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The Integration Amendment: Was It Ever Legally Adopted?

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The 'Integration' Amendment: Was It Ever Legally Adopted?

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Almost a hundred years ago, the 14th Amendment was placed in the Constitution. The word "placed" in the Constitution is used emphatically, because it was never legally submitted and never legally adopted. It was placed in the Constitution by armed troops and at the point of a bayonet.

Today, the troops are back again attempting to enforce newly conceived court orders, hinged upon the amendment and piously trumpeted as the "law of the land."

The ghosts of Thaddeus Stevens and Charles Sumner are again stalking the land. The 14th Amendment was largely the handiwork of those two vengeful and bitter old men. They were consumed with a remorseless desire to further punish and debase the defeated enemy. Stevens was a congressman from the Gettysburg area of Pennsylvania, and Sumner was senator from Massachusetts. Stevens was a sick and dying old man, driven and sustained by a passionate desire to bring about the adoption of the amendment and the impeachment of President Johnson.

During the height of the turmoil, a fiery young congressman from South Carolina entered the Senate chamber and caned and beat Senator Sumner almost to death on the Senate floor.

During the early days of 1866, the seats of the senators and House members from ten Southern states were empty, the Southern members having been met at the door and turned away. Lincoln, the South's only hope for succor, lay dead of the assassin's bullet. Out of such turbulance the 14th was born, and started its doubtful journey toward a berth in the Constitution.

CONFLICTING CONTENTIONS

In order to obtain a comprehensive understanding of the conditions out of which the amendment grew, it is first necessary to examine the contentions of the conflicting parties that carried them into the Civil War and emerged with them therefrom.

It was the contention of the Southern States that they had the legal and inherent right to secede from the Union; the North said they did not. It is said that the question of States Rights was settled by the arbitrament of the sword. Such is not true. The power to secede was all that was settled by the War. The argument as to the right to secede went on long after the War under the tutelage of Alexander H. Stephens, of Georgia, until it became, with the changing times, a mere academic vestige of the tragic era that gave it birth.

Now it was the contention of the North that the Southern states did not secede, that they never left the Union. Therefore, when the War was over, the only status they could assume was the status quo. That is, they were still states of the Union, and entitled to the rights, privileges and obligations thereof. If they were not, then the North was guilty of the most flagrant aggressive war in history.

AMENDMENT STAGE SET

So this is the stage as it was set when the amendment was started on its journey. The amendment was offered under the provisions of Aaticle V of the Constitution, and that is, the amendment was proposed by Congress, which required the votes of two thirds of the members for submission, and the votes of three fourths of the states after submission, before ratification could be had.

Therefore, in order to get the resolution of submission through the Congress, it became necessary

was roundly defeated, some Northern states voting against it. Only Tennessee in the South voted for it. The Southern states rejected it. They were: Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas.

The Republican rump Congress was infuriated. Under the prodding of Stephens, Sumner and others, they set in motion the most incredible series of events any nation in the English world ever witnessed.

RECONSTRUCTION ACT

On March 2, 1867, they rammed through the rump Congress the Reconstruction Act. (14 Stat. 428, Ch. CLIII.

It destroyed and abolished civil government in the ten Southern States above mentioned.

It divided the said ten Southern States into five military districts, with a general of the rank of brigadier general or higher in each district. The army invaded the South, abolished all semblande of civil government and set up military rule. Governor Clark, of Mississippi, infirm and crippled, was dragged from the mansion and sent to a military prison in Georgia.

It disfranchised all voters or qualified electors, and directed the army to set up a registration of its own. This was done by registering only Negroes, carpetbaggers and scalawags.

It provided that military rule should continue in all of the states, not only until a particular state had adopted the 14th Amendment, but that it should continue in all of the states until the amendment was ratified in a sufficient number of states to insure its adoption.

Legislatures were herded together in the various states, consisting in all cases of ignorant and illiterate Negroes under the domination of carpetbag adventurers and camp followers who had drifted after the army when it moved southward.

ADOPTED BY FORCE

The amendment was dopted and in 1868, the Secretary of State rather doubtfully issued a proclamation announcing its adoption and insertion into the Constitution.

The army remained for years, in some states longer than others. Three states, Louisiana, Florida and South Carolina never got rid of it until they traded it out of their states by giving their electoral votes to Republican Hayes, instead of Tilden, Democrat, in 1876.

The states did not take it lying down, although there was little they could do. Some of them did not wait to attack the amendment, but attacked the validity of the Reconstruction Act itself. Their suits got nowhere. The courts simply refused to rule one way or the other. Mississippi was one of those bringing such a suit.

In an article published in the Louisiana Law Journal, in 1953, entitled "The Dubious Origin Of The Fourteenth Amendment," Mr. Walter J. Suthon Jr. of the New Orleans Bar, quotes Senator Doolittle of Wisconsin, a Northerner and Conservervative Republican, as stating upon the floor of the Senate:

"My friend has said what has been said all around us, what is said every day: the people of the South have rejected the constitutional amendment, and therefore we will march upon them and force them to accept it at the point of the bayonet, and establish military power over them until they do adopt it."

Mr. Sutton also quotes the case of Mississippi vs. Johnson (4 Wall. 475) an injunction suit brought by the State of Mississippi against

a century of its existence, the 14th Amendment has been seized upon by big government and the bureaucratic socializers to intrude into the affairs of the states and of the people, and set up a virtual socialist dictatorship.

TURN TO COURTS

The instrumentality they have employed to accomplish this nefarious purpose is the Federal judiciary. Although Congress has cravenly handed over most of its constitutional powers to a grasping executive, still it has never yielded on the school issue and has never, even if it could, passed any law giving the national government any right to intermeddle in the education and nurture of our youth.

So, frustrated in their effort to gain sanction from the only law making body in the land, the socializers turned to the courts. Eager to covert heir illegal acts with the cloak of legal respectability, they began the process of wearing down the courts. Aided by the encroachment of time and the sole right of appointment and replacement, they finally, to the shame and disgrace of the nation, had their way. The 14th Amendment was the big lever they employed.

Thomas Jefferson said when the national government was set up, that the germ of dissolution of the Republic was implanted in the Federal Judiciary, with its lifetime politically appointed judges. One of his biographers states that his opposition to this part of the Constitution, along with other features involving federal powers, was so great that he was sent out of the country as envoy to France while the Constitution was being debated and adopted.

WHY SUDDEN ATTACK?

The question naturally arises as to why, after almost one hundred and sixty years of reasonably harmonious co-existence between the stronger, the judiciary of the federal government, and the weaker, the states and their judiciaries, should the flood gates so suddenly open, and the rights of the states be so eagerly snatched away?

Why the almost frenzied and inordinate haste to humiliate, embarrass and debase the highest officers of the States; to strike down with impunity acts solemnly passed by the State legislatures to dash off hasty decrees, arrogantly seizing the constitutional power to apportion state legislatures; to blanket large areas of the earth with dreadful injunctions, calculated to terrify and cow the people, deprive them of jury trials, and make them cringe before tyrannical power?

The answer is simple. The weaker can only exist side by side with the stronger, when their rights aree venly equated, by a refined forbearance and an ennobling restraint on the part of the stronger. Thus it was that for so many years, relative harmony prevailed. But in this modern age forbearance has disappeared from the field, and there is no restraint, ennobling orotherwise.

INTERPOSITION STIRS

In recent years the long dormant doctrine of Interposition has begun to stir itself. The revival of the doctrine follows closely the action of the Federal Courts, relying partly on psychology and partly upon the 14th, in legislating the Federal government into the field of public education.

The doctrine means that the state interposes its sovereignty between the federal government and itself and its people in cases whre there is a "palpable" usurpation of power on the part of the Federal government, as the rights of the parties are defined in the "compact" as Jefferson called the Constitution.

or about their ever present "court order" being the "law of the Land." No court decision is "the law of the land," Article I, Sec. 2, of the Constitution defines what is the "law of the land": "This Constitution, and the laws of the United States 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. . . ."

Those who thus contend that the founders of the Republic left it to a man in a black robe to enact laws throughout the future ages, certainly has a most distorted idea of the purpose and intents of the patriots who set up our form of government. To contend that such a decision is the law of the land and must be obeyed is to say that an inalienable right, once usurped, ceases to exist. This is the shallowest form of sophistry.

Resistance, however, is to be abhorred if it represents only the displeasure of the individual or a group of individuals. Only in cases where, as Jefferson says, there is a "palpable" usurpation of power, involving a grave Constitutional queston, and affecting dangerously the life, liberty and freedom of the people, is such action justified.

No court decision is the "law of the land." No court decision is the law of the case if based upon an amendment, such as the 14th, which was illegally placed in the Constitution.

ANALYSIS OF FOURTEENTH

Lastly, a brief analysis of the 14th Amendment is in order. Just what does it provide? The 14th Amendment, as it appears in the Constitution today, is one of the longest of the amendments. It consists of five sections.

Section 1 defines for the first time a citizen of the United States, and provides he shall be a citizen of the state wherein he resides; the due process clause of the Fifth Amendment is restated, and the other provisions of the section with reference to abridging privileges and immunities of citizens of the United States, and guaranteeing equal protection of the laws, are framed in such a way as to be prohibitions against the States, solely.

Significantly enough, there is no prohibition whatsoever against the Federal government usurping powers not belonging to it, or indulging in oppressive acts against its citizens. In this respect it differs from the 10 Amendments in the Bill of Rights.

This little noticed feature is perhaps the most dangerous and deadly attribute of the disputed amendment.

Section two provides that a state's representation shall be reduced in proportion to the number of qualified voters who are not allowed to participate in elections. No action has ever been taken on it.

Section 3 in effect bars from office, either state or federal, any person who, as an official of any kind, had previously taken an oath of office, and later participated in the "rebellion." Small wonder our Confederate ancestors balked at this one! This section has long since become functus.

Section 4 prohibits the payments, either by the states or the Federal government of the debts incurred by the Confederacy.

Section 5. is significant in that it is the enabling clause, which provides that the Congress shall have power to enforce the provisions of the amendment by appropriate legislation. Congress has never passed any such law, at least as to any listinguishable or significant feature of the entire amendment. The amendment is thus not self-executing, and the court has no right to undertake to legislate itself into the affairs of

scribe and fix with absolute certainty its field of operation. It would be ridiculous to say that each century a new set of judges could create out of it an entirely new organ of law. The judges then would not only be legislating, but of their own motion amending the Constitution.

Furthermore, it is well established that the decisions of the Supreme Court that follow in due course interpreting an amendment to the Constitution, reasonably limit and fix the scope of its operation. The decisions before and after the turn of the century interpreting the 14th firmly establish the separate but equal doctrine. One of the leading cases is Plessy against Ferguson, handed down in the 1890's.

The people have a right to know that some day the basic law will be settled, and free from the tinkering hand of judges yet unborn.

Our Constitution is but an effort to set down in abridged form the basic principles of the law of property and individual freedom that had been wrought out of centuries of travail by our ancestors in England and America It is the most inartificial document ever drafted by the hand of man. Its very simplicity is astounding. Its brevity attests the fact that its founders never dreamed that a society would some day arise so devilish as to seek its destruction and so ingenious as to subvert its plain terms by construction.

As long as usurpation of power is practiced, free men, who want to be free, will resist it.

READERS' VIEWPOINT

Keep Letters Brief.
Please Sign Your Name—

When Full Power Became Mobilized

Editor, Daily News— For years it has seemed to me that the U. S. government has become incapable of prompt, effective action to protect our national interests.

Cuba Premier Fidel Castro has expropriated (stolen) a billion dollars worth of American property, executed several Americans, and imprisoned many more. We trained and equipped a Cuban liberation force, then withheld air cover at the last minute, dooming the invaders.

In Berlin the Communists erected a wall to contain their subjects. Instead of knocking the wall down immediately, we contented ourselves with protests which became progressively weaker. The wall still stands.

Last year, the U. S. Supreme Court, after many years' delay, ruled that the Communist party and its members must register as agents of a foreign power, and provided a $10,000-a-day penalty for failure to comply. The attorney general named only a handful of top Reds who would be prosecuted, and party leaders arrogantly asserted their defiance. They have evaded punishment thus far.

Comes now the case of the registration of a single student at Mississippi University. Here the government does not hesitate. The full power of the federal government is mobilized, with U. S. troops and federal marshals ordered to the scene from all parts of the country. This will furnish fuel to the Reds in their worldwide propaganda. Regardless of the legitimate rights of Negroes, we are witnessing class warfare, a basic Communist technique.

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ay any tax on the difference be-
your cost and selling price—or what
have been your profit on a sale.
u can take a charitable contribution
on equal to the price at which you
ır goods, not the lower cost to you.
ort, you get a deduction for the po-
income but you don't pay any tax
income.

nstance, say your corporation is in
per cent tax bracket and you want
ribute $200 of its income to a lo-
rity this Thanksgiving. Your cor-
's out-of-pocket cost for this $200
ble gift would be only $96, for if it
made this tax deductible cash con-
n to the charity, it would have had
he Treasury the other $104 anyway
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say your corporation makes the
tion by giving its own merchandise
s an illustration, air conditioners
our firm buys for $120 and resells
. The charity either can use the air
ner or resell it easily for $200.
corporation deducts $200 for the
le contribution of an air condition-
eby saving the same $104 in taxes
would have saved from a $200 con-
in cash. But since your firm paid
20 for the conditioner, its out-of-
cost is only $16 ($120 cost less
saving).

aking its charitable gift in its own
dise, your corporation can con-
200 at a net cost of only $16!

eart of this is that you do not re-
taxable income the difference be-
e cost and sales price of the mer-
and yet you get a deduction on
ome tax for the full sales price.
vo-way tax break which can add
mense savings!

row: Medical expense deductions.

resolution of submission through the Congress, it became necessary to bar Southern states from their seats, else the resolution could not have passed.

There were only thirty-seven states in the Union at the time, and with California, Kentucky, Maryland and Delaware joining the 10 Southern states in opposition, passage in the Congress was impossible. The barring of the 10 Southern states was the first of the grossly illegal acts connected with the processes whereby it was sought to have the amendment adopted. The Congress thus became a rump assembly.

It must be remembered that at this time, 1866, and early 1867, while the Southern members had been driven from Congress, the various state legislatures had not been molested, and were still intact; so was civil government in the said states intact at that time.

THREE AMENDMENTS

It should be remembered also at this juncture that there were three of these amendments that crowded closely upon the heels of the surrender. They were the Thirteenth, Fourteenth and the Fifteenth Amendments. The Thirteenth and Fifteenth Amendments were easily and promptly adopted, without dissent; all of the legislatures of the Southern States, competent to participate, voted therefor. One authority claims the votes of these states insured the passage of the 13th. The Thirteenth merely abolished slavery, and the Fifteenth provided suffer-age should not be denied on account of race or previous condition of servitude.

The Fourteenth Amendment

"compact" as Jefferson called the Constitution.

Most of the Southern states bestirred themselves after the school decision of 1954, and passed resolutions of Interposition. At that time it had been almost exactly a hundred years since the doctrine had been invoked in a general and significant contest, and that was when the people of Wisconsin tore down a jail and freed a slave, and the legislature of that state nullified both the Fugitive Slave Act of Congress and the Dred Scott decision of the Supreme Court.

TOOK SEVENTY YEARS

It was seventy years before the 14th Amendment found its way into the Constitution, when Jefferson, writing sub rosa in the Kentucky Resolution of Interposition of 1797 against the Alien and Sedition laws, asked, rather plaintively, "who will be the judge of the infraction?" meaning, of course, that when the Federal Government encroaches upon the rights of the states, in "palpable" violation of the terms of the "compact," who will judge between them?

Actually, Jefferson could not answer his own question. However, the modern Federal jurist, not troubled with the logical tortures that beset the Sage of Monticello, simply issues his dictum, as superficial as it is peremptory: "There isn't any such thing." But it will not satisfy a free people who love liberty, and will never abandon its creeds until truth, crushed to the earth, arises again.

NOT LAW OF LAND

The beneficiaries of the unlawful intrusion of the Federal courts into the affairs and rights of the states, maintain a ceasless clam-

legislate itself into the affairs of the states, which were settled with the forming of the Republic.

'USAGE' DOUBTFUL BASE

It might be said that the 14th Amendment has become a part of the Constitution by long accepted usages. It is doubtful a basic constitutional provision could in such manner gain delayed legality, but it should, it is certainly true that the usages, interpretations and applications whereby the amendment gained legality would pre-

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Most Segregated

Editor, Daily News— Ole Miss has not been integrated. It has been invaded and occupied by the United States Army, and Meredith is a prisoner on the campus. He is surrounded by marshals who live, eat and sleep with him. If, a man was ever segregated, that man is James Meredith!

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Manhattan, N. Y. C.

TODAY'S TALK

GEORGE MATTHEW ADAMS

ARISE

No matter how good a man or woman may be, he or she is forever falling down in some manner or other. Why this is no one knows. The important fact about it all is that each may arise!

Planted deep within us is a consciousness that we are somehow led—somehow bolstered up by some unseen hand, unseen force, by some friend of nature with an understanding heart.

But we must, in the first place, be willing and anxious to arise. Then the hands become outstretched and we are on our feet again.

It is a mistake to believe that Nature has any grudge against us. Our little problems are the problems of that vast stream of humans forming the cycle of Time. Of course we shall stumble now and then. All before have done likewise. But those who have gone on—have arisen.

And those with love in their hearts have arisen first — and gone furthest.

Within ourselves lives a silent, patient Tutor — but we must pay attention to him and do his bidding. Love and give, he tells us. Pay no attention to the morrow, keep running far ahead with bundles of happiness for others, and happiness will never be deserting you, he says. Let the other fellow pass first, he adds.

"Shakespeare said, "we are such stuff as dreams are made on," but we are more than this. We are of the stuff of courage, beauty, living thought, consideration mystery, and all eternal growth.

Flowers keep rising out of the dark ground. Trees rise, cities rise, mountains rise. Then why should we not rise, who are so much greater and more precious than any of these, strengthened in faith, and with newer bravery.