

S. file
14 Amendment

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SUBJECT FILE

July 2, 1953

Hon. J. P. Coleman
Attorney General
New Capitol Building
Jackson, Miss.

Dear General Coleman:

In compliance with your request of June 30, 1953, I am attempting to submit some information that will be helpful. I do not believe that Mississippians had any idea that the Fourteenth Amendment could be construed to prohibit segregation in schools.

The Fourteenth Amendment to the Constitution of the United States was considered during the session of the Legislature which began on October 15, 1866; adjourned on October 30, 1866; met again on January 21, 1867; and adjourned on February 21, 1867. The matter was discussed at some length in the "Report of the Joint Standing Committee on State and Federal Relations, to the Legislature of the State of Mississippi," which is printed on pp. 72-87 of the Appendix of the Journal of the Senate, of the State of Mississippi, at a Called Session, October, 1866 (Jackson: J. J. Shannon and Company, 1866).

On January 15, 1870, Brevet Major General Adelbert Ames, United States Army, who was acting as provisional governor of the State of Mississippi, transmitted to the House of Representatives of the State of Mississippi for consideration resolutions of the Congress of the United States passed on June 16, 1866 (Fourteenth Amendment), and February 27, 1869 (Fifteenth Amendment). The matter was considered that day and the amendments were ratified that day.

Since the House of Representatives acted on these amendments on the morning (Saturday) they were submitted, there were no committee reports or other documents produced in connection with their consideration. The deliberations of the House may be found in Journal of the House of Representatives of the State of Mississippi (Jackson: Kimball, Raymond and Company, 1870), pp. 13-20.

The Senate of the State of Mississippi received the same message from Governor Ames on the morning of January 15, 1870. A special committee of five members was appointed to consider the matter. The committee reported that afternoon, and the Senate immediately ratified both amendments. A record of these deliberations can be found in Journal of the Senate of the State of Mississippi (Jackson: Kimball, Raymond and Company, 1870), pp. 14-19.

The fact might be noted that the Fourteenth and Fifteenth Amendments to the Constitution of the United States were submitted to the Legislature of the State of Mississippi by Brevet Major General Adelbert Ames, of the United States Army, who was actually a military governor of the state, and the Legislature itself was elected under the supervision of a military government. It was necessary to ratify the Fourteenth and Fifteenth Amendments in order for Mississippi to be re-admitted to the Union as a state with an elected civil government and with representation in the Congress of the United States.

The Legislature of 1870, which was elected under military supervision, was somewhat peculiar in membership. James Wilford Garner states in his book, Reconstruction in Mississippi (New York: The MacMillan Company, 1901), pp. 269-270:

"In personnel as well in politics, the first reconstruction legislature differed widely from any law-making body that had ever assembled in the state. In the first place, it contained nearly forty colored members, most of whom were slaves up to the close of the war. Not one of them had any legislative experience, some of them had almost no conception of their duties as lawmakers, while a goodly number were unable to read and write.... In addition to this element, there was a sprinkling of 'carpet baggers,' for the most part ex-Union soldiers, who had recently settled in the state. These two

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elements, together with the 'scalawags,' or native white Republicans, constituted a large majority, and thus easily outvoted the representatives of the class that had hitherto held the political power of the state. They controlled the organization of the legislature, shaped the legislation, and established the public policy of the state."

Article VIII of the Constitution of 1869, which was framed by the Constitutional Convention of 1868 and which is entitled "School Fund, Education and Science," makes no reference to segregation. That article was, of course, in effect until 1890. This Department has the papers of Charles K. Regan, who served as secretary of the Committee on Education of the Constitutional Convention of 1890, and they include the minutes of that committee.

As far as I can determine, the official information which may be found in connection with laws on education passed by the Legislature will be in the printed journals of the House and Senate. This Department has some of the manuscript journals and files of the bills introduced between 1870 and 1890. Committee reports went into the journals. Very little went into the records kept by committees and these have usually been destroyed.

I regret that I have not been more helpful. Although I have not been able to read all the material mentioned, I doubt if segregation in schools was considered by Mississippians in reference to the Fourteenth Amendment.

Yours sincerely,

William D. McCain

WDM:mjd