

Thirteenth Amendment to the United States Constitution

The **Thirteenth Amendment** to the United States Constitution officially outlaws slavery and involuntary servitude, except as punishment for a crime. It was passed by the Senate on April 8, 1864, by the House on January 31, 1865, and adopted on December 6, 1865. On December 18, Secretary of State William H. Seward proclaimed it to have been adopted. It was the first of the three Reconstruction Amendments adopted after the American Civil War.

President Lincoln and other Republicans were concerned that the Emancipation Proclamation, which in 1863 declared the freedom of slaves in ten Confederate states then in rebellion, would be seen as a temporary war measure, since it was solely based on Lincoln's war powers. The Proclamation did not free any slaves in the border states nor itself make slavery illegal.^[1]

Text

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.

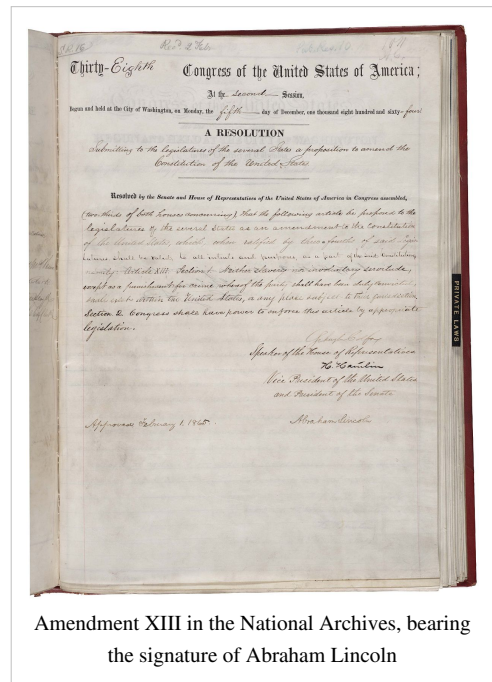
Section 2. Congress shall have power to enforce this article by appropriate legislation.^[2]

History

The first 12 amendments were adopted within 15 years of the original Constitution's adoption. The first ten (the Bill of Rights) were adopted in 1791, the Eleventh Amendment in 1795 and the Twelfth Amendment in 1804. When the Thirteenth Amendment was proposed there had been no new amendments adopted in more than 60 years.

During the secession crisis, but prior to the outbreak of the Civil War, the majority of slavery-related bills had protected slavery. The United States had ceased slave importation and intervened militarily against the Atlantic slave trade, but had made few proposals to abolish domestic slavery, and only a small number to abolish the domestic slave trade. Representative John Quincy Adams had made a proposal in 1839, but there were no new proposals until December 14, 1863, when a bill to support an amendment to abolish slavery throughout the entire United States was introduced by Representative James Mitchell Ashley (Republican, Ohio). This was soon followed by a similar proposal made by Representative James F. Wilson (Republican, Iowa).

Eventually the Congress and the public began to take notice and a number of additional legislative proposals were brought forward. On January 11, 1864, Senator John B. Henderson of Missouri submitted a joint resolution for a constitutional amendment abolishing slavery. The abolition of slavery had historically been associated with Republicans, but Henderson was one of the War Democrats. The Senate Judiciary Committee, chaired by Lyman Trumbull (Republican, Illinois), became involved in merging different proposals for an amendment. On February 8 of that year, another Republican, Senator Charles Sumner (Radical Republican, Massachusetts), submitted a constitutional amendment to abolish slavery as well as guarantee equality. As the number of proposals and the extent of their scope began to grow, the Senate Judiciary Committee presented the Senate with an amendment proposal combining the drafts of Ashley, Wilson and Henderson.^[3]



Amendment XIII in the National Archives, bearing the signature of Abraham Lincoln

While the Senate did pass the amendment on April 8, 1864, by a vote of 38 to 6, the House declined to do so. After it was reintroduced by Representative Ashley, President Lincoln took an active role in working for its passage through the House by ensuring the amendment was added to the Republican Party platform for the upcoming Presidential elections. His efforts came to fruition when the House passed the bill on January 31, 1865, by a vote of 119 to 56. The Thirteenth Amendment's archival copy bears an apparent Presidential signature, under the usual ones of the Speaker of the House and the President of the Senate, after the words "Approved February 1, 1865".^[4]

The amendment was then sent to the state legislatures. On December 18, 1865, Secretary of State William H. Seward proclaimed the amendment to have been adopted on December 6, 1865, when Georgia's ratification brought the total number of states to ratify to 27 of the then 36 states.

The Thirteenth Amendment completed the abolition of slavery in the United States, which had begun with President Abraham Lincoln issuing the Emancipation Proclamation in 1863.^[5]

Shortly after the amendment's adoption, selective enforcement of certain laws, such as laws against vagrancy, still resulted in blacks continuing to be subjected to involuntary servitude in some cases.^[6] See also Black Codes.

The Thirteenth Amendment was followed by the Fourteenth Amendment (civil rights in the states), in 1868, and the Fifteenth Amendment (which bans racial voting restrictions), in 1870.

Interpretation

Involuntary servitude

In *Selective Draft Law Cases*, 245 U.S. 366^[7] (1918), the Supreme Court ruled that the military draft was not "involuntary servitude".

Offenses against the Thirteenth Amendment have not been prosecuted since 1947.^{[8][9]}

Psychological coercion had been the primary means of forcing involuntary servitude in *United States v. Ingalls*, 73 F. Supp. 76, 77 (S.D. Cal. 1947). However, in *United States v. Kozminski*, 487 U.S. 931^[10] (1988), the Supreme Court ruled that the Thirteenth Amendment did not prohibit compulsion of servitude through psychological coercion.^{[11][12]} *Kozminski* limited involuntary servitude to those situations when the master subjects the servant to:

1. threatened or actual physical force,
2. threatened or actual state-imposed legal coercion or
3. fraud or deceit where the servant is a minor, an immigrant or mentally incompetent.

The *Trafficking Victims Protection Act of 2000*, P.L. 106-386, updated the federal anti-slavery statutes to include victims who are enslaved through psychological coercion, even if there was no physical coercion.^{[13][14]}

U.S. Courts of Appeals, in *Immediato v. Rye Neck School District*, *Herndon v. Chapel Hill*, and *Steirer v. Bethlehem School District*, have ruled that the use of community service as a high school graduation requirement did not violate the Thirteenth Amendment.^[15]

Free versus unfree labor

Labor is defined as work of economic or financial value. Unfree labor (i.e., labor not willingly given), is obtained in a number of ways:

- causing or threatening to cause serious harm to any person;
 - physically restraining or threatening to physically restrain another person;
 - abusing or threatening to abuse the law or legal process;
 - knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
 - blackmail;
 - causing or threatening to cause financial harm to any person—i.e., using financial control over a person.
-

Definitions of conditions addressed by Thirteenth Amendment

Peonage^[16]

Refers to a person in "debt servitude," or involuntary servitude tied to the payment of a debt. Compulsion to servitude includes the use of force, the threat of force, or the threat of legal coercion to compel a person to work against his or her will.

Involuntary servitude^[17]

Refers to a person held by actual force, threats of force, or threats of legal coercion in a condition of slavery – compulsory service or labor against his or her will. This also includes the condition in which people are compelled to work against their will by a "climate of fear" evoked by the use of force, the threat of force, or the threat of legal coercion (i.e., suffer legal consequences unless compliant with demands made upon them) which is sufficient to compel service against a person's will. The first U.S. Supreme Court case to uphold the ban against involuntary servitude was *Bailey v. Alabama* (1911).

Requiring specific performance as a remedy for breach of personal services contracts has regarded as a form of involuntary servitude by some scholars and courts, though other jurisdictions and scholars have rejected this argument; it is a popular rule in academia and many local jurisdictions, but has never been upheld by higher courts.^[18]

Forced labor^[19]

Labor or service obtained by:

- threats of serious harm or physical restraint;
- any scheme, plan, or pattern intended to cause a person to believe they would suffer serious harm or physical restraint if they did not perform such labor or services;
- the abuse or threatened abuse of law or the legal process.

Enforcement (Section 2)

Threat of legal consequences

Victims of human trafficking and other conditions of forced labor are commonly coerced by threat of legal actions to their detriment. Victims of forced labor and trafficking are protected by Title 18 of the U.S. Code.^[20]

- Title 18, U.S.C., Section 241 – Conspiracy Against Rights:^[21]

Conspiracy to injure, oppress, threaten, or intimidate any person's rights or privileges secured by the Constitution or the laws of the United States

- Title 18, U.S.C., Section 242 – Deprivation of Rights Under Color of Law:^[22]

It is a crime for any person acting under color of law (federal, state or local officials who enforce statutes, ordinances, regulations, or customs) to willfully deprive or cause to be deprived the rights, privileges, or immunities of any person secured or protected by the Constitution and laws of the U.S. This includes willfully subjecting or causing to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Proposal and ratification

The Thirteenth Amendment was proposed by the Thirty-eighth United States Congress, on January 31, 1865. The amendment was adopted on December 6, 1865, when Georgia ratified it. On December 18, 1865, Secretary of State William H. Seward, proclaimed the amendment to have been ratified by the legislatures of 27 of the then 36 states. The ratification dates are:^[23]

1. Illinois (February 1, 1865)
2. Rhode Island (February 2, 1865)
3. Michigan (February 3, 1865)
4. Maryland (February 3, 1865)
5. New York (February 3, 1865)
6. Pennsylvania (February 3, 1865)
7. West Virginia (February 3, 1865)
8. Missouri (February 6, 1865)
9. Maine (February 7, 1865)
10. Kansas (February 7, 1865)
11. Massachusetts (February 7, 1865)
12. Virginia (February 9, 1865) - first former Confederate State to ratify the amendment, two months before Lee's surrender (in Virginia)
13. Ohio (February 10, 1865)
14. Indiana (February 13, 1865)
15. Nevada (February 16, 1865)
16. Louisiana (February 17, 1865)
17. Minnesota (February 23, 1865)
18. Wisconsin (February 24, 1865)
19. Vermont (March 8, 1865)
20. Tennessee (April 7, 1865)
21. Arkansas (April 14, 1865)
22. Connecticut (May 4, 1865)
23. New Hampshire (July 1, 1865)
24. South Carolina (November 13, 1865)
25. Alabama (December 2, 1865)
26. North Carolina (December 4, 1865)
27. Georgia (December 6, 1865)

Ratification was completed on December 6, 1865. The amendment was subsequently ratified by the following states:

1. Oregon (December 8, 1865)
2. California (December 19, 1865)
3. Florida (December 28, 1865, reaffirmed on June 9, 1869)
4. Iowa (January 15, 1866)
5. New Jersey (January 23, 1866, after having rejected it on March 16, 1865)
6. Texas (February 18, 1870)
7. Delaware (February 12, 1901, after having rejected it on February 8, 1865)
8. Kentucky (March 18, 1976, after having rejected it on February 24, 1865)
9. Mississippi (March 16, 1995, after having rejected it on December 5, 1865)

Earlier proposed Thirteenth Amendments

Each of two amendments proposed by the Congress would have become the Thirteenth Amendment if it had been ratified when originally proposed.

- Titles of Nobility Amendment, proposed by the Congress in 1810 and ratified by twelve states, would have revoked the citizenship of anyone either (1) accepting a foreign title of nobility or (2) accepting any foreign payment without Congressional authorization.
- The Corwin Amendment was passed by the House on March 1, 1861 and the Senate on March 3, 1861. President Buchanan signed it the same day, which was also his last full day in office; it was later ratified by three states: Ohio, Maryland and Illinois.^[24] This proposed amendment would have forbidden the adoption of any constitutional amendment that would have abolished or restricted slavery, or permitted the Congress to do so. This proposal was an unsuccessful attempt to persuade the Southern states not to secede from the Union.

Abraham Lincoln, in his first inaugural address on March 4, 1861, specifically referenced the Corwin Amendment.^{[25][26]}

"I understand a proposed amendment to the Constitution . . . has passed Congress, to the effect that the Federal Government shall never interfere with the domestic institutions of the States, including that of persons held to service. I have no objection to its being made express and irrevocable."

Notes

- [1] Leidner, G. "The Effect of the Emancipation Proclamation" (<http://www.greatamericanhistory.net/amendment.htm>). . "He recognized that the Emancipation Proclamation would have to be followed quickly by a constitutional amendment in order to guarantee the abolishment of slavery."
- [2] <http://www.law.cornell.edu/constitution/constitution.amendmentxiii.html>
- [3] Congressional Proposals and Senate Passage (<http://13thamendment.harpweek.com/hubpages/CommentaryPage.asp?Commentary=05ProposalPassage>) Harper Weekly. The Creation of the 13th Amendment. Retrieved Feb. 15, 2007
- [4] Charters of Freedom – The Declaration of Independence, The Constitution, The Bill of Rights (http://www.archives.gov/exhibits/charters/slurp_file.php?file=10)
- [5] Primary Documents in American History: The Thirteenth Amendment (<http://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html>) Library of Congress. Retrieved Feb. 15, 2007
- [6] Carter, William M. Jr. (2006-2007), *Judicial Review of Thirteenth Amendment Legislation: Congruence and Proportionality or Necessary and Proper* (http://heinonlinebackup.com/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/utol38§ion=64), **38**, U. Tol. L. Rev., pp. 973,
- [7] <https://supreme.justia.com/us/245/366/case.html>
- [8] "The 13th Amendment and the Lost Origins of Civil Rights" Risa Goluboff (2001) Duke Law Journal Vol 50 p. 1609. See section on Elizabeth Ingalls and Dora Jones. Refer to *United States v. Ingalls*, 73 F. Supp. 76, 77 (S.D. Cal. 1947) Southern District Court California
- [9] *U.S. v. Ingalls*, 73 F.Supp. 76 (1947) as cited by Traver, Robert (1967). *The Jealous Mistress*. Boston: Little, Brown.
- [10] <https://supreme.justia.com/us/487/931/case.html>
- [11] "Thirteenth Amendment—Slavery and Involuntary Servitude" (<http://www.gpoaccess.gov/constitution/html/amdt13.html>) GPO Access, U.S. Government Printing Office, p. 1557
- [12] "The 13th Amendment and the Lost Origins of Civil Rights" Risa Goluboff (2001) Duke Law Journal Vol 50 p. 1609, n. 228
- [13] Trafficking Victims Protection Act of 2000 U.S. Department of Health and Human Services Fact Sheet
- [14] Victims of Trafficking and Violence Protection Act 2000 (<http://www.state.gov/documents/organization/10492.pdf>) U.S. Department of State
- [15] Loupe, Diane (August 2000). "Community Service: Mandatory or Voluntary? – Industry Overview" (http://findarticles.com/p/articles/mi_m0JSD/is_7_57/ai_77204744/pg_8/). *School Administrator*: 8. .
- [16] Peonage Section 1581 of Title 18 (<http://www.usdoj.gov/crt/crim/1581fin.htm>) U.S. Department of Justice, Civil Rights Division Involuntary servitude, forced labor and sex trafficking statutes enforced
- [17] Involuntary Servitude Section 1584 of Title 18 (<http://www.usdoj.gov/crt/crim/1581fin.htm>) U.S. Department of Justice, Civil Rights Division Involuntary servitude, forced labor and sex trafficking statutes enforced
- [18] Oman, Nathan B., Specific Performance and the Thirteenth Amendment. *Minnesota Law Review*, Forthcoming Available at SSRN: (<http://ssrn.com/abstract=1114799>)
- [19] Forced Labor Section 1589 of Title 18 (<http://www.usdoj.gov/crt/crim/1581fin.htm>) U.S. Department of Justice, Civil Rights Division Involuntary servitude, forced labor and sex trafficking statutes enforced. NB According to the Dept. of Justice, "Congress enacted § 1589 in

response to the Supreme Court's decision in *United States v. Kozminski*, 487 U.S. 931 (<https://supreme.justia.com/us/487/931/case.html>) (1988), which interpreted § 1584 to require the use or threatened use of physical or legal coercion. Section 1589 broadens the definition of the kinds of coercion that might result in forced labor."

[20] Crimes and criminal procedure (<http://codes.lp.findlaw.com/uscode/18>)

[21] Title 18, U.S.C., Section 241 – Conspiracy Against Rights (<http://codes.lp.findlaw.com/uscode/18/I/13/241>)

[22] Title 18, U.S.C., Section 242 – Deprivation of Rights Under Color of Law (<http://codes.lp.findlaw.com/uscode/18/I/13/242>)

[23] Mount, Steve (January 2007). "Ratification of Constitutional Amendments" (<http://www.usconstitution.net/constamrat.html>). . Retrieved February 24, 2007.

[24] <http://13thamendment.harpweek.com/HubPages/CommentaryPage.asp?Commentary=02CorwinAmend>

[25] http://avalon.law.yale.edu/19th_century/lincoln1.asp

[26] http://books.google.com/books?id=TOIGUhxqUuYC&pg=PA118&lpg=PA118&dq=%22The+Corwin+Amendment+in+the+Secession+Crisis%22+%22Ohio+Historical+Quarterly%22&source=bl&ots=UTc9bFKRFF&sig=_dJGSX-qqXguLdYNL_YQQZv2g4k&hl=en&ei=XKK0StWfNp2G6wPXi5HKCQ&sa=X&oi=book_result&ct=result&resnum=5#v=onepage&q=&f=false

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- Michael Vorenberg, *Final Freedom: The Civil War, the Abolition of Slavery, and the Thirteenth Amendment* (2001) (<http://www.questia.com/PM.qst?a=o&d=105900244>)
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- Mitch Kachun, *Festivals of Freedom: Memory and Meaning in African American Emancipation Celebrations, 1808–1915* (2003) (<http://www.questia.com/PM.qst?a=o&d=105216005>)
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- Model State Anti-trafficking Criminal Statute – U.S. Dept of Justice (http://www.usdoj.gov/crt/crim/model_state_law.pdf)

External links

- Original Document Proposing Abolition of Slavery (<http://www.footnote.com/viewer.php?image=4346710>)
- Mr. Lincoln and Freedom: Thirteenth Amendment (<http://www.mrlincolnanfreedom.org/inside.asp?ID=56&subjectID=3>)
- Thirteenth Amendment and related resources at the Library of Congress (<http://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html>)
- National Archives: Thirteenth Amendment (http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#13)
- Ghost Amendment: The Thirteenth Amendment that Never Was (<http://web.archive.org/web/20091027082259/http://geocities.com/ghostamendment>) (Description of the Corwin Amendment)
- CRS Annotated Constitution: Thirteenth Amendment (http://www.law.cornell.edu/anncon/html/amdt13toc_user.html)

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