**Violation: The Reconstruction Acts**

The Reconstruction Acts were inconsistent with criteria for martial law provisions as required in The Constitution for the United States of America. See EX PARTE MILLIGAN 71 US 2 (1866). The 39th Congress had no evidence of the states being in rebellion. Civil authority was restored in that the courts of the Southern States were open and the slaves were free pursuant to the 13<sup>th</sup>.

**Amendment of the Territorial Constitution.**

The only Martial Rule which can exist during times of peace according to the Constitution is the code of laws enacted by Congress for the government of the national forces — in which Martial Law could only apply to the soldier and not to the citizen, then the Reconstruction Acts are unconstitutional because they applied military law only to the citizen and not to the soldier.

Art. I §. 9 cl. 3 CFUSA: says “No Bill of Attainder or ex post facto Law shall be passed.”

**Violation:** Everyone in the southern states was, in a blanket fashion, declared guilty of rebellion and penalized via unlawful military rule.

Art. IV §. 4 CFUSA says: “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.”

**Violation:** The 39th Congress unlawfully denied the Southern States a republican form of government by acting contrary to Art. IV §. 4

Art. 1 §. 8 cl.17 CFUSA that the Congress is “To exercise exclusive Legislation in all cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dockyards and other needful Buildings...”

**Violation:** The 39th and 40th Territorial Congresses did not obtain “Cession” of any land or soil or other land assets by any lawful State Legislature to justify any extensive or unusual Federal Enclaves or claims upon our State resources unrelated to the tasks and powers delegated under the Federal Constitutions, including but not limited to the establishment of Municipal Boroughs and Municipalities outside the confines of the District of Columbia, the chartering of Municipal Corporations of any kind to operate on and seize title to American State assets including Public Highways, Railroads, Public Utilities, Public Bridges, Public Buildings, Courthouses, and other infrastructure, provide for the establishment of foreign “Councils of Government” and “District Assemblies”, pursue “public-private partnerships”, provide for the privatization of our public functions, or otherwise engage in custodial roles or executorships or public trusts that were never authorized under any Federal Constitution at all. If our actual States didn’t approve of the purchase and the Federal Subcontractor did not pay for it, all such presumptions of interest and authority to establish said Federal Enclaves are moot, null and void from inception.

**Violation:** The 39th [*Territorial*] Congress exercised exclusive legislation (Reconstruction Acts) outside their District unlawfully.

1. Art IV § 3 says that, “New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.”

**Violation:** The 39th Congress formed a new unlawful, de facto state [*of state*] within each of the several de jure States without the consent of the De jure State bodies politic.

#### **Additional Notes:**

**DE JURE.** Rightfully; lawfully; by legal title. Contrasted with de facto 4 Bla. Com. 77

How a Dejure state, such as Florida, is formed:

[5 Stat. 742.] Statute II. Chap. XLVII. — An Act for the admission of the states of Iowa and Florida into the Union...whereas, the people of the Territory of Florida did, in like manner, by their delegates, on the eleventh day of January, eighteen hundred and thirty-nine, form for themselves a constitution and State government [Act of March 3, 1845, ch. 75 and ch 76.], both of which said constitutions are republican; and said conventions having asked the admission of their respective

Territories into the Union as States, on equal footing with the original States: Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Iowa and Florida be, and the same are hereby, declared to be States of the United States of America, and are hereby admitted into the Union on equal footing with the original States, in all respects whatsoever.

However, Florida's original government could only be abolished by the consent of the people:

***Florida Constitution of 1838, Article I Section 2:*** That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and, therefore, they have, at all times, an inalienable and indefeasible right to alter or abolish their form of government, in such manner as they may deem expedient.

The Reconstruction Acts were constitutionally repugnant war powers which abolished The Southern States' original governments against their consent and formed a new state/nation/body politic composed of "14th Amendment U.S. Citizens"

15 STAT 73 (June 25, 1868) says , "WHEREAS the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled 'An act for the more efficient government of the rebel States,' passed March 2nd, eighteen hundred and sixty-seven, and the acts supplementary thereto [see note 4, post], framed constitutions of State governments which are republican, and have adopted said constitutions by large majorities of the votes [363 U.S. 121, 136] cast at the elections held for the ratification or rejection of the same:

Therefore, "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, shall be entitled and admitted to representation in Congress as a State of the Union when the legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as Article Fourteen upon the following fundamental conditions..."

**De facto government.** One that maintains itself by a display of force against the will of the rightful legal government and is successful, at least temporarily, in overturning the institutions of the rightful legal government by setting up its own in lieu thereof. Black's Law Dictionary 4th Edition (1951) page 504. *Wortham v. Walker*, 133 Tex. 255, 128 S.W.2d 1138, 1145

As a result, NEW DE FACTO STATES were formed, because new constitutions and new legislatures were formed via the 14th amendment:

*Coleman v. Miller*, 507 U. S. 448, 59 S. Ct. 972 says —"The legislatures of Georgia, North Carolina and South Carolina had rejected the amendment in November and December, 1866."

New governments were erected in those States (and in others) under the direction of Congress.

The new legislatures ratified the amendment, that of North Carolina on July 4, 1868, that of South

Carolina on July 9, 1868, and that of Georgia on July 21, 1868.

The object of the Civil War from 1861 to 1865 was not for the Southern States to be conquered or subjugated, and was not intended to impair the rights of the states:

The House Journal — July 22, 1861. p.123 / Senate Journal - July 25, 1861, p. 92, both read, “Mr. Crittenden submitted the following resolution, viz: . . . that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.”

The 14th Amendment created a dual nationality status in which Federal Citizenship status was conjoined with an inseparable State “resident/citizen” status. This formed a new body politic which impaired the original body politic of those who possessed the singular state national and status by disenfranchising them from voting. (see notes in III).

## **Dejure vs. De facto Status Federal Citizenship Versus State Citizenship**

a. The term “citizen of the United States” never referred to a unified National form of citizenship, but that of a singular “state” citizenship status until the passage of the 14th Amendment.

“The slaves recently emancipated by proclamation, and subsequently by Constitutional Amendment, have no civil status. They should be made citizens. We do not, by making them citizens, make them voters, — we do not, in this Constitutional Amendment, attempt to force them upon Southern white men as equals at the ballot-box; but we do intend that they shall be admitted to citizenship, that they shall have the protection of the laws, that they shall not, any more than the rebels shall, be deprived of life, of liberty, of property, without due process of law, and that “they shall not be denied the equal protection of the law.” And in making this extension of citizenship, we are not confining the breadth and scope of our efforts to the negro. It is for the white man as well. We intend to make citizenship National. Heretofore, a man has been a citizen of the United States because he was a citizen of some-one of the States: now, we propose to reverse that, and make him a citizen of any State where he chooses to reside, by defining in advance his National citizenship — and our Amendment declares that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside.” This Amendment will prove a great beneficence to this generation, and to all who shall succeed us in the rights of American citizenship; and we ask the people of the revolted States to consent to this condition as an antecedent step to their re-admission to Congress with Senators and Representatives.” POLITICAL DISCUSSIONS LEGISLATIVE, DIPLOMATIC, AND POPULAR 1856-1886 § 61. The Reconstruction Problem — JAMES G. BLAINE. NORWICH, CONN. THE HENRY BILL PUBLISHING COMPANY 1887.

b. Before the passage of Amendment XIV the United States, for citizenship and nationality purposes, was considered to be a plural collective of separate nations.

2 STAT 153 , An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject, says “Be it enacted, & etc, “That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them....”

Amendment XIII. §1. says “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.”

c. After the passage of Amendment XIV the United States, for citizenship and nationality purposes, was considered to be a singular entity.

8 USC § 1483 (a) says , “Except as provided in paragraphs (6) and (7) of §1481 (a) of this title, no national of the United States can lose United States nationality under this chapter while within the United States or any of its outlying possessions”

The language in the Civil Rights Act of 1866 (14 Stat. 27) set the premise for this aforementioned unified National Citizenship as decreed in Amendment XIV.

*CONGRESS’S POWER TO ENFORCE AMENDMENT XIV RIGHTS: LESSONS FROM FEDERAL REMEDIES THE FRAMERS ENACTED* by Robert J. Kaczorowski Copyright © 2005 by the President and Fellows of Harvard College, Harvard Journal on Legislation (JOL) — Volume 42, Number 1, Winter 2005 says that: “Because the provisions of the Civil Rights Act of 1866 are central to the meaning and scope of the Amendment XIV, it is necessary to examine the statute’s provisions. In brief, the Civil Rights Act of 1866 conferred U.S. citizenship on all Americans.”

There is evidence that the several Union states had power to confer their respective state citizenship before & around the time of the Civil Rights Act and the “citizen of the United States” status written in the Civil Rights Act was only a unified Federal citizenship.

March 27, 1866 — Johnson’s Veto of the Civil Rights Act — Senate Journal, p.279: says that, “By the first section of the bill; ‘all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States’. It does not purport to declare or confer any other right of citizenship than federal citizenship. It does not purport to give these classes of persons any status as citizens of States, except that which may result from their status as citizens of the United States. The power to confer the right of State citizenship is just as exclusively with the several States as the power to confer the right of federal citizenship is with Congress.”

Ex Parte Knowles 5 Cal. 300 (1855) “A citizen of any one of the States of the union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally

foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions. The object then to be obtained, by the exercise of the power of naturalization, was to make citizens of the respective States.”

Sharon v. Hill, (1885) 26 F 337, 343. “Prior to the adoption of this amendment, strictly speaking, there were no citizens of the United States, but only some one of them. Congress had the power ‘to establish a uniform rule of naturalization,’ but not the power to make a naturalized alien a citizen of any state. But the states generally provided that such persons might, on sufficient residence therein, become citizens thereof, and then the courts held, *ab convenienti*, rather than otherwise, that they became *ipso facto* citizens of the United States”.

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