

FOREWORD

*Christopher R. Green**

Friday, September 13, 2024, was a very lucky day indeed for the *Mississippi Law Journal* and for the law school. The array of Fourteenth Amendment scholars at our symposium that day featured a wonderfully wide range of career stages, parts of the Fourteenth Amendment on which to focus, legal methods, and views about how binding the Amendment's original meaning should be for those living under the Constitution now. One of the most striking aspects of our discussions, at least as someone who has spent many years digging through Fourteenth Amendment history, was just how many new insights are left for scholars to uncover today. The advent of modern database technologies, especially modern techniques for optical character recognition, has allowed the construction of windows into Reconstruction far more illuminating than ever before. As America plans to turn 250 next year, the history and application today of the nation's reformulation in the Constitution's Thirteenth, Fourteenth, and Fifteenth Amendments are ever more worthy of careful study, and the number of hitherto-unknown parts of the field available for such study are steadily expanding.

Eight of the participants at the symposium have contributed articles or agreed to publish transcripts of their remarks:

- ◇ Randy Barnett argues that the original meaning of the Fourteenth Amendment encompasses economic liberty rights related to property and the freedom of contract.
- ◇ Earl Maltz describes the history in Congress in early 1866 related to the Joint Committee on Reconstruction's proposals with respect to the readmission of Tennessee to

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full participation in the Union and what that history says about the priorities of the Thirty-Ninth Congress.

- ◇ Josh Blackman tells the story of his involvement in the arguments over the application of Section Three of the Fourteenth Amendment, which initially disqualified certain former Confederates from certain offices, to the January 6 Capitol Hill riot.
- ◇ Lucien Ferguson explains the application of Fourteenth Amendment disparate-impact rules to conflicts between state-level and municipal-level decisionmaking in a recent Eleventh Circuit case.
- ◇ Mark Graber discusses press accounts from the very beginnings of the Thirty-Ninth Congress in December 1865, noting that John Bingham's proposed constitutional amendment allowing export taxes was seen as more important than his proposal with respect to civil rights for the freedmen.
- ◇ Seth Tillman recounts several aspects of the public discourse over very specific details with respect to Section Three.
- ◇ David Upham considers the Republican-dominated constitutional conventions in the former Confederacy, adopting new constitutions in the wake of 1867 Reconstruction Act and forming the governments one of whose first acts would be to agree to the Fourteenth Amendment.
- ◇ Rebecca Zietlow discusses the antebellum origins of claims to birthright citizenship by fugitives from slavery.

In addition, we are delighted to publish four student notes that touch on Fourteenth Amendment issues:

- ◇ Alexis Cobbs addresses recent controversies over the election law related to recounts.
- ◇ Hayward Gordon looks at the disputes over affirmative action at military service academies following the Supreme

Court's reference in a *Students for Fair Admissions* footnote to "the potentially distinct interests that military academies may present."¹

- ◇ Emily Phillips considers constitutional issues related to overcrowding in Mississippi jails.
- ◇ Meredith Crockett Williams looks at the history of constitutional issues related to vagrancy laws.

Enjoy!

¹ *Student for Fair Admissions, Inc v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 213 n.4 (2023).

