

## **MEMO FROM EMMETT MAYOR GORDON W. PETRIE**

### **SUBJECT: WHATEVER HAPPENED TO THAT *OTHER* 13th AMENDMENT?**

Most US citizens know little about the US Constitution's "missing" 13th Amendment. "*Au, contraire mon frère,*" their French friends will say, "the 13th Amendment outlaws slavery. It is not missing at all." Therein lies the rub. In fact, what we now call the 13th Amendment may very well be the 14th Amendment! How do we know? It's been written about in many literary genres from scholarly law review articles to small press alternate publications (alt-pubs in today's parlance of alt-left and alt-right) since the 1990's. Many articles have now found their way onto the—you guessed it—World Wide Web, aka the internet!

To study this interesting conundrum fully we must time travel to 1789. The war with Britain was over (or so we thought) so our American Revolution ancestors needed to create a *workable* self-governing system. Regrettably, the Articles of Confederation had not worked out as hoped. Further, the Constitution as finally drafted in 1787 without the Bill of Rights had run into difficulty during its ratification process.

In response, James Madison, the primary drafter of the Constitution recommended 19 amendments. The House of Representatives reduced Madison's number to 17, while the Senate pared that list down even further to 12 for the final vote in the states. Ten proposed Amendments ultimately passed. Students learn in middle school civics classes that these Amendments comprise our "Bill of Rights". One that did not make it through the first cut, however, dealt with "Titles of Nobility", more recently called the Titles of Nobility Amendment, or TONA, for short.

Re-entering our time machine and moving forward to 1810, we see the Senate passing another TONA version by a vote of 26 to 1 (although another source has it as a 19-5 vote) which then garnered a similar lopsided vote in the House of Representatives in an 87 to 3 count. Since one method of amending the US Constitution requires a three-fourths vote of the various state legislatures, TONA required "yes" votes in 13 of the 17 then-existing states for ratification. The Amendment itself called for the forfeiture of citizenship by any US citizen who accepted a title of nobility or who accepted any gift from a foreign sovereign without the consent of Congress.

Within two years, 12 of the required 13 states ratified the Amendment. Soon thereafter, the War of 1812 erupted with our old nemesis, Great Britain. Think of the War of 1812 as the coda to our Revolutionary War. By the time the Anglo-American kerfuffle ended in 1814, the Brits

had essentially burned down Washington's government buildings along with the first 38 years' worth of federal records. Hence, three plus years later on the last day of 1817, the House of Representatives asked President Monroe to make inquiry into the 13th Amendment's status. (The speed of the internet did not exist then...well, technically it did, but the internet did not exist, so no speed was to be had.)

In early February 1818, President Monroe reported to Congress of informing the Governors of South Carolina, Virginia and Connecticut *via* Secretary of State John Q. Adams' letter that two states, New York and Rhode Island, had rejected the measure, 12 states had ratified the Amendment, and Congress needed to know the status of the Amendment in their respective legislatures from which Congress had not yet heard.

At the end of February 1818, Secretary of State Adams reported the rejection of the Amendment by South Carolina. Regrettably, Virginia did not report. This lack of response on Virginia's part unfortunately led to what at the time amounted to Congress' misunderstanding that the Amendment had been rejected; after all, only 12 of the necessary 13 states ratified it.

Next month we will learn how Virginia *did* in fact ratify the first 13th Amendment, though its method of informing Washington fell short, which, in turn, created several problems for the country in general. We will also discover how another 13th Amendment was proposed by President Lincoln that would have *avored* slavery in the South, or at least would have made it a local option! Stay tuned for how this turns out. It's a fascinating little story about our past and underscores just how messy a Republic can be.