# Proclamation

## U.S. Constitution, 14th Amendment

## Amendment declared "*Void*" and without effect

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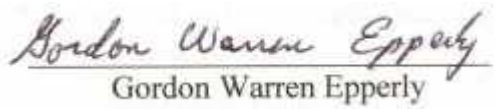
**Oyez**

### The Proclamation

Under the sovereign powers reserved to the people under Article X of the Bill of Rights to the U.S. Constitution and the Declaration of Independence of July 4, 1776; we the people, in our sovereign capacity, hereby declares that with the vote of rejection being cast by the Legislature for the State of Maryland on March 23rd 1867, the 14th Amendment to the U.S. Constitution was rejected by more than one-fourth (¼) of the lawful Legislatures of the States that were in the Union during the year of 1867. The 14th Amendment to the U.S. Constitution does not exist and all Laws and Judicial Opinions to the contrary are declared null and void ab initio. Anyone who has knowledge to the contrary, come forward and present your evidence.




Gordon Warren Epperly

## The Reconstruction Acts of 1867

What was the legal status during the war of the States that formed the Confederacy, during the reconstruction period and since?

The Congress of the United States in the year of 1867 declared that a number of southern States (*Rebel States*) had no legitimate governments and enacted what is now known as the Reconstruction Acts of 1867-68. /[1]

In the Preamble to the Reconstruction Act of March 2, 1867 (*THIRTY-NINTH CONGRESS, Sess. II, Ch. 153*), the Congress declares:

> "Whereas **no legal State governments** or adequate protection for life or property now exist in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be **legally established**: Therefore . . . "
>
> [*Emphasis Added*]

The above Preamble raises the question: "*On what date did the States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas lose their status of having lawful State governments*?"

Nowhere can we locate the date as to when those States lost their lawful State governments and that date is not found within the Reconstruction Acts of 1867

- We know that those States had lawful State governments when they were admitted into the Union.
- We know that the U.S. Supreme Court has ruled that those States had lawful State governments before, during, and after the Civil War. /[2]
- We know that the U.S. Congress recognized that those States had lawful State governments at the time they were engaged in the Civil War when on July 22nd 1861 the U.S. House

1/ THIRTY-NINTH CONGRESS, Sess. II, Ch. 153; FORTIETH CONGRESS, Sess. I Ch. 30; FORTIETH CONGRESS, Sess. II, Ch. 70.

2/ Texas v. White, 74 U.S. 700.

of Representatives adopted a Resolution and when on July 25th 1861 the Senate adopted a Resolution which both read:

> "*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institution of those States, but to defend and maintain the supremacy of the Constitution and all the laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

- We know that the U.S. Congress recognized those States as having lawful State governments after the Civil War when the U.S. Congress submitted the present day Thirteenth Amendment to the U.S. Constitution to those States for and accepted their ratification votes.

The three coordinate branches of the Government concurred in holding that these States remained in the Union throughout the entire period. The executive branch treated them as in the Union in the Proclamations of the Thirteenth, Fourteenth, and Fifteenth Amendments; the legislative branch treated them as in the Union in passing the Acts of March 2, 1867, March 23, 1867, July 19, 1867, March 11, 1868, and June 25, 1868, and the judicial branch regarded them as in the Union in passing the decisions reported in 6 Wallace, 1; 6 Wallace, 443; 7 Wallace, 700; 8 Wallace, 1; 9 Wallace, 197; 12 Wallace, 349; 13 Wallace, 646; 15 Wallace, 459; 16 Wallace, 402; 16 Wallace, 492; 17 Wallace, 570; 20 Wallace 459; 22 Wallace, 99; 22 Wallace, 479; 96 U.S., 193, 97 U.S., 454; 156 U.S. 618.

Even though the Reconstruction Acts of 1867-68 failed to state the date when those southern States ceased to have lawful State governments, we do know that the Congress of the United States has declared that the named southern States did not have lawful and a republican form State governments from the date of the enactment of the Reconstruction Act of March 2nd 1867 until the people of those States were to be admitted to representation in Congress by an act of law:

> "Sec. 6. *And be it further enacted*, That, until the people of the Rebel States shall be by law admitted to representation in the Congress of the United States, any civil government which may exist shall be deemed provisional only, and in all respects subject to the paramount authority of the United States …." /3
>
> [*Emphasis Added*]

This Section 6 of the Reconstruction Act of March 2nd 1867 raises the question: "*What law(s) is the Congress referring to*?"

In the years of 1868 and 1870 we find that the U.S. Congress passed several laws declaring that the southern States had adopted a State Constitution and upon the President of the United States issuing forth a Proclamation declaring that those States had ratified the proposed 14th Amendment to the United States Constitution, the people of those States would be admitted to representation to Congress:

- see Act of June 22nd 1868 /4 - Law to admit the State of Arkansas to Representation in Congress.
- see Act of June 25th 1868 /5 - Law with a Presidential Proclamations /6 to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to Representation in Congress.
- see Act of January 21st 1870 /7 - Law to admit the State of Virginia to Representation in the Congress of the United States.

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3/ Section 6 of the Reconstruction Act of March 2nd 1867.

4/ FORTIETH CONGRESS. Sess. II, Ch. 69 declaring Arkansas had adopted a State Constitution and had ratified the U.S. Constitution, 14th Amendment.

5/ FORTIETH CONGRESS. Sess. II, Ch. 70 declaring the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida had adopted a State Constitution and are instructed to ratify the U.S. Constitution, 14th Amendment.

6/ Proclamation No. 7 of July 11, 1868 declaring Florida and North Carolina as having ratified the U.S. Constitution, 14th Amendment; and Proclamation No. 8 of July 18, 1868 declaring South Carolina as having ratified the U.S. Constitution, 14th Amendment; and Proclamation No.. 9 of July 18, 1868 declaring Louisiana as having ratified the U.S. Constitution, 14th Amendment; and Proclamation No. 10 of July 20, 1868 declaring Alabama as having ratified the U.S. Constitution, 14th Amendment; and Proclamation No. 12 of July 27, 1868 declaring Georgia as having ratified the U.S. Constitution, 14th Amendment.

7/ FORTY-FIRST CONGRESS. Sess. II, Ch. 10 declaring Virginia had adopted a State Constitution and had ratified the U.S. Constitution, 14th Amendment.

- see Act of February 23rd 1870 /[8] - Law to admit the State of Mississippi to Representation in the Congress of the United States.

- see Act of March 10th 1870 /[9] - Law to admit the State of Texas to Representation in the Congress of the United States.

In reviewing the Reconstruction Acts of 1867, we find the following:

- The State of Arkansas had no lawful State government from the date of March 2nd 1867 to June 22nd 1868, and

- The State of North Carolina had no lawful State government from the date of March 2nd 1867 to July 11th 1868, and

- The State of South Carolina had no lawful State government from the date of March 2nd 1867 to July 18th 1868, and

- The State of Louisiana had no lawful State government from the date of March 2nd 1867 to July 18th 1868, and

- The State of Georgia had no lawful State government from the date of March 2nd 1867 to July 27th 1868, and

- The State of Alabama had no lawful State government from the date of March 2nd 1867 to July 20th 1868, and

- The State of Florida had no lawful State government from the date of March 2nd 1867 to July 11th 1868, and

- The State of Virginia had no lawful State government from the date of March 2nd 1867 to January 21st 1870, and

- The State of Mississippi had no lawful State government from the date of March 2nd 1867 to February 23rd 1870, and

- The State of Texas had no lawful State government from the date of March 2nd 1867 to March 10th 1870.

Notwithstanding conditions set forth in the Reconstruction Acts of 1867-68 (*including the mandate that the people of those southern States were required to ratify the U.S. Constitution, 14th Amendment*), there were no lawful State governments of any southern State existing under the Reconstruction Acts which had the authority to issue forth any official notices of ratification of any Amendment to

8/ FORTY-FIRST CONGRESS. Sess. II, Ch. 19 declaring Mississippi had adopted a State Constitution and had ratified the U.S. Constitution, 14th Amendment.

9/ FORTY-FIRST CONGRESS. Sess. II, Ch. 39 declaring Texas had adopted a State Constitution and had ratified the U.S. Constitution, 14th Amendment.

the Constitution for the United States. The U.S. Secretary of State was "*barred*" from accepting any notices of ratification of Constitutional Amendments from any provisional governments of those southern States that existed from the date of March 2nd 1867 until the date that Congress admitted the people of those States to representation in Congress as a matter of law. /10 It appears that the Congress of the United States has taken the position that unlawful State governments may cast votes of ratification on proposed Amendments to the U.S. Constitution. This impression is found upon the mandates of the Reconstruction Acts of 1867-68 that the people of the southern States shall be required to ratify the U.S. Constitution, 14th Amendment while their States were operating under provisional military governments of the United States and before the people may be represented in Congress. This view of Congress is not supported in the U.S. Constitution and it is in direct conflict with the understanding of the Congress of earlier years:

- Senate Resolution of December 5, 1866 by Senator Sumner:

> "RESOLUTIONS declaring the true principles of reconstruction; the jurisdiction of Congress of the whole subject; the illegality of existing governments, from representation in Congress, and from voting on constitutional amendments, . . .
>
> "6. That it is the duty of Congress to proceed with the work of reconstruction, . . . and it must recognize only the States or those States having legal and valid legislatures as entitled to representation in Congress, or to a voice in the adoption of constitutional amendments." /11 [*Emphasis Added*]

**Repugnance**

The Reconstruction Acts of 1867 are not valid for being repugnant. The U.S. Congress declared the purpose and intent of the Reconstruction Acts was to identify the States that had unlawful governments and then mandated that the unlawful governments of those States are to ratify the 14th Amendment to the U.S. Constitution. This same Congress declared by Senate Resolution of December 5, 1866 (*supra.)* that unlawful governments of a State are not entitled to representation in Congress and they have no voice in the adoption of Constitutional Amendments. As the

10/ The phrase "*official notice*" that appears in the laws of FIFTEENTH CONGRESS Sess. I, Ch. 80 and 65 Stat. 710, Sec. 106b and 1 USC 106b mandates that the governments of the States are to be recognized as being "*lawful*" and "*republican in form*" by the Congress of the United States of America. (*see U.S. Constitution, Article IV, Section 4, Clause 1*). It should be noted that the provisional governments that were established under the Reconstruction Acts of 1867 are not lawful governments of a State under the Constitution of the United States.

11/ 39th Congress, 2d Sess. - Senate Mis. Doc. No. 2

Reconstruction Acts of 1867 were enacted to implement the provisions of the December 5th, 1866 Senate Resolution (*supra.*), the Reconstruction Acts and the Senate Resolution are repugnant to each other.

The bodies of the Reconstruction Acts are repugnant to the headings of those Acts in that the headings identified the States with unlawful governments and then the bodies mandated that the unlawful governments of those identified States shall adopt Amendments (*14th & 15th*) to the U.S. Constitution.

## Proclamations of Ratification

There are no Proclamations of Ratification for the U.S. Constitution, 14th Amendment. The former U.S. Secretary of State, William H. Seward issued two documents to the newspapers that have the appearance of being recorded as Proclamations of Ratification. The first was issued on July 20th 1868 /12 and the second was issued on July 28th 1868. /13

U.S. Secretary of State, William H. Seward, qualified the first Proclamation by stating that he had serious questions regarding the "*documents*" of ratification he received from several States. In separate paragraphs, William H. Seward separated the documents that had been received from the southern States from the documents received from the other States of the Union. He also made a point not to identify the documents from the southern States of the Union as being "*official notices*" by leaving off those words as he used in describing the documents received from the other States of the Union.

U.S. Secretary of State, William H. Seward also identified the southern States as being: "*newly constituted and newly established bodies avowing themselves to be and acting as the Legislatures, respectively, of the States of Arkansas, Florida, North Carolina, Louisiana, South Carolina, and Alabama*." With the use of the word "*avowing*," the U.S. Secretary of State expressed doubt as to the legitimacy of the Legislatures of the named States. Another issue of doubt

12/ see 15 Stat. Lg. 706.

13/ see 15 Stat. Lg. 708.

that was raised by the U.S. Secretary of State, William H. Seward, was the conduct of two States, (*Ohio and New Jersey*) to withdraw their consent of ratification on the U.S. Constitution, 14th Amendment.

In concluding, within the purported Ratification Proclamation of 15 Stat. Lg. 706, the U.S. Secretary of State declared that "*if*" the Legislatures of the southern States are legitimate and the States of Ohio and New Jersey had no authority to withdraw their consent of ratification, the 14th Amendment stands ratified. But this is also a statement that the U.S. Constitution, 14th Amendment failed ratification if the Legislatures of the southern States have no lawful standing to cast votes of ratification and/or the States of Ohio and New Jersey were authorized to withdraw their consent of ratification.

Apparently the U.S. Congress of 1868 was not comfortable with the Proclamation and adopted a Resolution wherein the U.S. Secretary of State was "*Ordered*" to acknowledge the Legislatures of the southern States as having lawful standing to cast votes of ratification on the 14th Amendment to the Constitution of the United States of America: /[14]

> "….. *Resolved by the Senate (the House of Representatives concurring,)* That said fourteenth article is hereby declared to be a part of Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." /[15]
>
> "*Resolved*, That the House of Representatives concur in the foregoing concurrent resolution of the Senate 'declaring the ratification of the fourteenth article of amendment of the Constitution of the United States.'" /[16]

In response to the above stated Concurrent Resolution of Congress, the U.S. Secretary of State issued forth a purported Proclamation of Ratification /[17] wherein he made it clear that he had reservations and the Proclamation was not an issuance of his free will:

> "….. Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States in execution ….. of the aforesaid concurrent resolution of the 21st of July, 1868, **and in conformance thereto**, do hereby direct the said proposed amendment to the

14/ U.S. Congress, House and Senate Concurrent Resolution dated July 21st 1868 as recorded within the purported Proclamation of Ratification dated July 28th 1868 (15 Stat. 710-711).

15/ Resolution of the Senate July 21st 1868 as printed in the Journal of the Senate, Pg. 709.

16/ Resolution of the House of Representatives July 21st 1868 as printed in House Journal, 40th Congress, Sess. 2, Pg. 1126.

17/ Proclamation dated July 28th 1868 (15 Stat. 708-711).

> Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States …. and do hereby certify that the said proposed amendment has been adopted in the hereinbefore mentioned by the States **specified in the said concurrent resolution**, ….” [Emphasis Added]

The U.S. Secretary of State’s Proclamation of Ratification of July 28th 1868 raises questions as to whether the July 21st 1868 Concurrent Resolution of Congress was lawful and imposed a ministerial duty upon the U.S. Secretary of State of the United States.

## Congressional Concurrent Resolution of July 21st 1868

Looking to the Concurrent Resolution, we find that it is an “*Order*” that was never submitted to the President of the United States for his approbation as required by Article I, Clause 7, Section 3 of the U.S. Constitution. This is not a Concurrent Resolution proposing Amendments which is not required to be submitted to the President of the United States for his approbation /[18] nor is it a Concurrent Resolution that is required to be passed upon by a two-thirds vote of both Houses of Congress. As this Concurrent Resolution is a Resolution/Order that is required by the U.S. Constitution to be submitted to the President of the United States for his approbation, it is not a lawful Concurrent Resolution imposing ministerial duties upon the U.S. Secretary of State of the United States. It should be noted that this Concurrent Resolution may not be lawful as it was submitted and addressed directly to the Secretary of State /[19] and was not recorded in the Statutes at Large of the United States as required by law. /[20]

Furthermore, the U.S. Congress exceeded its authority in adopting said Concurrent Resolution as it ignored the law of the FIFTEENTH CONGRESS, Sess. I, Ch. 80 that mandated that the States of the Union were to submit their “*Official Notices*” of ratification to the U.S. Secretary of State of the United States. Under the law, the States had no authority to submit their “*Official Notices*” of

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18/ see Hollingsworth v. Virginia, 3 Dallus 378.

19/ This statement of fact appears in the purported Proclamation of Ratification dated July 28th 1868.

20/ see Section 1 of the law of FIFTEENTH CONGRESS. Sess, I. Ch. 80 (1818). **Note:** The Concurrent Resolution of Congress was passed by a simple majority vote of both Houses with a large number of the members of both Houses abstaining from voting. It is obvious that the Congress did not have a 2/3rd vote majority to override a *Veto* of the President of the United States and that is most likely the reason why the Concurrent Resolution was never submitted to the President for his approbation and not being published in the record of the United States Statutes at Large.

ratification to the Congress of the United States and the U.S. Congress had no authority to review any "*Official Notice*" of ratifications that may have been received by the U.S. Secretary of State. The U.S. Congress never repealed or made any amendments to the above said law.

Upon the enactment of FIFTEENTH CONGRESS, Sess. I, Ch. 80, the U.S. Congress openly declared that the receiving of "*Official Notices*" of ratification of Constitutional Amendments is a constitutional function of the Executive Department of the United States. Under the doctrine of separation of powers, the U.S. Congress had no authority to delegate its legislative functions to any other branch of government, including the Executive Branch. Upon the enactment of the above named law, the U.S. Congress makes the admission that the receiving of "*Official Notices*" of ratification of proposed Amendments to the United States Constitution is not a legislative function.

We also have an issue of "*Repugnance*" as the July 21st 1868 Concurrent Resolution is in direct conflict with Section 6 of the Reconstruction Act of March 2nd 1867 and the Reconstruction Act of July 25th 1868. As noted earlier in this Proclamation, the Reconstruction Act of March 2nd 1867 has declared that several southern States had unlawful State governments and that the U.S. Congress had, by Resolution, declared that those States with unlawful governments had no authority to cast votes of ratification on proposed Amendments. We also noted that the U.S. Congress declared by Section 6 of the Reconstruction Act of March 2nd 1867 that the southern States that had been identified as having unlawful State governments were not to be reinstated into the Union with lawful governments until the people of those States were admitted into representation of Congress by an act of law.

The Congress of the United States reiterated its position in the Supplemental Acts of Reconstruction dated June 25th 1868:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a **State of the Union** when ...." /[21]

with additional stipulations being imposed upon the States of Georgia and Texas.

21/ Reconstruction Act of June 25th 1868 (*FOURTIETH CONGRESS. Sess. II, Ch. 70*).

The Congress of the United States made no repeals or amendments to Section 6 of the Reconstruction Act of March 2nd 1867 nor has Congress ever made any repeals or amendments to the Reconstruction Act of June 25th 1868. As the Concurrent Resolution of July 21st 1868 was enacted after the dates of the enactment of the Reconstruction Acts of 1867-68 and is repugnant to the Acts of Reconstruction, the Concurrent Resolution must be declared "*Void*" and without any effect.

## Effective Date of Ratification / Rejection of Amendments

The Federal Courts of the United States of America have made rulings regarding the effective date as to when a proposed Amendment takes effect. The Courts have ruled that Constitutional Amendments take effect (*whether they have been adopted or rejected*) on the date when the last State Legislature acquired the one-forth of the States to have rejected the Amendment or when the last State Legislature acquired the three-fourths of the States to have ratified the Amendment. The effective date of passage or rejection of a proposed Amendment to the United States Constitution is not dependent upon the issuance of a Proclamation of Ratification by the U.S. Secretary of State (*or the Archivist of the United States*). /[22] The records of the House and Senate Journals of the States that were in the Union prior to the enactment of the March 2nd 1867 Reconstruction Act shows that the Legislatures of the States have cast more than one-forth (¼) of the votes that results in the rejection the 14th Amendment to the Constitution of the United States.

## Official Notices of Rejection

The record of the purported Ratification Proclamation of July 28th 1868 shows that the Legislatures of the southern States cast votes of rejection on the proposed 14th Amendment to the U.S. Constitution prior to the enactment of the March 2nd 1867 Reconstruction Acts. We also have the official records of the House and Senate Journals of the States of the years of 1866-67 showing the State Legislatures that cast negative ratification votes. From my past inquiries of the United States Department of Archives, it appears that several of these "*Official Notices*" are not in the possession of the Archivist of the United States.

22/ Dillon v. Gloss, 41 S.Ct. 510, 256 U.S. 368, 65 L.Ed. 994; U.S. ex rel Widenmann v. Colby, 265 F. 998, aff. 42 S.Ct. 169, 66 L.Ed. 400.

The 1867-68 Congress of the United States has admitted within resolutions and enactments of laws that the votes of rejection cast by the Legislatures of the southern States on the proposed 14th Amendment to the U.S. Constitution prior to March 2nd 1867 were votes cast by lawful governments of those States. No attempt has ever been made by the U.S. Congress to declare that those votes of rejection were unlawful and/or void. If the votes of ratification cast by the southern States under the Reconstruction Acts of 1867 were votes cast by unlawful State governments, then the votes of rejection must stand and the U.S. Constitution, 14th Amendment fails adoption for being rejected by more than one-forth (¼) of the States in the Union.

The following votes of rejection are recorded in the U.S. Secretary of State's Ratification Proclamation of July 28th 1868:

- Texas on November 1st 1866
  (House Journal 1866, pp. 578-584 - Senate Journal 1866, p. 471);
- Georgia on November 13th 1866
  (House Journal 1866, p. 68 - Senate Journal 1866, p. 8);
- North Carolina on December 4th 1866
  (House Journal 1866-1867, p. 183 - Senate Journal 1866-1867, p. 138 );
- South Carolina on December 20th 1866
  (House Journal 1866, p. 284 - Senate Journal 1866, p. 230);
- Virginia on January 9th 1866
  (House Journal 1866-1867, p. 108 - Senate Journal 1866-1867, 101);
- Kentucky on January 10th 1867
  (House Journal 1867, p. 60 - Senate Journal 1867, p. 62);
- Delaware on February 7th 1867
  (House Journal 1867, p. 223 - Senate Journal 1867, p. 808);
- Maryland on March 23rd 1867
  (House Journal 1867, p. 1141 - Senate Journal 1867, p. 808).

The votes of rejection that are not recorded in the Ratification Proclamation of July 28th 1868; but are recorded in the House and Senate Journals of the following States:

- Arkansas on December 17th 1866
  (House Journal 1866, pp. 265-268 – Senate Journal 1866, pp. 212-216);

- Alabama on December 7th 1866
  (House Journal 1866, pp. 208-215 - Senate Journal 1866, pp. 182-183);

- Florida on December 6th 1866
  (House Journal November 14, 1866, pp. 8-17, 74-81, 138-139;
  (House Journal November 30, 1866, pp. 144-145;
  (House Journal December 1, 1866, pp. 148-151;
  (Senate Journal December 3, 1866, pp. 100-105;
  (Senate Journal December 4, 1866, pp. 114-115;
  (Senate Journal December 5, 1866, p. 132);

- Mississippi on January 31st 1866
  (House Journal October 16, 1866, pp. 7-8, 27, 201-202;
  (House Journal October 16, 1866, Appendix p. 77;
  (House Journal January 26, 1867, pp. 205, 214, 251;
  (Senate Journal October 1866, pp. 168, 195-196);

- Louisiana on February 9th 1867
  ("*Joint Resolution*" as recorded on Page 9 of the "*Acts of the General Assembly*," Second Session, January 28, 1867);

- California on ???
  (House Journal of 1867-1868, p. 601).

As to why there is no record of the above States in the record of the U.S. State Department or the Archivist of the United States we may never know. But the fact that several of those State Legislatures went to great lengths to record their objections to the U.S. Constitution, 14th Amendment within their House and Senate Journals leaves no doubt that their votes of rejection were sent to the U.S. Secretary of State. You may view the House and Senate Journals of the States that cast votes of rejection at:

http://www.14th-Amendment.com/Historical_Documents/State_Journals/page_frame.htm

If the votes of ratification that were cast by the provisional Legislatures of the southern States (*that existed under the Reconstruction Act of March 2nd 1867*) were not cast by lawful State governments as proclaimed by the Congress of the United States, /[23] then the votes of rejection cast by those southern States on the proposed 14th Amendment to the United States Constitution must be the only votes

23/ see Section 6 of Reconstruction Act that was enacted into law on March 2nd 1867.

that can be classified as "*Official*" of which may be accepted by the U.S. Secretary of State (*and the Archivist of the United States*).

Another problem which has been overlooked by the U.S. Congress and the U.S. Secretary of State is that once a proposed Amendment to the Constitution of the United States has been rejected by more than one-forth (¼) of the States in the Union, the ratification process comes to an end. The U.S. Secretary of State (*and the Archivist of the United States*) has no authority to accept any changes of a vote of rejection or ratification once the ratification process came to an end. /[24] The votes of ratification by the southern States, as recorded in the Ratification Proclamation of July 28th 1868, must be declared "*Void*" and without effect as a matter of law.

## States Changing Votes of Ratification

The U.S. Secretary of State, William H. Seward, announced within the Ratification Proclamation of July 20th 1868 that the Legislatures of two States (*Ohio and New Jersey*) passed resolutions to change their votes of ratification to votes of rejection. U.S. Secretary of State, William H. Seward also announced that he believed he had no authority to determine or decide doubtful questions:

> "And whereas neither the act just quoted from, /[25] nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide doubtful questions as to the authenticity of the organization of State legislatures, or as to the power of any State legislature to recall a previous act or resolution of ratification of any amendment proposed to the Constitution; ….."

24/ The act of FIFTEENTH CONGRESS, Sess. I, Ch. 80.

25/ FIFTEENTH CONGRESS, Sess. I, Ch. 80 @ Section 2 "*And It Shall Be Further Enacted* That, whenever official notice has been received, at the Department of State, that any Amendment which heretofore has been, or hereafter may be, proposed to the constitution of the United States, has been adopted, according to the provisions of the constitution, it shall be the duty of the said Secretary of State forthwith to cause said amendment to be published in said newspapers authorized to promulgate the laws, with his certificate, specifying the states by which the same may have been adopted, and the same has become valid, to all intents and purposes, as a part of the constitution of the United States."

The Federal Courts of the United States answered the question as to whether a State may change a vote of ratification within a case of State of Idaho v. Freeman, /[26] (*involving the ratification of the Equal Rights Amendment*). The Court addressed the question in Section D of the Opinion: /[27]

> "….. The states are the entity embodied with the power to speak for the people during the period in which the amendment is pending. To make a state's ratification binding with no right to rescind would give ratification a technical significance which would be clearly inappropriate considering that the Constitution through article V gives technical significance to a state's ratification at only one time – when three-fourths of the states have acted to ratify. Until the technical three-fourths has been reached, a rescission of a prior ratification is clearly a proper exercise of a state's power granted by the article V phrase "when ratified" especially when that act would give a truer picture of local sentiment regarding the proposed amendment." /[28]

Notwithstanding U.S. Senator Sumner's expressed opinion of January 31, 1868 that the attempted withdrawal of Ohio's ratification was ineffective because the amendment was already a part of the Constitution. /[29] The Congress rejected this argument:

> "Inasmuch as the Congress did not act to declare the fourteenth amendment part of the Constitution until additional ratification over and above the ratifications of the loyal states had been certified, it is plausible to infer that the view expressed by Senator Sumner and Congressman Bingham that the amendment had become effective before further ratifications or attempted withdrawals were made had been rejected." /[30]

From the Opinion of the Federal Courts and the above position taken by the U.S. Congress, the Legislatures of the States of Ohio and New Jersey had standing to rescind their votes of ratification and as such, their votes of "*rejection*" must be received by the U.S. Secretary of State (*and the Archivist of the United States*) as the "*Official Notice*" of those States.

## Unlawful State Legislatures

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26/ State of Idaho v. Freeman, 529 F. Supp. 1107.

27/ State of Idaho v. Freeman, 529 F. Supp. 1107 @ 1146.

28/ State of Idaho v. Freeman, 529 F.Supp. 1107 @ 1150.

29/ Cong. Globe 40th Cong., 2d Sess. 877 (1868).

30/ State of Idaho v. Freeman, 529 F.Supp. 1107 @ 1143.

The Legislature of the State of Oregon gave notice to the Congress of the United States that the Oregon Legislature that ratified the 14th Amendment to the U.S. Constitution was not a lawful Legislature of the State. The State of Oregon Legislature further gave notice that it has, by resolution, withdrawn the vote of ratification as cast by the unlawful Legislature and on December 14th 1868 voted to reject the Amendment. /[31]

As the Congress of the United States has already declared by law that no State having unlawful State governments may cast votes of ratification on proposed Amendments to the Constitution of the United States and as the Federal Courts have also ruled that a State may rescind its vote of ratification before an Amendment had been rejected or ratified, the vote of rejection of the U.S. Constitution, 14th Amendment by the Legislature of the State of Oregon sets up a peculiar situation for the U.S. Secretary of State (*and the Archivist of the United States*).

As the Congress of the United States has already declared by law that States with unlawful State governments may not cast votes of ratification, the U.S. Secretary of State had a ministerial duty to withdrawal Oregon's vote of ratification from the record. Whether or not the U.S. Secretary of State may accept Oregon's vote of rejection after the States of the Union have cast more that one-fourth (¼) votes of rejection is most likely a political question that may not be addressed by the U.S. Secretary of State (*Archivist of the United States*) or by the Federal Courts.

Expressing my opinion, I believe the State of Oregon may cast a vote of rejection as being a State that had not cast a vote on the U.S. Constitution, 14th Amendment. I am not aware of any Opinion of the Congress of the United States or the Federal Courts that would bar any State Legislature who has not voted on a proposed Amendment from casting a vote of ratification or rejection after the period of time when an Amendment has been proclaimed to have been ratified or rejected.

## States Changing Votes After Amendment Has Been Rejected Or Ratified

In recent years, the Archivist of the United States has been in receipt of State Resolutions declaring that the Legislature of those States have changed their votes of "*rejection*" on the U.S. Constitution,

31/ see Miscellaneous Document No. 12, House of Congress, 40th Congress, 3d Sess. (December 14, 1868).

14th Amendment to that of being ratified. The acceptance and recording of those State Resolutions exceeds the authority of the U.S. Archivist:

> "Where a proposed amendment has been rejected by more than one-forth of the states, and rejections have been duly certified to the Secretary of State, a state which has rejected proposed amendment may not change its position, even if it might change its position while amendment is still before the people."
>
> Wise v. Chandler, 108 S.W.2d 1024, 270 Ky. 1, certiorari granted 58 S.Ct. 831.

## Political Question

In United States law, a ruling that a matter in controversy is a **political question** is a statement by a federal court declining to rule in a case because:

1. The U.S. Constitution has committed decision-making on this subject to a coordinate branch of the federal government; or
2. There are inadequate standards for the court to apply; or
3. The court feels it is prudent not to interfere.

The doctrine has its roots in the federal judiciary's desire to avoid inserting itself into conflicts between branches of the federal government. It is justified by the notion that there exist some questions best resolved through the political process, voters approving or correcting the challenged action by voting for or against those involved in the decision. Justice Felix Frankfurter was an active and eloquent exponent of maintaining and expanding the political question doctrine.

During the history of this Government only once has the validity of an Amendment to the Federal Constitution been questioned and decided. The Supreme Court sustained its jurisdiction to examine into objections to such Amendments in order to ascertain whether it is a part of the Constitution that they must enforce. This was the case of Hollingsworth v. Va. (3 Dallas, 381). But the same court holds that this rule does not hold good as to a State Constitution, it being then a political question. (Luther v. Borden, 7 How., 39.) The same court also holds that in our popular form of government the people make and unmake the Constitution. (Cohens v. Va., 6 wheat., 389.) This last case is especially appropriate to

the Reconstruction Acts, by which sovereign States were coerced to vote for ratification against their will, and to the withdrawal of ratification by Ohio and New Jersey, which were ignored by Congress. The judicial power is further considered in Gordon v. U.S. (117 U.S. 705); Wood v. Fitzgerald (3 Oreg., 568); (6th Am. & Eng. En. Of L., 908); Collier v. Frierson (24 A1A., 100); Koehler v. Hill (60 Iowa, 543); In re Gunn (50 Kans., 155); Westinghausen v. People (44 Mich., 265); Miss. V. Powell (77 Miss., 543); Prince v. Skillin (71 Mo., 367); N.J. v. Wurts (45 L.R.A. 251); State v. Pritchard (36 N.J.L., 101); State v. Rogers (56 N.J.L., 480); N.C. v. McIver (72 N.C., 76); Hudd v. Fimme (54 Wis., 318).

We find the doctrine which clearly laid down in the text of the American and English Encyclopedia of Law, volume 6, (1910 ed.) page 608 (and see note 4), in these words:

> "The courts have full power to declare that an amendment to the Constitution has not been properly adopted, even though it has been so declared by the political department of the State."

But the whole contention is well stated in Collier v. Frierson (24 Ala., 100-108). The court said:

> "We entertain no doubt that to change the Constitution in any other mode than by a convention, every requisition which is demanded by the instrument itself, must be observed and the omission of any one is fatal to the amendments. We scarcely deem any argument necessary to enforce this proposition. The Constitution is the supreme and paramount law. The mode by which amendments are to be made under it is clearly defined. It has been said that certain acts are to be done – certain requisitions are to be observed before a change can be effected. But to what purpose are those acts required or those requisitions enjoined if the legislature or any other department of the Government can dispense with them. To do so would be to violate the instrument which they swore to support; and every principle of public law and sound constitutional policy requires the courts to pronounce against every amendment which is shown not to have been made in accordance with the rules prescribed by the fundamental law."

The question is a judicial one, and that the court is not concluded by the action of the legislature is clearly defined to the correct rule laid down in the following well considered cases: 102 Cal., 133; 60 Iowa, 543; 69 Ind., 505; 15 L.R.A. 524 (Ky.); 45 L.R.A., 251 (N.J.); 44 Mich., 265; 29 Minn., 555; 72 N.C., 76; 144 U.S., 1; 146 Ind., 1; 77 Miss., 568.

If the rule laid down in 43 L.R.A., 590; in 54 Wis., 318; and in 10 S.D., 109, is the proper rule, then the Fourteenth Amendment is void because a plurality of Amendments were submitted at one time in one Resolution and to be voted on together and not separately. There are three distinct propositions clearly set forth in three different clauses of this Amendment and they are as separate from each other and as distinct as is the Thirteenth from the Fifteenth. This question

was discussed in Congress, but a radical majority would not listen to reason and could not be induced to separate them as they should have been in three separate sections.

The doctrine is also clearly stated in sixtieth Iowa, 543, that it matters not if every State in the Union should ratify the Amendments to the Constitution that it can not be recognized as valid unless such vote was had in pursuance the provisions of Article V – that is, unless proposed by "*two-thirds of both Houses*" (*which the 14th Amendment was not*.).

The case in sixtieth Iowa, on page 545; states the rule so clearly and concisely as to when court are authorized to take jurisdiction and when the question is a political one and when it is a judicial one that it ought to be convincing. The court says:

> "While it is not competent for courts to inquire into the validity of the constitution and form of government under which they themselves exist and from which they drive their power, yet, where the existing constitution prescribes a method for its own amendment, an amendment thereto to be valid, must be adopted in strict conformity to that method, and it is the duty of the courts in the proper case when an amendment does not relate to their own powers or functions to inquire whether in the adoption of the amendment the provisions of the existing constitution have been observed, and it not to declare the amendment invalid and of no effect."

There can be no doubt that the weight of judicial opinion, expressed on this subject is in favor of regarding the validity of an Amendment to the Federal Constitution as a judicial question. [***Note:*** *The U.S. House Judiciary Committee of 1910 took the position that the validity of Amendments to the U.S. Constitution was not a political question, but a judicial question for the United States Supreme Court when it reported HJR 165* /[32] *out of Committee.* /[33] ].

Then comes along the U.S. Supreme Court of 1939 wherein several members of the Court offered their personal opinions within the case of Coleman v. Miller (307 U.S. 433 @ 460):

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32/ The Resolution by Hon. T.U. Susson of Mississippi was to make it the imperative duty of the Attorney General of the United States, when an appropriate proceeding occurs, to obtain a judicial review of the Fourteenth and Fifteenth Amendments to the Federal Constitution, and thereby obtain a decision of the Supreme Court as to their validity.

33/ Sixty-First Congress, second session, on March 21, 22, 1910. - CIS US Congressional Committee Hearings Index - Part I. - CIS Microfiche [ HJ 61 K ].

> "Since Congress has sole and complete control over the amending process, subject to no judicial review, the views of any court upon this process cannot be binding upon Congress, and insofar as Dillon v. Gloss, [256 U.S. 368] attempts judicially to impose a limitation upon the right of Congress to determine final adoption of an amendment, it should be disapproved. If Congressional determination that an amendment has been completed and become a part of the Constitution is final and removed from examination by the courts, as the Court's present opinion recognizes, surely the steps leading to that condition must be subject to the scrutiny, control and appraisal of none save the Congress, the body having exclusive power to make that final determination.
>
> "Congress, possessing exclusive power over the amending process, cannot be bound by and is under no duty to accept the pronouncements upon that exclusive power by this Court or by the Kansas courts. Neither State nor Federal courts can review that power. Therefore, any judicial expression amounting to more than mere acknowledgment of exclusive Congressional power over the political process of amendment is a mere admonition to the Congress in the nature of an advisory opinion, given wholly without constitutional authority." [Emphasis added]
>
> [Opinion of Mr. Justice Frankfurter] /[34]

Notwithstanding the above opinion of Justice Frankfurter; the U.S. Senate Judiciary Committee on August 5, 1985 (*speaking through U.S. Senator Orrin G. Hatch in a letter to former U.S. Senator Ted Stevens* /[35]), took the position that the question of the validity of ratification of the Fourteenth Amendment would not be reviewed by the U.S. Senate Judiciary Committee as the question of the validity of the 14th Amendment is a Judicial Question for the U.S. Supreme Court. In addressing the two Constitutional Amendments that were brought into question, (*the Fourteenth and Sixteenth Amendments*), Senator Orrin H. Hatch had this to say:

> "Regarding his [*Mr. Epperly's]* request for a Senate investigation of these historical issues, however, I doubt it would serve any meaningful purpose. Assuming a Senate investigation were to substantiate Mr. Epperly's contentions, where would we be then? In order to actually revoke the Amendments, either the Supreme Court or the Congress would have to take some action to nullify them.

34/ Justices Frankfurter, Roberts, Black, and Douglas believe that the entire amendment process was exclusively political and involved no judicial questions.

35/ Letter of U.S. Senator Orrin G. Hatch (http://www.14th-amendment.com/Miscellaneous/Letters/U.S._Congress/Sen._Orrin_G._Hatch/page_frame.htm)

> "Although the Supreme Court has never directly ruled on the validity of these Amendments, it has tacitly accepted them by using them as the basis for many of its decisions. Furthermore, bringing such an issue before the Supreme Court would require a litigant with standing to contest the validity of the Amendments. …." [Emphasis added]
>
> Letter dated August 6, 1985
> [http://www.14th-amendment.com/Miscellaneous/Letters/U.S._Congress/Sen._Orrin_G._Hatch/page_frame.htm]

Although U.S. Senator Orrin G. Hatch used the term "*revoke the 14th Amendment*" in his letter, the Senator misconstrued the purpose of the requested hearing. The hearing was to determine the validity of the ratification of the 14th and 16th Amendments to the Constitution for the United States. If the 14th Amendment was not ratified in accordance to the provisions of Article V of the U.S. Constitution, it is void and without effect from the year it was rejected by the lawful legislatures of the States (*year of 1867*). You cannot "*revoke*" or repeal something that does not exist.

Exception must be taken to Mr. Justice Frankfurter's position that the "*U.S. Constitution grants Congress the sole and complete control over the amending process, subject to no judicial review, the views of any court upon this process cannot be binding upon Congress*." Justice Frankfurter fails to take into account that there are two parties to the Amendment process, the Congress' authority to propose Amendments and the State legislators authority to ratify those Amendments. Nowhere in Article V of the U.S. Constitution do we find exclusive authority granted to the U.S. Congress to use whatever means it may concoct or conceive to alter or change the U.S. Constitution. Justice Frankfurter also does not take into account that the U.S. Constitution proclaims itself to be a law, the supreme law of the land. /[36] and it is the property of the People of a Nation, not the Federal Courts, not the Congress of the United States, nor the Office of the President of the United States. Upon the demands of the People (*as expressed in the U.S. Constitution*), every Officer and Official of the government of the United States has taken an "*Oath of Office*" to protect and defend the U.S. Constitution and that "*Oath*" gives standing to every individual of the United States of America to demand

36/ U.S. Constitution, Article VI, Section 1, Clause 2: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; …"

accountability of the Members of Congress and the Federal Judges in the usage of invalid Amendments to the U.S. Constitution.

Within the Laws of the United States, the U.S. Congress has declared that the U.S. Secretary of State (*U.S. Archivist*) has ministerial duties in the procedure of amending the Constitution for the United States to wit:

> "Whenever official notice is received at the Department of State (U.S. *Archivist*) that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Secretary of State (U.S. *Archivist*) shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States" [Emphasis added]
>
> 5 U.S.C. 160, 5 U.S.C.A. 160.
> From Act of April 20, 1818, Sec. 2,
> 3 Stat. 439; R.S. 205.

As U.S. Secretary of State, William H. Seward declared within the first Ratification Proclamation of July 20, 1868 [15 Stat. Lg. 706] that he apparently had no authority to determine Constitutional questions as they related to his ministerial duty to issue forth Proclamations of Ratification and as the Judges of the Federal Courts have now gone on record to declare that they also have no jurisdiction to issue forth "*Orders in the Nature of Mandamus*" upon the U.S. Archivist (*U.S. Secretary of State*) to determine the Constitutional questions as they relate to his duty to issue forth Proclamations of Ratification, /[37] then may I ask: **1**. *Who has the authority to determine what is the "Official Notice" of a State that an Amendment has been adopted and;* **2**. *Who has the authority to determine if a proposed Amendment has been adopted in "according to the provisions of the Constitution?"* If these two conditions that are imposed upon the U.S. Secretary of State (*U.S. Archivist*) cannot be exercised by any means or discretion of the U.S. Secretary of State (*U.S. Archivist*) as declared by the Federal Courts, /[38] then by what authority did the U.S. Secretary of State rely upon to issue forth a "*Proclamation of Ratification*" on the Fourteenth or any other Amendments to the U.S. Constitution?

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37/ Epperly v. Allen Weinstein, Alaska U.S. District Court case No. 1:07-CV-000011-JWS

38/ U.S. ex re: Widenmann v. Colby, 265 F. 998 @ 999; Leser v. Garnett, 258 U.S. 130, 137 (1922); Epperly v. U.S. Archivist, John Carlin, U.S. District Court of Alaska case No. 597-025 Cv. (HRH)

There is a major problem with the Federal Courts imposing the political question doctrine upon the 14th Amendment to the U.S. Constitution in that the U.S. Congress has declared within the Congressional Record and within the U.S. Statutes at Large that a number of States from March 2nd, 1867 to March 10th, 1870 had unlawful governments and any State with an unlawful government had no authority to participate in amending the U.S. Constitution.

As the U.S. Congress has declared and identified those States that had unlawful governments, the U.S. Secretary of State (*U.S. Archivist*) and the Federal Courts have no authority to count the votes of ratification that were cast by State governments that were found to be unlawful by the Congress of the United States as being the "*Official Votes*" of a State. Without the votes that were cast by unlawful governments, the 14th Amendment to the U.S. Constitution must stand as being "*rejected*" by more than one-forth (¼) of the States in the Union. Under the doctrine of "*political question*," every Federal Judge is bound to the findings of Congress of the United States regarding the qualifications of a State to cast votes of ratification upon proposed Amendments to the U.S. Constitution.

The Members of the 1868 Congress exceeded their Constitutional authority when they "*Ordered*" /[39] the U.S. Secretary of State to count the ratification votes that were cast by unlawful governments as "*Official Votes*" of a State. They also exceeded their Constitutional authority when they ordered the U.S. Secretary of State to publish a Proclamation of Ratification that were founded upon those unlawful votes when the U.S. Congress had on record the votes of "*rejection*" that were cast from more than one-forth (¼) of the States with

39/ U.S. Congress, House and Senate Concurrent Resolution dated July 21st 1868 as recorded within the purported Proclamation of Ratification dated July 28th 1868 (15 Stat. 710-711) and Resolution of the Senate July 21st 1868 as printed in the Journal of the Senate, Pg. 709.

lawful governments. By the "*Oath of Office*" /[40] taken by every Federal Judge, there is no Federal Judge that has the authority to give validity to an unlawful Act of Congress.

## Conclusion

On March 2nd 1867, the Congress of the United States found the need to enact several laws to reconstruct the governments of the southern States after the end of the Civil War. Those "*Acts*" of Congress are known as the Reconstruction Acts of 1867-68. The U.S. Congress declared that the southern States named within those Reconstruction Acts as having no lawful State governments and any governments existing within those States after March 2nd 1867 were provisional military governments that were subject to the jurisdiction of the United States.

The U.S. Congress went on to declare that those southern States would be recognized as having lawful State governments after they have met several stipulations. Among the stipulations imposed by Congress was that no State would be recognized as having lawful State governments until the people of those States were admitted into representation of Congress by an Act of law. To qualify for Congressional representation, the southern States had to adopt new State Constitutions that were republican in form which met the mandates of the proposed U.S. Constitution, 14th Amendment. Further stipulations required the Legislatures to ratify the present day 14th Amendment to the United States Constitution. The U.S. Congress later enacted laws proclaiming that the southern States had adopted State Constitutions that were republican in form and that many of those States would be qualified to be admitted into representation in Congress after the President of the United States had issued forth a Proclamation, a Proclamation that named the southern States that ratified the U.S. Constitution, 14th Amendment.

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40/ Title 28, Chapter I, Part 453 - "I, [NAME], do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as [TITLE] under the Constitution and laws of the United States. So help me God "

U.S. Constitution, Art. VI, Sec. 3, Cl. 1 – "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, **and all** executive and **judicial Officers**, both of the United States and of the several States **shall be bound by Oath or Affirmation, to support this Constitution**; … "

An argument might be made that the provisional governments of the southern States were authorized to ratify Constitutional Amendments when the U.S. Congress declared by Act(s) of Law /[41] that the southern States had adopted State Constitutions which were republican in form. This is an erroneous conclusion as the President of the United States was required by the law of those Acts to publish Proclamations of Ratification for each of those States when they ratified the U.S. Constitution, 14th Amendment (*or when Congress declared by law that a State had adopted a State Constitution and had ratified the U.S. Constitution, 14th Amendment*).

The status of "*lawful State governments*" came *after* the President of the United States or the U.S. Congress proclaimed that the military provisional governments of the southern States had ratified the U.S. Constitution, 14th Amendment. We must not forget that the March 2nd 1867 Reconstruction Act is the controlling law and Section 6 of that Act declared that the southern States shall have provisional military governments until the people of those States had been admitted to representation in the Congress of the United States, a privilege that would not be allowed to take place until the military provisional governments of the United States had ratified the U.S. Constitution, 14th Amendment.

We must ask: "*Is a State that has been declared by the U.S. Congress as having an unlawful State government and that the people of that State shall no longer have representation in the U.S. Congress a State under the provisions of Article V of the United States Constitution*?" The answer to the question must be "*NO*!" We have to look no further than the last sentence of U.S. Constitution, Article V for the answer to the question: ". . . . *and that no State, without its consent, shall be deprived of its equal suffrage in the Senate*." Several of the southern States were original signatories to the U.S. Constitution and others were admitted into the Union on equal footing with the original thirteen States. Each one of those States had representation in the Congress of the United States and they had rights of suffrage in the Senate. The moment they ceased to have the authority of suffrage in the Senate, the States ceased to have the status of Statehood and being a State of the Union. Further evidence that the southern States did not have the status of Statehood under the Reconstruction Acts is found in the Concurrent Resolution of July 28, 1868 /[42] wherein

41/ FORTIETH CONGRESS, Sess. II. Ch. 69; FORTY-FIRST CONGRESS, Sess. II. Ch. 10; FORTYFIRST CONGRESS, Sess. II, Ch. 19; FORTY-FIRST CONGRESS, Sess. II, Ch. 39.

42/ FOURTIETH CONGRESS, Sess. II. Res. 58 (July 28, 1868).

the U.S. Congress declared that the southern States had no standing to cast votes in the Electoral College.

What makes a government of a State different from that of a government of a Territory when they both have Legislatures and Governors. The differences that distinguishes one from the other is that a State has representation in the U.S. Congress and a Territory has none and a State exercises sovereign authority of a country to govern itself under a Constitution where a Territory is governed by the whim of a Congress representing an incorporated political body. When the 1867 Congress of the United States declared that the southern States had unlawful State governments and then declared that from March 2nd 1867 that the governments of those States are to be governed by provisional military governments that is subject to the jurisdiction of the United States, the U.S. Congress declared that those States no longer had the status of Statehood. The 1867 Congress of the United States reduced those States from being States of the Union with sovereign powers to being nothing more than "*Property*" or "*Territories*" of the incorporated United States that were governed in a manner set forth and under the authority of Article IV, Section 3, Clause 2 of the United States Constitution.

Can the U.S. Congress "*Order*" a Legislature of a Territory or Possession of the United States to cast votes of ratification upon proposed Amendments to the U.S. Constitution? There appears to be no restrictions in the U.S. Constitution that would bar such an *Order*, but does the U.S. Congress have the authority to issue forth an *Order* upon the U.S. Secretary of State (*or the Archivist of the United States*) to accept those "*Notices of Ratification*" of a Territory, Military District, or Property of the United States as "*Official Notices*" of a State? The answer is "*NO*" as Territories, Military Districts, or Possessions of the United States are not States of the Union and Article V of the U.S. Constitution declares that only the States of the Union may cast votes on proposed Constitutional Amendments. The same jurisprudence mandates that the ratification votes that are cast by unlawful governments may not be accepted as "*Official Notices*" of a State. The U.S. Congress of 1867 removed the southern States of their status of "*Statehood*" and notwithstanding the Concurrent Resolution of Congress *Ordering* the U.S. Secretary of State to issue forth a Proclamation of Ratification, no authority may be found that authorizes the U.S. Secretary of State to accept any Notices of Ratification from any southern State during the Reconstruction years in history.

The final question to be presented: "*By what authority did the Congress of the United States rely upon to issue forth the Reconstruction Acts of 1867*?" We know that the war began with the issuance of a Presidential Proclamation /[43] and we also know that the war was brought to an end by an issuance of a Presidential Proclamation. /[44] Absence of an Application of a State Legislature or the Executive of a State to put down domestic violence, /[45] or the U.S. Congress issuing forth a "*Declaration of War*," /[46] there is no authority for the U.S. Congress to invade and occupy a State of the Union, especially when

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43/ PRESIDENT'S PROCLAMATION.
WASHINGTON, D. C.,
April 15, 1861.

"Whereas the laws of the United States have been for some time past, and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the Marshals by law,

**"Now therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution, and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed. The details, for this object, will be immediately communicated to the State authorities through the War Department.**

"I appeal to all loyal citizens to favor, facilitate and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government; and to redress wrongs already long enough endured.

"I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of, or interference with, property, or any disturbance of peaceful citizens in any part of the country.

"And I hereby command the persons composing the combinations aforesaid to disperse, and retire peaceably to their respective abodes within twenty days from this date.

"Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers, at 12 o'clock, noon, on Thursday, the fourth day of July, next, then and there to consider and determine, such measures, as, in their wisdom, the public safety, and interest may seem to demand.

**"In Witness Whereof I have hereunto set my hand, and caused the Seal of the United States to be affixed.**

"Done at the city of Washington this fifteenth day of April in the year of our Lord One thousand,
Eight hundred and Sixty one, and of the Independence the United States the Eighty fifth."

(Signed) ABRAHAM LINCOLN,
President of United States.
By W. H. SEWARD, Secretary of State.

the President of the United States had declared that the insurrection was at an end and the southern States were at peace and being governed by lawful civil authorities. /[47]

The Congress of 1867 was also barred to invade and occupy the southern States by a compact agreement that was entered into by the States known as the "*Articles of Confederation*" of November 15, 1778. At Article II we find that the States declared: "*Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this Confederation expressly delegated to the United States in Congress assembled."* The States also declared at Article XIII, Paragraph 2, that the Union of States under the Articles of Confederation shall be perpetual.

On September 17, 1787; the States declared that they created a Constitution for the United States which defines the powers of the United States and the States of the Union. This Constitution was approved by the United States in Congress and by the States as mandated by Article XIII of the Articles of Confederation. Shortly after the States ratified the U.S. Constitution, the States found the need to adopt a Bill of Rights wherein the States reaffirmed their sovereign powers and rights at Article X. /[48] The provisions of the Articles of Confederation which have not been altered by the U.S. Constitution are still in effect today. /[49] Under the Articles of Confederation, the northern States (*sitting in U.S. Congress*) had no authority to invade and dissolve any rights or the sovereignty of any southern State or prevent any southern State from being represented in the U.S. Congress.

We have seen Federal Judges and Members of Congress telling the people that the U.S. Constitution, 14th Amendment is valid because it has been in use for several years. This is a statement that

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44/ ". . . And I do further declare that the said insurrection is at an end, and that peace, order, tranquility and civil authority now exist in and throughout the whole United States of America." (*Proclamation of the President dated August 20, 1866 [14 Stat. Lg. 814-817]*).

45/ see U.S. Constitution, Article IV, Section 4, Clause 1.

46/ see U.S. Constitution, Article I, Section 8, Clause 11.

47/ ". . . And I do further declare that the said insurrection is at an end, and that peace, order, tranquility and civil authority now exist in and throughout the whole United States of America." (*Proclamation of the President dated August 20, 1866 [14 Stat. Lg. 814-817]*).

48/ "U.S. Constitution, Article X of the Bill of Rights: '*The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or its people*.'"

49/ see Texas v. White, 74 U.S. 700.

their *Oath of Office* to protect and defend the U.S. Constitution does not apply to them. There are no provisions in the U.S. Constitution that provides a procedure to amend the Constitution by fraud or deception. The U.S. Constitution 14th Amendment was rejected by more that one-forth (¼) of the States in year of 1867 and therefore the Amendment does not exist today.

## NO REDRESS OF GRIEVANCE OR ADMINISTRATIVE PROCEDURES AVAILABLE TO THE PEOPLE.

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
>
> U.S. Constitution, Article I of the Bill of Rights

When all three branches of the Federal Government work hand in hand to deny the People of their right to question the validity of Amendments to the U.S. Constitution, the People have been denied their rights to Petition the Government for a redress of grievance under the authority of the Bill of Rights to the U.S. Constitution. Several legislatures of the states and the people in their individual capacities have petitioned the Judicial Officers of the Federal Courts, Archivist of the United States, and the Congress of the United States over the years to come forward and give answers to their use of invalid Amendments to the U.S. Constitution with their Petitions falling on deaf ears. As the Officers of the government of the United States refused their duty of "*Oath of Office*" to protect and defend the Constitution of the United States, the U.S. Constitution ceases to be a viable document. The people in their sovereign capacity under the authority of the Declaration of Independence of July 4, 1776 hereby declares that the Fourteenth Amendment to the U.S. Constitution is invalid for being rejected by more than one-forth (¼) of the lawful States that were in the Union during the year of 1867. All legislative Acts of Congress, Executive Orders of the President of the United States, and rulings of the Federal Courts that were made under the purported authority of the Fourteenth Amendment to the U.S. Constitution are hereby declared void ab initio.

All administrative and judicial remedies have been exhausted:

1. Epperly v. United States A Complaint challenging the Constitutionality of the Ratification of the U.S. Constitution, 14th Amendment U.S. District Court for the District of Columbia, Federal Case No. 90-1103-CRR [*No statutory jurisdiction – Court transferred case to U.S. District Court for District of Alaska*]

2. Epperly v. United States A Complaint challenging the Constitutionality of the Ratification of the U.S. Constitution, 14th Amendment U.S. District Court for the District of Alaska Federal Case No. J90-010-CV [*No Jurisdiction – Case dismissed as being a Political Question to which the Court could not address*.]

3. Appeal to U.S. Court of Appeals, (Epperly v. United States) Case No. 91-35862 [*Court dismissed case as a Frivolous Appeal – Imposed a $2,500.00 sanction upon the Appellant, Epperly*]

4. Petition for Writ of Certiorari, U.S. Supreme Court (Epperly v. United States) Case No. 93-170 [*Court dismissed Petition without comment*.].

5. Epperly v. United States A Complaint before the United States Court of Federal Claims to investigate the ratification the U.S. Constitution, 14th Amendment U.S. Court of Federal Claims Federal Case No. 95-CV-281 [*No statutory jurisdiction – case dismissed*.].

6. Epperly v. United States Archivist Petitioning the Archivist to investigate and correct the record to show all the States that cast negative ratification votes on the U.S. Const., 14th Amendment U.S. District Court for the District of Alaska Federal Case No. J97025CV [*Archivist declares no jurisdiction to correct the ratification record on the 14th Amendment – Court dismisses case as Political Question*.].

7. Epperly v. U.S. Congress (United States) Challenging the Constitutionality of the Reconstruction Acts of 1867 U.S. District Court for the District of Alaska Federal Case 1:06-CV-00008-JWS [*No Jurisdiction – Case dismissed as Political Question*.].

8. Epperly v. Allen Weinstein Petition for an Order in Nature of Mandamus to be issued upon Allen Weinstein as Archivist of the United States U.S. District Court for the District of Alaska Federal Case 1:07-CV-00011-JWS [No jurisdiction – Case dismissed as Political Question. **Note:** Petitioner, Mr. Epperly, was informed that he would be sanctioned by the Appellate Court in excess of $10,000.00 if he filed a "*Notice of Appeal*." As he was sanctioned $2,500.00 in an earlier Appeal, he had no doubt that he would be sanctioned by the U.S. Ninth Circuit Court of Appeals in this case. No "*Notice of Appeal*" was filed.].

9. Numerous letters were mailed to Members of the U.S. House Judiciary Committee requesting a Committee investigation into the ratification of the 14th Amendment to the U.S. Constitution. [*No letters of response ever received*. -- *U.S. House Judiciary Committee of March 20, 1910 declares that the question of validity regarding Constitutional Amendments is a Judicial Question for the U.S. Supreme Court*.].

10. Numerous letters have been mailed to Members of the U.S. Senate Judiciary Committee requesting a Committee investigation into the ratification of the 14th Amendment to the U.S. Constitution. [*Received a letter from U.S. Senator Orrin G. Hatch addressed to U.S. Senator Ted Stevens – Request denied as being a Judicial Question for the U.S. Supreme Court*.].

The "*Oath of Office*" of a Public Official is a statement of a duty, the duty to protect and defend the U.S. Constitution. It has nothing to do with an individual's standing in a Court of Law nor does it have anything to do with the jurisdiction, rules, or procedure of a Court. Every Federal Judge and the Members of Congress have a duty to protect and defend the U.S. Constitution and it is time for the Federal Judges and Congressmen to come forward and do their duty by informing the People of the truth behind the purported ratification of the U.S. Constitution, 14th Amendment and stop the fraud, lies, and deception.

Because the U.S. Congress and the Federal Courts abandon the U.S. Constitution in the year of 1867, there is a want of a dejure government. As there is no longer a dejure government of the united States of America, there are no lawful Corporations which includes the incorporated United States, the incorporated BAR Associations, the incorporated State(s) of …., Personal Corporations, etc., and none are recognized to exist. /[50]

As there are no Constitutional Amendments that defines a citizen, the term "*citizen*" must be given the definition as it was understood to be at the time the U.S. Constitution was adopted by the States. As the Fourteenth Amendment to the U.S. Constitution was expressly rejected by more than one-forth (¼) of the lawful States in Union, we find ourselves with a defacto President of the United States as Barack Obama is not a "*natural born citizen*" as required by Article II, Section 1, Clause 5, of the U.S. Constitution. /[51] All legislation signed into law and judicial appointments made by Barack Obama must be declared to be null and void ab initio.

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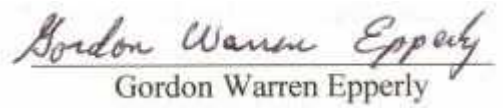
50/ see Corporations defined (Dartmouth College v. Woodward, 4 Wheat. Rep. 626). **Note:** The 1861 U.S. Congress walked out without day which ended the dejure government of the united States of America. With the northern States sitting as the U.S. Congress of 1862-1868 and declaring that the southern States would not be allowed Congressional representation as mandated by Article V of the U.S. Constitution, is further evidence that the dejure government of the United States ceased to exist. The northern States sitting as the U.S. Congress and declaring that the southern States would not be allowed to participate in the debates or votes for altering the U.S. Constitution with the proposed 13th, 14th, and 15th Amendments is also a statement that the dejure government of the united States of America ceased to exist. Without a dejure government, there is no lawful authority for the united States of America to create Corporations, including the incorporating of the District of Columbia in the year of 1868. (*dba United States*).

51/ Barack Obama is of Negro descent and as such, he cannot be a U.S. citizen (see Dred Scott v. Sanford, 60 U.S. 393). Even if the Fourteenth Amendment was found to be a legitimate Amendment to the U.S. Constitution, Barack Obama would still only be a "*native born*" citizen of the United States. As Barack Obama's father was not a citizen of the United States, Obama's birth in the United States does not make him a "*natural born*" citizen, but made him a "*native born*" citizen. "*Native born"* citizens and "*natural born"* citizens are not the same nor do they have the same status under the U.S. Constitution. The requirement for the Office of the President of the United States does not recognize "*native born*" citizens as a qualification for Office.

IN WITNESS WHEREOF I have hereunto set my hand. Done at Juneau in the Republic of Alaska State on the twentieth day of November in the year of our Lord two thousand and ten and in the two hundred and thirty fourth year of the independence of America.




http://www.14th-amendment.com/

**This "*Proclamation*" with a "*Complaint*" was mailed to and received by the below named individuals on December 6, 2010. Not one of the below named individuals acknowledge receipt nor gave an answer to the Complaint or Proclamation.**

U.S. Supreme Court Justice Antonin Scalia
U.S. Supreme Court Justice Anthoney M. Kennedy
U.S. Supreme Court Justice Ruth Bader Ginsburg
U.S. Supreme Court Justice Stephen G. Breyer
U.S. Supreme Court Justice John G. Roberts , Jr.
U.S. Supreme Court Justice Samuel A. Alito , Jr.
U.S. Supreme Court Justice Sonia M. Sotomayor
U.S. Supreme Court Justice Clarence Thomas
U.S. Supreme Court Justice Elena Kagon
U.S. Senator Orrin G. Hatch
U.S. Senator Daniel K. Inouye (*Speaker of Senate Pro temp*)
U.S. Representative John Boehner (*Speaker of House [Elect])*
U.S. Representative Nancy Pelosi (*Speaker of House*)
U.S. Archivist David S. Farriero