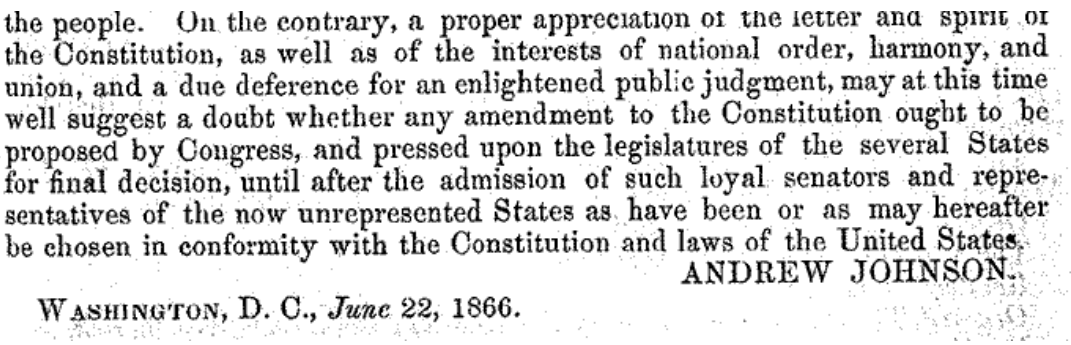
14th Amendment Ratification NOTES

...Florida's ratification as valid and ignore the sometimes marked differences among the versions the States had approved. The 14th Amendment was never Constitutionally proposed to the States and never Constitutionally ratified by the States. This is a scary concept since it stands as one of the most significant parts of the American legal system and when most Americans think about their rights, they think about their 14th rights - an amendment that is not and was not ratified.

The purported 14th Amendment to the United States Constitution is and should be held to be ineffective, invalid, null, void and unconstitutional for the following reasons:

A. The Joint Resolution proposing said amendment was not submitted to or adopted by a Constitutional Congress per Article I, Section 3, and Article V of the U. S. Constitution.

Only twenty five States were seated as Congress had excluded 11 States:



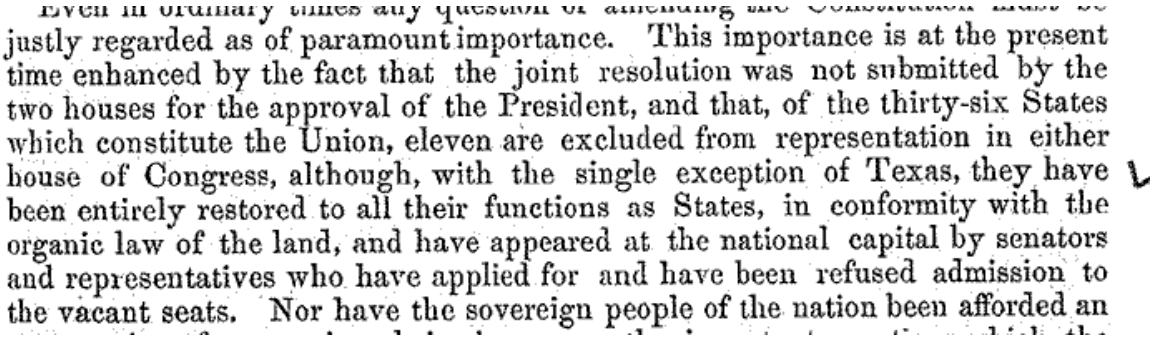
the people. On the contrary, a proper appreciation of the letter and spirit of the Constitution, as well as of the interests of national order, harmony, and union, and a due deference for an enlightened public judgment, may at this time well suggest a doubt whether any amendment to the Constitution ought to be proposed by Congress, and pressed upon the legislatures of the several States for final decision, until after the admission of such loyal senators and representatives of the now unrepresented States as have been or as may hereafter be chosen in conformity with the Constitution and laws of the United States.

ANDREW JOHNSON.

WASHINGTON, D. C., *June* 22, 1866.

Proof from the Journal of the Senate dated June 22, 1866, Johnson's letter to the Senate:http://memory.loc.gov/cgi-bin/ampage?collId=llsj&fileName=058/llsj058.db&recNum=562

B. The Joint Resolution was not submitted to the President for his approval as required by Article I, Section 7 of the U. S. Constitution.



Even in ordinary times any question of amending the Constitution must be justly regarded as of paramount importance. This importance is at the present time enhanced by the fact that the joint resolution was not submitted by the two houses for the approval of the President, and that, of the thirty-six States which constitute the Union, eleven are excluded from representation in either house of Congress, although, with the single exception of Texas, they have been entirely restored to all their functions as States, in conformity with the organic law of the land, and have appeared at the national capital by senators and representatives who have applied for and have been refused admission to the vacant seats. Nor have the sovereign people of the nation been afforded an

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C. The proposed 14th Amendment was rejected by more than one-fourth of all the States then in the Union, and it was never ratified by three-fourths of all the States in the Union as required by Article V of the U. S. Constitution.

The CONGRESS was Unconstitutional

Article I, Section 3. "The Senate of the United States shall be composed of two Senators from each State"

Article V provides: "No State, without its consent, shall be deprived of its equal suffrage in the Senate."

The fact that 28 Senators had been unlawfully excluded from the U. S. Senate, in order to secure a two-thirds vote for adoption of the Joint Resolution proposing the 14th Amendment is shown by Resolutions of protest adopted by the following eight State Legislatures:

New Jersey Legislature by Resolution of March 27, 1868
Alabama Legislature protested against being deprived of representation in the Senate of the U. S. Congress.
Texas Legislature by Resolution on October 15, 1866
Arkansas Legislature, by Resolution on December 17, 1866
Georgia Legislature, by Resolution on November 9, 1866
Florida Legislature, by Resolution of December 5, 1866
South Carolina Legislature by Resolution of November 27, 1866
North Carolina Legislature protested by Resolution of December 6, 1866

The Alabama Legislature protested against being deprived of representation in the Senate of the U.S. Congress.[(4)]

1. The New Jersey Legislature by Resolution on March 27, 1868, protested as follows:

The said proposed amendment not having yet received the assent of three fourths of the states, which is necessary to make it valid, the natural and constitutional right of this state to withdraw its assent is undeniable....

That it being necessary by the *Constitution* that every amendment to the same should be proposed by two thirds of both houses of Congress, the authors of said proposition, for the purpose of securing the assent of the requisite majority, determined to, and did, exclude from the said two houses eighty representatives from eleven states of the Union, upon the pretense that there were no such states in the Union; but, finding that two thirds

of the remainder of the said houses could not be brought to assent to the said proposition, they deliberately formed and carried out the design of mutilating the integrity of the United States Senate, and without any pretext or justification, other than the possession of the power, without the right, and in the palpable violation of the *Constitution*, ejected a member of their own body, representing this state, and thus practically denied to New Jersey its equal suffrage in the Senate, and thereby nominally secured the vote of two thirds of the said house.[(3)]

2. The Texas Legislature, by Resolution on October 15, 1866, protested as follows:

The Amendment to the *Constitution* proposed by this joint resolution as Article XIV is presented to the Legislature of Texas for its action thereon, under Article V of that *Constitution*. This Article V, providing the mode of making amendments to that instrument, contemplates the participation by all the States through their representatives in Congress, in proposing amendments. As representatives from nearly one third of the States were excluded from the Congress proposing the amendments, the constitutional requirement was not complied with; it was violated in letter and in spirit; and the proposing of these amendments to States which were excluded from all participation in their initiation in Congress, is a nullity.[(5)]

3. The Arkansas Legislature, by Resolution on December 17, 1866, protested as follows:

The *Constitution* authorized two thirds of both houses of Congress to propose amendments; and, as eleven States were excluded from deliberation and decision upon the one now submitted, the conclusion is inevitable that it is not proposed by legal authority, but in palpable violation of the *Constitution*.[(6)]

4. The Georgia Legislature, by Resolution on November 9, 1866, protested as follows:

Since the reorganization of the State government, Georgia has elected Senators and Representatives. So has every other State. They have been arbitrarily refused admission to their seats, not on the ground that the qualifications of the members elected did not conform to the fourth paragraph, second section, first Article of the *Constitution*, but because their right of representation was denied by a portion of the States having equal but not greater rights than themselves. They have in fact been forcibly excluded; and, inasmuch as all legislative power granted by the States to the Congress is defined, and this power of exclusion is not among the powers expressly or by implication defined, the assemblage, at the capital, of representatives from a portion of the States, to the exclusion of the representatives of another portion, cannot be a constitutional Congress, when the representation of each State forms an integral part of the whole.

This amendment is tendered to Georgia for ratification, under that power in the *Constitution* which authorizes two thirds of the Congress to propose amendments. We have endeavored to establish that Georgia had a right, in the first place, as a part of the Congress, to act upon the question, "Shall these amendments be proposed?" Every other excluded State had the same right. The first constitutional privilege has been arbitrarily

denied. Had these amendments been submitted to a constitutional Congress, they would never have been proposed to the States. Two thirds of the whole Congress never would have proposed to eleven States voluntarily to reduce their political power in the Union, and at the same time, disfranchise the larger portion of the intellect, integrity, and patriotism of eleven co-equal States.[7]

5. The Florida Legislature, by Resolution on December 5, 1866, protested as follows:

Let this alteration be made in the organic system and some new and more startling demands may or may not be required by the predominant party previous to allowing the ten States now unlawfully and unconstitutionally deprived of their right of representation is guaranteed by the *Constitution* of this country and there is no act, not even that of rebellion, can deprive them.[8]

6. The South Carolina Legislature, by Resolution on November 27, 1866, protested as follows:

Eleven of the Southern States, including South Carolina, are deprived of their representation in Congress. Although their Senators and Representatives have been duly elected and have presented themselves for the purpose of taking their seats, their credentials have, in most instances, been laid upon the table without being read, or have been referred to a committee, who have failed to make any report on the subject. In short, Congress has refused to exercise its Constitutional functions, and decide either upon the election, the return, or the qualification of these selected by the States and people to represent us. Some of the Senators and Representatives from the Southern States were prepared to take the test oath, but even these have been persistently ignored, and kept out of the seats to which they were entitled under the *Constitution* and laws.

Hence this amendment has not been proposed by "two thirds of both Houses" of a legally constituted Congress, and is not, Constitutionally or legitimately, before a single Legislature for ratification.[9]

7. The North Carolina Legislature, by Resolution on December 6, 1866, protested as follows:

The Federal *Constitution* declares in substance, that Congress shall consist of a House of Representatives, composed of members apportioned among the respective States in the ratio of their population and of a Senate, composed of two members from each State. And in the Article which concerns Amendments, it is expressly provided that "no State, without its consent, shall be deprived of its equal suffrage in the Senate." The contemplated Amendment was not proposed to the States by a Congress thus constituted. At the time of its adoption, the eleven seceding States were deprived of representation both in the Senate and House, although they all, except the State of Texas, had Senators and Representatives duly elected and claiming their privileges under the *Constitution*. In consequence of this, these States had no voice on the important question of proposing the

Amendment. Had they been allowed to give their votes, the proposition would doubtless have failed to command the required two thirds majority....

Link to Information:
http://www.barefootsworld.net/14uncon.html

8. What do the historians say about all this? The Encyclopedia Americana states:

"Reconstruction added humiliation to suffering.... Eight years of crime, fraud, and corruption followed and it was State legislatures composed of Negroes, carpetbaggers and scalawags who obeyed the orders of the generals and ratified the amendment."

http://www.constitution.org/14ll/no14th.htm

Rejection of the Several States:

Texas rejected the 14th Amendment on Oct. 27, 1866.
Georgia rejected the 14th Amendment on Nov. 9, 1866.
Florida rejected the 14th Amendment on Dec. 6, 1866.
Alabama rejected the 14th Amendment on Dec. 7, 1866.
North Carolina rejected the 14th Amendment on Dec. 14, 1866.
Arkansas rejected the 14th Amendment on Dec. 17, 1866.
South Carolina rejected the 14th Amendment on Dec. 20, 1866.
Kentucky rejected the 14th Amendment on Jan. 8, 1867.
Virginia rejected the 14th Amendment on Jan. 9, 1867.
Louisiana rejected the 14th Amendment on Feb. 6, 1867.
Delaware rejected the 14th Amendment on Feb. 7, 1867.
Maryland rejected the l4th amendment on Mar. 23, 1867.
Mississippi rejected the 14th Amendment on Jan. 31, 1867.
Ohio rejected the 14th amendment on Jan. 16, 1868.
New Jersey rejected the 14th Amendment on Mar. 24, 1868.

12. *Senate Journal* (39th Congress, lst Session), p. 563; *House Journal*, 1866, p. 889.
13. *House Journal*, 1866, pp. 578-584; *Senate Journal*, 1866, p. 471.
14. *House Journal*, 1866, p. 68; *Senate Journal*, 1866, p. 72.
15. *House Journal*, 1866, p. 76; *Senate Journal*, 1866, p. 8.
16. *House Journal*, 1866, pp. 210-213; *Senate Journal*, 1866, p. 183.
17. *House Journal*, 1866-67, p. 183; *Senate Journal*, 1866-67, p. 138.
18. *House Journal*, 1866, pp. 288-291; *Senate Journal*, 1866, p. 262.
19. *House Journal*, 1866, p. 284; *Senate Journal*, 1866, p. 230.
20. *House Journal*, 1867, p. 60; *Senate Journal*, 1867, p. 62.
21. *House Journal*, 1866-67, p. 108; *Senate Journal*, 1866-67, p. 101.

22. Reference: James M. McPherson, *The Civil War and Reconstruction*, p. 194; *Annual Encyclopedia*, p. 452.
23. *House Journal*, 1867, p. 223; *Senate Journal*, 1867, p. 176.
24. *House Journal*, 1867, p. 1141; *Senate Journal*, 1867, p. 808.
25. Reference: James M. McPherson, *Reconstruction*, p. 194.
26. *House Journal*, 1868, pp. 44-50; *Senate Journal*, 1868, pp. 22-38.
27. *Minutes of the Assembly*, 1868, p. 743; *Senate Journal*, 1868, p. 356.
28. *House Journal* (39th Congress, 2nd Session), p. 563.

Protests of

There was no question that all of the Southern states which rejected the 14th Amendment had legally constituted governments, were fully recognized by the federal government, and were functioning as member states of the Union at the time of their rejection.

President Andrew Johnson, in his Veto message of March 2, 1867, [Cite 26] pointed out that:

"It is not denied that the States in question have each of them an actual government with all the powers, executive, judicial and legislative, which properly belong to a free State. They are organized like the other States of the Union, and, like them they make, administer, and execute the laws which concern their domestic affairs."

If further proof were needed that these States were operating under legally constituted governments as member States in the Union. the ratification of the 13th Amendment by December 8, 1865 undoubtedly supplies this official proof. If the Southern States were not member States of the Union, the 13th amendment would not have been submitted to their Legislatures for ratification.

2a. The 13th Amendment to the United States Constitution was proposed by Joint Resolution of Congress [Cite 27] and was approved February 1, 1865 by President Abraham Lincoln, as required by Article I, Section 7 of the United States Constitution. The President's signature is affixed to the Resolution.

The 13th Amendment was ratified by 27 states of the then 36 states of the Union, including the Southern States of Virginia, Louisiana, Arkansas, South Carolina, Alabama, North Carolina and Georgia. This is shown by the Proclamation of the Secretary of State December 18, 1865. [Cite 28] Without the votes of these 7 Southern State Legislatures the 13th Amendment would have failed. There can be no doubt but that the ratification by these 7 Southern States of the 13th Amendment again established the fact that their Legislatures and State governments were duly and lawfully constituted and functioning as such under their State Constitutions.

http://memory.loc.gov/cgi-bin/ampage?collId=llhb&fileName=040/llhb040.db&recNum=439

House directing Secretary of state to accept 14th amendment

http://memory.loc.gov/cgi-bin/ampage?collId=llhj&fileName=066/llhj066.db&recNum=1125&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28hj0661%29%29%3A%230660001&linkText=1