

This year on Constitution Day we should recognize the 150th anniversary of the 14th Amendment, which is central to the Constitution in many ways.

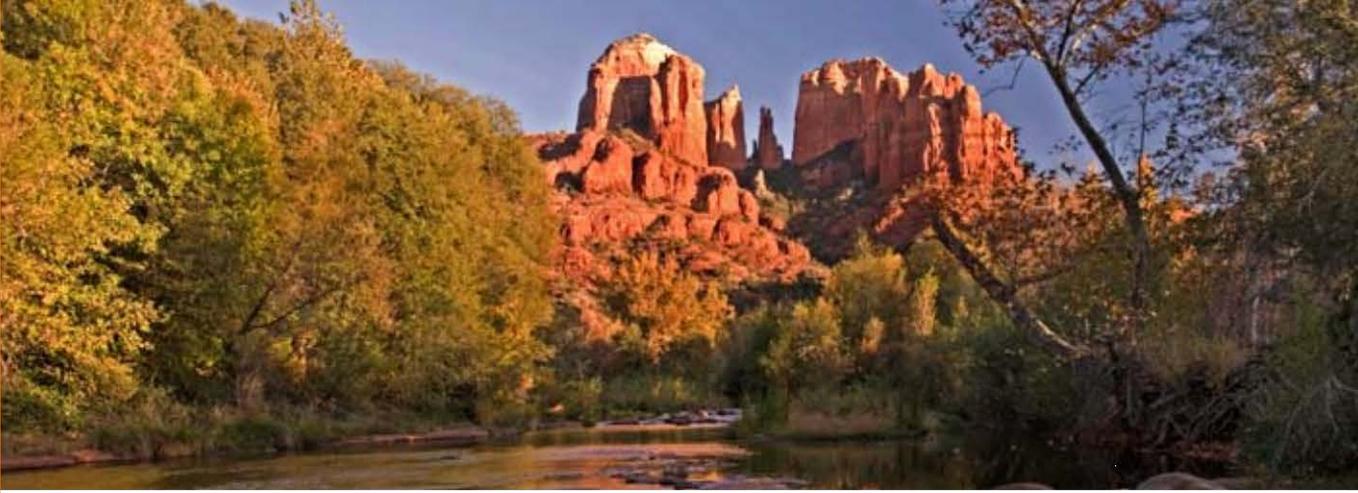
Adopted in 1868, the 14th amendment was preceded by thirteen amendments (including the Bill of Rights) and has been followed by only thirteen others – most recently the 27th amendment, ratified in 1992. The 14th amendment also sits in the middle of the great “New Birth of Freedom” amendments adopted after the Civil War – following the 13th Amendment’s 1865 abolition of slavery and preceding the 15th Amendment’s 1870 prohibition on denying voting rights based on race.

The force of the 14th amendment, however, is more than its order in the Constitution’s unfolding chronology. It is the longest and most cited amendment, which reflects its critical role in advancing the Constitution’s goals of forming a “more perfect union,” establishing justice, and securing “the blessings of liberty to ourselves and our posterity.”

The 14th amendment – like our Constitution generally – looks backward to events leading to its creation and forward as a guide for our nation’s future. Its first sentence recognizes that all persons born in the United States are citizens – thus repudiating the Supreme Court’s holding in *Dred Scott v. Sanford* (1857) that slaves and their descendants were not citizens with constitutional rights, but also embedding an inclusive view of citizenship prospectively. The next sentence recognizes federal constitutional protections that bar states from denying the “privileges and immunities” of citizenship and entitle every person to due process and the equal protection of the laws.

Although the Constitution had earlier referred to due process and privileges and immunities, the 14th amendment refocused the Constitution to protect individual rights from infringement by all levels of government and expressly empowered Congress to enact legislation to enforce its provisions. The amendment also recognized, for the first time, both a right to “equal protection” and, in section 2, a right to vote (although only for adult males).

Our constitutional history for the last 150 years has largely concerned our working out the 14th amendment’s consequences – often haltingly and with great difficulty. The amendment underlies *Brown v. Board of Education* (1954) and our long-delayed recognition that racial discrimination offends equal protection. Based



on its due process clause, the fundamental rights recognized in the Bill of Rights – such as the freedoms of speech, the press, and religion – must be respected by state and local governments as well as the federal government. Through its provisions, the right to vote is now recognized as fundamental and people are protected from laws that improperly discriminate based on race, gender, or other impermissible distinctions.

The 14th Amendment has helped us establish justice and preserve liberty for “we the people” more broadly than the original framers could have envisioned in 1787, and for that it is most worthy of celebrating on Constitution Day.

Chief Justice Scott Bales