



Scholar Exchange: Slavery in America

Briefing Document

INTERACTIVE CONSTITUTION RESOURCES

[Resources for Slavery in America](#)

INTRODUCTION

Big Question #1: Slavery was embedded into America’s fabric by the time of the ratification of the Constitution. Did this affect how long slavery lasted in America and how it ended?

Big Question #2: The 13th, 14th, and 15th Amendments ended slavery in America and tried to rebuild our nation on a stronger constitutional foundation. Did these amendments change the Constitution so much that it was like a re-birth—a “Second Founding”—of our nation?

The Constitution

Generations of Americans battled over slavery and the Constitution—with each side laying claim to the Constitution’s text and history.

A range of voices—*both pro-slavery and anti-slavery*—turned to the Constitution’s language and constructed arguments to favor their side of the great constitutional battles over slavery in the 1800s. And we’ll cover many of those constitutional debates in detail.

But it’s also important not to forget the human cost of slavery. The violence. The forced labor. The families torn apart. Wives sold away from husbands. And children from parents.

And with every right that we cherish violated. No right to speak. Or pray. Or read. Or learn. Or gather together. Or to a fair process before we’re punished or lose our freedom. Or to marry and raise a family. Or to earn a freely chosen living. And so on.

Finally, let's also not forget that African Americans played a central role in this story of constitutional transformation.

In the late 1700s and throughout the 1800s, African Americans played a key role in the nascent abolitionist movement. These voices fought for the rights of free African Americans, and they demanded emancipation for enslaved people.

They also advanced a powerful vision of equal citizenship—a vision that the Reconstruction generation would later write into the Constitution with the ratification of the Thirteenth, Fourteenth, and Fifteenth Amendments.

Ratified after the Civil War, the Thirteenth Amendment abolished slavery.

The Fourteenth Amendment wrote the Declaration of Independence's promise of freedom and equality in the Constitution.

And the Fifteenth Amendment promised to end racial discrimination in voting.

The Big Idea: While the original Constitution—plus the Bill of Rights—remains a powerful statement of many of America's most enduring principles, the Thirteenth, Fourteenth, and Fifteenth Amendments truly represent our nation's "Second Founding."

With those framing thoughts in mind, let's turn to the history of slavery in early America—so *before* the U.S. Constitution.

FOUNDING STORIES: THE FOUNDING GENERATION AND THE EARLY REPUBLIC

Slavery is obviously older than the U.S. Constitution. And slavery itself was written into colonial law as early as the 1660s in places like Virginia and the Carolinas.

By the 1700s, these colonial slave codes transformed slavery itself—making it inheritable. In other words, it was passed down from mother to child and was a lifelong condition based on race.

This was known as "chattel slavery." And this was a fundamental shift in how the institution of slavery worked.

In the 1700s, American slavery expanded. To give just the example of Virginia—enslaved people grew from just 7% of the population in 1680 to 28% in 1700 and, finally, to a whopping 46% in 1750. So, slavery became a massive part of the Southern population—and white Southern wealth—in the 1700s.

With the signing of the Declaration of Independence in 1776, it also flew in the face of our nation's Founding principles.

Let's fast forward—this time, roughly a decade to 1787 and to the Constitutional Convention in Philadelphia. What role did slavery play there?

First, a quick backstory on the push towards emancipation—the end of slavery—in the North.

Throughout the colonial period, slavery wasn't only a Southern phenomenon. There were enslaved people in the North. However, during the 1780s, many Northern states took steps towards freeing enslaved people.

- Vermont ended slavery in their 1777 constitution.
- A state supreme court decision ended slavery in Massachusetts in 1783.
- Pennsylvania passed a gradual emancipation bill in 1780, followed by Rhode Island and Connecticut in 1784.

All told, 25 of the 55 convention delegates were slaverholders (roughly 45%), and slavery was critical to many of these delegates' wealth—and to the economies of their home states.

At the Constitutional Convention, the framers refused to recognize the right of property in men. However, they *did* compromise over the issue of slavery, enshrining protections for slaveholders in the Constitution.

The original Constitution prohibited Congress from ending the slave trade until 1808, counted enslaved people as 3/5 of a person for purposes of representation in Congress, and protected the slaveholder's power to retrieve those who escaped slavery.

Slavery in the Constitution

Let's turn to the Constitution's text and talk about each of these compromises.

Three-Fifth Clause

Let's begin with (arguably) the most important of the three—the [Three-Fifth Clause](#).

The U.S. House of Representatives draws up districts based on a state's population—the larger the state, the greater the number of districts it gets. And the greater the number of districts for each state—and for each region of the country (North v. South)—the greater the political power.

The key question in the debate over the Three-Fifths Clause was how to count enslaved people when setting the number of representatives in the U.S. House.

This issue was debated multiple times during the Convention—as the delegates struggled over how best to structure Congress.

At the Convention, pro-slavery Southerners argued that enslaved people should count as a full person—5/5s.

But anti-slavery Northerners shouted hypocrisy: How could the Southern delegates treat enslaved people as full persons for purposes of representation in the national government but at the same time deny their humanity by treating them as property?

On August 8th, anti-slavery delegates attacked slavery on moral grounds and proposed taking no account of enslaved people as part of the population when allocating seats in Congress. For instance, Pennsylvania delegate Gouverneur Morris called slavery a **“nefarious institution— . . . the curse of heaven on the states where it prevailed.”**

Morris then attacked the Three-Fifths Clause, **“Upon what principle is it that the slave should be computed in the representation? Are they men? Then make them citizens and let them vote. Are they property? Why then is no other property included?”**

“The admission of slaves into the representation when fairly explained comes to this”—that “the inhabitant of Georgia and South Carolina who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections and dooms them to the most cruel bondages, . . . receives more votes in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey who views with a laudable horror so nefarious a practice.”

The Convention rejected Southern attempts to count enslaved people as a full person, and Northern attempts to exclude them from the count altogether.

Ultimately, Roger Sherman of Connecticut secured support for the Three-Fifth Clause. Of course, the Framers avoided using the word “slave” in the Clause.

In the end, this Clause had a huge impact over time.

The Three-Fifths Clause increased pro-slavery strength in Congress (by counting enslaved people as 3/5 of a person), in the Presidency (through the Electoral College), and at the Supreme Court (through electing pro-slavery Presidents, who appoint those Justices).

Fugitive Slave Clause

There was little debate at the Convention over the [Fugitive Slave Clause’s](#) language.

And the language itself wasn’t new. It was mostly taken from the Northwest Ordinance of 1787. The Northwest Ordinance was based off of efforts by Thomas Jefferson in his time in Congress to deal with slavery in the territories. It banned slavery there.

However, it also granted slaveholders the power to recapture enslaved people that escaped into the territories.

The Fugitive Slave Clause was modeled after this idea—allowing Southern slaveholders to go into Northern states to retrieve enslaved people who had escaped from enslavement.

And Congress would pass Fugitive Slave Acts to enforce this power.

At the Convention, the delegates unanimously approved Pierce Butler’s language for the Clause. Again, the Framers avoided using the word “slave” in the Clause.

Slave Trade Clause

Finally, let’s turn to the [Slave Trade Clause](#).

By the Founding, even many slaveholders opposed the inhumane Atlantic slave trade.

Only delegates from South Carolina and Georgia were determined to continue this brutal trade. (South Carolina almost leaves the Convention over this issue.) This issue led to heated debates at the Convention.

For instance, take Maryland’s Luther Martin. He attacked the international slave trade as **“inconsistent with the principles of the Revolution, and dishonorable to the American character.”**

In response, here’s John Rutledge of South Carolina:

“Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question, at present, is whether the Southern states shall or shall not be parties to the Union. If the Convention thinks that NC, SC, and GA will ever agree to the plan, unless their right to import slaves be untouched, that expectation is in vain. The people of those states will never be such fools as to give up so important an interest.”

George Mason, John Dickinson, and Rufus King proposed an outright ban on the Atlantic slave trade, but the delegates rejected it.

Instead, the Convention reached a compromise over the slave trade. Congress could ban the slave trade, but only twenty years after the ratification of the Constitution—January 1, 1808.

In other words, this Clause protected the brutal slave trade until 1808.

And between 1788 and 1808, the number of enslaved people imported into the United States exceeded 200,000—only roughly 50,000 fewer than the total number of enslaved people imported to America in the previous 170 years.

In 1808, Congress finally had the power to abolish the international slave trade. And so it did.

In the end, the anti-slavery Northern delegates wanted to block the expansion of slavery and did not want to write explicit protection for slavery—recognition of the so-called “right of property in man”—into the Constitution.

Many Framers hoped that enough states in the North would move toward emancipation that slavery might die out in a generation or two.

Here’s Connecticut’s Oliver Ellsworth: **“Slavery, in time, will not be a speck in our country.”**

The delegates were open to protecting the existing property rights of the slaveholders and were willing to compromise with Southern slaveholders in order to form a new Union, ratify the Constitution, and create a new national government stronger than the government under the Articles of Confederation.

At the same time, Southern slaveholders fought to build in protections against future anti-slavery Northerners’ attempts to restrict (and even abolish) slavery.

In the end, the legality of slavery—whether to permit it or to abolish it—was left to the states, where it stayed until the ratification of the Thirteenth Amendment after the Civil War.

FOUNDING STORIES: THE ANTI-SLAVERY MOVEMENT, THE BATTLE OVER THE CONSTITUTION’S MEANING IN PRE-CIVIL WAR AMERICA, AND THE SUPREME COURT THROUGH *SCOTT V. SANDFORD*

The anti-slavery movement was part of the American story from the very beginning.

For instance, in January 1777, Prince Hall—a free African American in Boston—offered a petition for freedom to the Massachusetts House on behalf of seven African Americans. The petition drew on the Declaration of Independence, arguing that slavery violates natural law.

And this was just one of many similar petitions brought in Massachusetts—using the American Revolution and the language of liberty through the right of petition to destroy slavery.

Massachusetts’s highest court would go on to declare slavery unconstitutional in 1783—answering Prince Hall’s prophetic call.

Or consider Benjamin’s Franklin’s push to present an anti-slavery petition to Congress in 1790.

Pennsylvania had the first abolition society in the country—founded in April 1775. The Quakers took a lead role in the society. A decade later, Benjamin Franklin was elected the Society’s president. Franklin turned to the abolitionist cause late in life. And he became an outspoken critic of slavery after the ratification of the U.S. Constitution, publishing several essays calling for slavery’s abolition.

In his final public act, he sent a petition—signed in February 1790—to Congress on behalf of the Pennsylvania Abolition Society, calling for the abolition of slavery and an end to the slave trade.

It called for the First Congress to **“devise a means for removing the Inconsistency from the Character of the American People”** and **“to promote mercy and justice towards this distressed Race”**—namely, African Americans.

The petition was introduced in the House and Senate shortly thereafter. Pro-slavery forces denounced the petition—and it sparked a heated debate in both the House and the Senate.

The Senate took no further action on the petition while the House sent it to a select committee. The House eventually tabled the resolution—putting it to the side—and argued that the Constitution limited Congress’s power to end the slave trade until 1808. This ended the debate on slavery in the First Congress.

Franklin died two months later.

Let’s fast forward a few decades—to the battles over the Constitution and slavery in the lead up to the Civil War.

Prior to the Civil War, *both* pro-slavery *and* anti-slavery advocates debated the Constitution’s meaning and its relationship to slavery. Several different visions emerged.

First, pro-slavery advocates like John C. Calhoun looked to the Constitution’s text and history and argued that the Constitution was a *pro-slavery* document.

They argued that provisions like the Three-Fifths Clause and the Fugitive Slave Clause made clear that the Constitution was designed to protect the Southern slaveholders’ right to hold enslaved people as property—what they referred to as a **“right to property in man.”**

And they made the historical argument that the slaveholding states never would have agreed to the Constitution if they hadn’t been able to strike that bargain.

Finally, over time, the pro-slavery argument became even more aggressive—eventually arguing that the Constitution didn't just protect slavery in the existing slaveholding states, but also denied Congress the power to ban slavery elsewhere, including in the territories.

Second, anti-slavery advocates also battled over the meaning of the Constitution and its relationship to slavery. These anti-slavery constitutional visions took on a variety of (sometimes conflicting) forms.

To begin, here's some quick background on the larger movement itself.

The movement to end slavery gained momentum in the early-to-mid 1800s, eventually drawing the entire nation's attention. Because the Constitution allowed slavery to continue in the states, some wondered how it could ever be abolished through *constitutional* means.

Abolitionism was an interracial movement, bringing African American and white Americans together in a common cause.

African American and white Northerners—women and men, alike—increasingly joined anti-slavery societies over time.

Their members sent petitions to Congress, pressed state legislatures to pass laws that protected the rights of alleged fugitives, and organized to resist slavecatchers and kidnappers.

As the decades advanced, a wide range of abolitionist and anti-slavery thought emerged as the country grappled with how to deal with slavery.

Ideas about freedom, equality, and the Constitution that emerged in the anti-slavery movement became the foundation for the birth of the Republican Party, the rise of Abraham Lincoln, and the ratification of the transformational Reconstruction Amendments after the Civil War.

Some anti-slavery politicians pressed the national government to end slavery in places where it seemed to have unquestioned authority: the U.S. territories and the District of Columbia.

Some sought to build an anti-slavery political party, separate from the two major parties—at the time, the Democratic Party and the Whigs. (This is how we get the Republican Party!)

Others argued for a spiritual rejuvenation that would lead to the immediate abolition of slavery everywhere.

In Northern states, African American activists and their allies pressed for racial equality in citizenship, including the right to vote.

And in the white South, Southern leaders felt threatened by talk of ending or even limiting slavery. They aimed to suppress anti-slavery thought and in doing so, violated core rights like free speech and religious liberty.

At the same time, a major division emerged among abolitionist and anti-slavery leaders over the relationship between slavery and the Constitution.

The Garrisonian Interpretation

The Garrisonians or “radical abolitionists”—including William Lloyd Garrison and Wendell Phillips—maintained that the Constitution was “**a covenant with death and an agreement with hell.**” Ironically, Phillips, Garrison, and their supporters agreed with pro-slavery advocates like Calhoun.

They argued that the Constitution was a pro-slavery compact.

They burned Constitutions and opposed involvement in political parties, arguing that the only way to end slavery was through moral persuasion and activism.

An Anti-Slavery Constitution

Other anti-slavery advocates opposed the Garrisonian vision and argued that the Constitution gave anti-slavery forces the power they needed to end slavery.

For instance, anti-slavery advocates like Lysander Spooner rejected the Garrisonian argument and countered with a vision of the Constitution as a fundamentally anti-slavery document.

And a group led by Salmon P. Chase—the future Chief Justice—adopted the view that, while the Constitution didn’t empower the national government to attack slavery where it already existed in the slaveholding states, the federal government *was* free to abolish slavery in the District of Columbia, in the territories, and on all federal property.

Scholars sometimes call this group the “political abolitionists” for its willingness to engage in electoral politics to achieve the end of slavery.

Their slogan was “**Freedom National, Slavery Local.**”

They sought to limit the spread and influence of slavery in the hopes that it might eventually die out without war or the end of the Union.

This stance became the constitutional platform of the Liberty Party, the Free Soil Party, and eventually Lincoln’s Republican Party.

Frederick Douglass

Douglass was one of the most powerful (and influential) anti-slavery voices in pre-Civil War America.

Douglass began as a Garrisonian, but later changed his mind.

In a famous 1860 speech, Douglass read the Constitution's text as a **"glorious liberty document."**

It's a radically *textualist* speech, interpreting various clauses of the Constitution in an anti-slavery direction.

Douglass reasoned that the Constitution doesn't mention the word "slavery," and argued that future generations shouldn't search the history for **"secret motives" or "dishonest intentions,"** looking to protect slavery.

For instance, Douglass reads the Three-Fifths Clause as opening the door to freedom by recognizing the humanity of enslaved people.

He reads the Constitution's optimistic Preamble as bending towards freedom, *not* slavery

And he argues that Fifth Amendment's Due Process Clause should be read to support the claims of enslaved people—*not* slaveholders.

"Its language is 'we the people.' Not we the white people, not even we the citizens, not we the privileged class, not we the high, not we the low, but we the people."

"If the South has made the Constitution bend to the purposes of slavery, let the North now make that instrument bend to the cause of freedom and justice."

In the end, these constitutional visions helped frame a series of important debates in Congress and at the Supreme Court.

In many ways, these debates culminated in the infamous *Dred Scott* decision and, eventually, the Civil War itself.

Dred Scott v. Sandford

Dred Scott is the most important—and infamous—Supreme Court decision on slavery.

Dred and Harriet Scott were enslaved people brought by a slaveholder into an area where slavery was banned and then returned to an area where slavery was permitted. The Scotts sued for their freedom—arguing that their time on free soil made them free.

It took eleven years for the Scott’s lawsuit to get to the Supreme Court.

We often focus on Dred Scott as part of this story, but let’s take a moment to recognize the important role played by Harriet Scott.

She was an enslaved mother. She had two young girls. She didn’t want them to live their lives as enslaved people. And she feared having to watch her daughters go through that experience. So, she pushed to bring the family’s case to the courts.

The Supreme Court eventually rejected the Scott family’s claim.

Chief Justice Roger Taney wrote the opinion for the Supreme Court.

Taney based the Court’s decision, in part, on a historical claim: that at the Founding, African Americans were not citizens.

Chief Justice Roger Taney concluded that the **“People of the United States”** do not include African Americans, who (according to Taney) are considered a **“subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power the Government might choose to grant them.”**

Taney reviewed constitutional history and concluded that neither African Americans brought to America as enslaved people nor their children—whether they were free or enslaved—were **“acknowledged as part of the people or intended to include in the general words used in” the Constitution.**

In the end, Taney concluded that African Americans couldn’t be United States citizens that they **“had no rights that the white man was bound to respect.”**

So, the Scotts couldn’t sue for their freedom.

That was a bad enough ruling, but the Court was even worse than that.

The Supreme Court then went out of its way to declare the Missouri Compromise unconstitutional, attacking Congress’s power to ban slavery in the territories—*the* core of the Republican Party’s political (and constitutional) platform.

Taney argued that the Missouri Compromise conflicted with the Fifth Amendment’s Due Process Clause—taking the property of slaveholders without due process of law.

In other words, Taney was writing John C. Calhoun’s constitutional vision of a pro-slavery Constitution into our nation’s law.

And he was declaring the Republican Party’s core platform plank—that the national government could ban slavery in the national territories—unconstitutional.

But Taney’s arguments didn’t go unanswered. He faced a pair of powerful dissents—one by Justice Benjamin Curtis and the other by Justice John McLean.

Justice Curtis’s *Dred Scott* dissent used history to show that many state constitutions *did* allow for voting by free African Americans at the time of ratification.

By his count, *five* states permitted African American voting at the time that the Founding generation ratified the Constitution.

“I can find nothing in the Constitution which . . . deprives of their citizenship any class of persons who were citizens of the United States at the time of its adoption, or who should be native-born citizens of any State after its adoption; nor any power enabling Congress to disenfranchise persons born on the soil of any State, and entitled to citizenship of such state by its Constitution and laws. And my opinion is, that, under the Constitution of the United States, every free person born on the soil of a state, who is a citizen of that State by force of its Constitution or laws, is also a citizen of the United States.”

Changes in New York and New Jersey limiting or ending African American suffrage could **“have no other effect upon the present inquiry except to show that, before they were made, no such restrictions existed, and [African American], in common with white, persons, were not only citizens of those States, but entitled to the elective franchise on the same qualifications as white persons, as they now are in New Hampshire and Massachusetts.”**

At the same time, Justice McLean attacked the Court for reaching out to curb the national government’s power to ban slavery in the territories. He also attacked Taney’s opinion on the merits.

“Our independence was a great epoch in the history of freedom, and while I admit the Government was not made especially for [African Americans], yet many of them were citizens of the New England States, and exercised, the rights of suffrage when the Constitution was adopted, and it was not doubted by any intelligent person that its tendencies would greatly ameliorate their condition.”

In 1857, “[s]everal of the States have admitted persons of color to the right of suffrage, and, in this view, have recognized them as citizens, and this has been done in the slave as well as the free States.”

Leading Republicans—including Abraham Lincoln during the Lincoln-Douglas debates criticized the *Dred Scott* decision.

The Election of 1860

Finally, let’s turn to the pivotal Election of 1860.

There, Republican Abraham Lincoln won the election with a plurality of the vote.

The Democratic Party split between its Southern and Northern wings—represented by John C. Breckinridge and Stephen A. Douglas, respectively.

And John Bell ran as the Constitutional Union candidate.

Lincoln became the nation’s first anti-slavery President, leading to a wave of secessions by slaveholding states in the South.

And then the Civil War came.

FOUNDING STORIES: THE SECOND FOUNDING, INCLUDING EARLY ACTIONS DURING THE CIVIL WAR AND THEN THE RECONSTRUCTION AMENDMENTS

Finally, let’s turn to the series of transformational amendments ratified after the Civil War—the Thirteenth, Fourteenth, and Fifteenth Amendments.

Big Idea

These Amendments wrote the Declaration of Independence’s promise of freedom and equality into the Constitution and began to fulfill President Lincoln’s promise (made at Gettysburg) of “a new birth of freedom.”

The Civil War

Following Lincoln’s election and the first shots fired at Fort Sumter, eleven states seceded from the Union and formed their own confederacy.

South Carolina voted unanimously to secede from the Union in December 1860 and was quickly joined by six other Southern states.

Attempts to avoid armed conflict failed. On April 12, 1861, Confederate forces fired on Fort Sumter.

Lincoln called 75,000 state militiamen into federal service, and four more states joined the Confederacy. The war had begun.

At first, many Northerners believed that they were fighting to preserve the Union, while white Southerners believed that a break from the Union was justified to maintain slavery and protect sectional interests.

Radical voices in the North called for more aggressive action against slavery.

President Lincoln and most (but not all!) of his Republican colleagues began the war with a cautious approach—fearful of losing the support of the border states and still hoping to bring the war to a swift end.

However, events on the ground—and the actions of African Americans themselves—would shape the nature (and meaning) of the war.

From the beginning of the war, African Americans began fleeing Southern plantations and entering Union lines.

Furthermore, Radical voices in the North—both within Congress and within the abolitionist community—called for bolder action by President Lincoln and Congress.

As the war dragged on, President Lincoln and Congress—pushed by African American refugees, abolitionists, and radical voices in Congress—would begin to move more decisively against slavery.

Over time, the Union remained the war’s main aim, but the war increasingly became one of liberation.

For instance, as hopes for a short war diminished, President Lincoln and congressional Republicans pursued an aggressive anti-slavery program:

- Ending slavery in Washington, D.C. (in May 1862).
- Banning it in the territories.
- And passing laws that permitted the military to emancipate enslaved people who came into Union lines.

These actions flew directly in the face of the *Dred Scott* decision—and well before we ratified any new amendments!

And as the war progressed, President Lincoln recast the war’s meaning as a battle to end slavery, not just preserve the Union and prevent slavery’s expansion.

Of course, the most famous example is Lincoln’s Emancipation Proclamation.

Drawing on his war powers as President, Lincoln issued this historic proclamation on January 1, 1863, both affirming much of what was already happening on the ground and setting a new baseline for the treatment of slavery after the war.

With the Emancipation Proclamation, President Lincoln relied on his war powers to free all enslaved people held within the Confederacy.

This was a massive push for emancipation—unthinkable before the Civil War.

At the same time, it didn't affect enslaved people held in the border states, which remained loyal to Lincoln and the Union—Maryland, Delaware, Kentucky, and Missouri.

Even so, compared to how things stood at the start of the Civil War, these were massive changes—bringing freedom to thousands of formerly enslaved people.

Over time, thousands of African Americans signed up for the Union Army—with hundreds of thousands of African Americans fighting the Confederacy—and laying claim to the promise of equal citizenship.

And African Americans in Convention—before, during, and after the Civil War—demanded their rights, petitioning Congress for equal rights, key liberties (like free speech, religious liberty, and the right to keep and bear arms), and for the right to vote.

Of course, following a bloody Civil War, President Lincoln and the Union prevailed.

The debate quickly turned to the question of what comes next—Reconstruction.

Reconstruction and the “Second Founding”

Following the Civil War, we finally transformed our *Constitution*—and its very text—forever.

Why do some scholars—including leading Reconstruction historian, Eric Foner—refer to this as America's Second Founding?

Following the Civil War, our nation confronted a series of vexing questions.

- What was the meaning of the Civil War—a bloody, bloody war—and what should be the terms of a lasting peace?
- How should our nation answer the Declaration of Independence's prophetic call for freedom and equality?
- How should we define what it means to be a U.S. citizen?
- How broadly should the right to vote sweep?

- And what role—if any—should the federal government play in protecting the civil and political rights of all?

And make no mistake, the Reconstruction Amendments transformed our Constitution forever. Recall where the Constitution stood before this critical period.

Of course, it didn't mention the word "slavery." However, various constitutional provisions—including the Three-Fifths Clause and the Fugitive Slave Clause—had increased the political power of the slaveholding states throughout the pre-Civil War period.

The Constitution was silent on the Declaration's promise of equality and on the issue of African American voting rights.

States could violate key Bill of Rights protections like free speech with impunity—and many Southern states did just that, banning abolitionist speech, with at least one state punishing such advocacy with death.

And citizenship rights were left to the states and the courts—with Chief Justice Roger Brooke Taney infamously concluding in *Dred Scott* that African Americans could not be citizens and that they had **"no rights which the white man was bound to respect."**

And after our nation's Second Founding?

- Our Constitution abolished slavery. (That's the Thirteenth Amendment.)
- It made everyone born on American soil a U.S. citizen. (That's the Fourteenth Amendment.)
- It promised equality for all. (That's the Fourteenth Amendment—again!)
- It protected us from state abuses of important rights like free speech. (That's the Fourteenth Amendment—yet again!)
- It guaranteed the right to vote free of racial discrimination. (That's the Fifteenth Amendment.)
- And it gave the national government the authority to protect the civil and political rights of all. (That's the Thirteenth, Fourteenth, *and* Fifteenth Amendments!)

Now, of course, the Second Founding wasn't perfect. It was thwarted in its own time by violence in the South, a mix of racism and indifference in the North, and a desire for North-South (white) reconciliation, more generally.

It would take nearly a century and the Civil Rights Movement to begin to fulfill the promises enshrined in the Reconstruction Amendments.

Nevertheless, our Reconstruction Founders made an important start.

Reconstruction Amendments

Before we close, let's briefly review the power of each of the Reconstruction Amendments.

[The Thirteenth Amendment](#)—ratified in December 1865—abolished slavery.

[The Fourteenth Amendment](#)—ratified in July 1868—wrote the Declaration of Independence's promise of freedom and equality into the Constitution. It combined *four* big ideas—*four* ways in which it transformed the Constitution forever:

- First, **birthright citizenship**: *Dred Scott* is overturned, African Americans *did* have rights that the white man was bound to respect, and if you're born on American soil, you're an American citizen.
- Second, **equality**: the original Constitution was silent on the issue of equality, and now the Declaration of Independence's promise (that "all men" and women "are created equal") is written into the Constitution.
- Third, **freedom**: the original Bill of Rights was limited to abuses by the *national* government, and now the Constitution protects those in the United States from abuses of key rights by the *states*—key rights like those in the Bill of Rights like free speech and religious liberty.
- And fourth, **national power over civil rights**: Congress is now given the power to enforce the protections enshrined in the Fourteenth Amendment. The Reconstruction Amendments are the first set of constitutional amendments to *expand* the reach of national power—rather than *restrict* it (as, for instance, the Bill of Rights did). So, Congress has *more* power than before.

Finally, the [Fifteenth Amendment](#)—ratified in February 1870—promised to end racial discrimination in voting.

Big Idea

While the original Constitution—plus the Bill of Rights—remains a powerful statement of many of America's most enduring principles, the Thirteenth, Fourteenth, and Fifteenth Amendments truly represent our nation's "Second Founding."

While America has struggled to realize the promise of our nation's Second Founding, these transformational amendments represent some of our Constitution's most important principles—and protections.

It's only after Lincoln, emancipation, victory in the Civil War, and the ratification of the Reconstruction Amendments that the Constitution begins to fully emerge as the inspiring document that it is today, redeeming us from the Framers' original sin of slavery and beginning to give our nation what Lincoln promised at Gettysburg—"a new birth of freedom."