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The Bill of Rights went into effect with Virginia's ratification on December 15, 1791. The Eleventh Amendment was added in 1795 and the 12th in 1804. We then went 61 years without amending the Constitution. Apparently the American people were happy with their Constitution.

And then came war.

An essay on the causes of the War Between the States must be left for another day; but suffice it to say that it was not purely and simply about slavery, there were clearly identifiable constitutional issues involved as well. So the war was fought and the South lost, end of story. Well, not quite. The North wasn't finished punishing the South just yet. As the movie "Lincoln" ably demonstrated, the Thirteenth Amendment was passed by the Congress, narrowly, on January 31, 1865. (By the way, if you are into mysteries, investigate the Titles of Nobility Act, which may or may not have become the real 13th Amendment in 1812).

Lee's surrender at Appomattox took place on April 9th, but the 13th Amendment would not be ratified for seven more months (on December 6, 1865, when Georgia became the 27th, of the then 36 states in the union to ratify (Mississippi did not ratify the 13th until 1995!).

The 13th Amendment was needed, not just because it was the right thing to do, but because Lincoln's Emancipation Proclamation (EP) really didn't free anyone. The Proclamation applied only in areas not under Federal control and, since the Southern states saw themselves as sovereign, they felt no obligation to comply with the Proclamation's dictates. The 13th was the first Constitutional Amendment to include the phrase: *"Congress shall have power to enforce this article by appropriate legislation."* This sentence has the same effect as the Necessary and Proper clause in Article 1. But just as that clause has led to abuse of power, so has this sentence. Thus, the 13th ended slavery, but then the "fun" began.

As the legally-reconstituted Southern states were busy ratifying the 13th Amendment, the Republican-dominated Congress refused to seat Southern Representatives and Senators. This allowed the remaining, rump Congress to propose the Fourteenth Amendment, consistent with Article V's requirement of a 2/3 majority for sending a proposed amendment to the states (2/3 of those present on the day of the vote).

Though the Northern states quickly ratified the Fourteenth Amendment, it was decisively rejected by the Southern and border states, failing to secure the 3/4 of all the states necessary for ratification. The "Radical Republicans" in Congress responded with the Reconstruction Act of 1867, which virtually expelled the Southern states from the Union and placed them under martial law. To end military rule, the Southern states were required to ratify the Fourteenth Amendment.

On July 20, 1868, William H. Seward, Secretary of State, issued a proclamation listing the official results. The proclamation concluded that 23 states ratified, 6 states ratified with newly reconstituted legislative bodies (i.e. under martial law) and that two of the states (Ohio and New Jersey) had subsequently voted to revoke their ratifications. Seward stated he did not possess the authority to rule on whether a state reversing its decision was proper. Twenty-eight ratifications were needed.

No matter; by joint resolution, Congress declared the amendment ratified, thus becoming law. One can make a strong case that actually only 21 of the required 28 states legally ratified the "14 Amendment."

The 14th is most famous for the Supreme Court's totally contrived Incorporation Doctrine, which has allowed them to proclaim that most of the Bill of Rights, originally intended to constrain the Federal government, now applied to the States. Under the Incorporation Doctrine the Court over the years has held that the 14th's Due Process Clause incorporates all of the substantive protections of the First, Second, Fourth, most of the Fifth, the Sixth Amendment and the Cruel and Unusual Punishment Clause of the Eighth Amendment. Wow!

Certainly the most famous case based on this Amendment was Roe v. Wade, where Justice Harry Blackmun opined that this new twist on the "right of privacy" might be found in the 14th Amendment, or it might be found in the 9th Amendment, but he was sure it was there somewhere in the Constitution (read the decision, it will make you cry, for several reasons).

Taxes were due this week, so why don't we next look at everyone's favorite Amendment: the 16th? In terms of suspiciously "ratified" amendments there is no better example.