

MEMO FROM EMMETT MAYOR GORDON W. PETRIE

SUBJECT: THAT *OTHER* 13th AMENDMENT, PART DEUX

Last month we learned that in the formative stages of our Republic a movement existed to ban foreign sovereigns from bestowing Titles of Nobility upon American citizens (The early TONA). TONA failed to make the cut from Madison's nineteen offerings to amend the originally proposed constitution. Ultimately, only twelve proposed Amendments were sent by the Senate to the thirteen state legislatures to be voted upon. Ten passed, and those ten became our Bill of Rights, thus making our Republic the grand and unique experiment it is today—if [we] can keep it—as Benjamin Franklin warned.

We also learned how, before the War of 1812, another movement began to enact a Title of Nobility Amendment (the later TONA) requiring thirteen states to ratify. Before the war broke out, we know that twelve states had ratified the amendment with two states rejecting it. Not reporting at the beginning of hostilities were Connecticut, South Carolina and Virginia. Three years after the cessation of hostilities with Britain, Congress sought to know the status of the Amendment. President Monroe determined that South Carolina rejected the Amendment; but when it came to Virginia—nothing but the sound of crickets.

Not hearing of another “yes” vote, Congress concluded (perhaps in error) the measure had been rejected by failing to garner the required thirteen votes. There is only one problem with this conclusion. Virginia *had* ratified the measure. They just forgot to directly tell anybody in Washington D.C. about it. Instead, they simply printed it in Virginia's law books. In Virginia's defense, it did send a copy of its law book to the Congressional Library—proudly showing the Title of Nobility ban as the Thirteenth Amendment in Virginia's version of the US Constitution.

Notwithstanding this shortcoming, several states and territories after Virginia's “ratification” *also* printed the TONA as the Thirteenth Amendment in *their* law books, apparently believing TONA *had* been ratified by the required number of states. Nevertheless, notes in other states' law books, most notably New York, indicated TONA failed.

By the time 1861 came along, *another* Thirteenth Amendment was proposed, one actually signed by President Abraham Lincoln himself, a first and only time this has happened. Incredibly, *this* Thirteenth Amendment would have *upheld* States' Rights on the slavery question. (The Emancipation Proclamation would come later—talk about a political pivot!)

Just before Lincoln's first inauguration in March of 1861 Lincoln and the Republicans passed a newly proposed 13th Amendment. (That's right, we held inaugurations in March back in Lincoln's day, not January; it would not be until January 23, 1933, with the ratification of the 20th Amendment that power would seamlessly change hands from the old president to the new one—at least should there be a new one—at noon on the 20th of January of every inaugural year beginning in 1934, thus making FDR the first President to be inaugurated in January.)

Lincoln's newly proposed 13th Amendment would have essentially made slavery a local option in the then-existing slave-holding states. The proposal prohibited Congress from abolishing or interfering with state-authorized slavery. (Today, we call this the Corwin Amendment, an Ohio Republican Congressman and Lincoln supporter.) But it was too late. South Carolina had already seceded in December 1860. Consequently, the bloodiest, most destructive war in US history would soon begin.

The story, whether apocryphal or reasonably accurate, bears repeating. Benjamin Franklin is supposed to have exited Independence Hall in Philadelphia at the close of the constitutional convention and a woman shouts out something like, "What have we got, Doctor, a Republic or a Monarchy?" (Other story tellers contend she asked, "What have you given us, Dr. Franklin?" Nevertheless, the gist remains the same.) Whereupon Franklin responds to the effect, "A Republic, madam—if you can keep it."

Perhaps one way we can keep it, should we desire, is to know our history. But as an aside, can you imagine the rancor that could easily have been stirred had the Amendment passed in 1814 in view of Meghan Markle's recent marriage to Prince Harry? The Republic dodged another one—just in the nick of 214 years!