

REPORT TO THE GENERAL ASSEMBLY
OF THE STATE OF OHIO
RECOMMENDING RATIFICATION OF THE
FOURTEENTH AMENDMENT
TO THE UNITED STATES CONSTITUTION

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Submitted by

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INTRODUCTION

On January 4, 1867, Ohio became the seventh state to ratify the Fourteenth Amendment to the United States Constitution, which guaranteed all persons equal protection of the laws and prohibited deprivation of life, liberty or property without due process of law. Unfortunately, after Ohio voters defeated a referendum which would have extended the franchise to African Americans, the General Assembly rescinded its ratification of the Fourteenth Amendment on January 15, 1868.¹ When Secretary of State William H. Seward declared the Fourteenth Amendment valid, he did not definitively address the validity of Ohio's rescission, nor did the United States Congress.²

Since that time, the Fourteenth Amendment has become recognized as a foundation of American liberty, and, acknowledging its importance, many states have ratified the Fourteenth Amendment even after it came into effect. However, courts and constitutional scholars have made strong arguments that Ohio's 1868 rescission was valid, making Ohio the only state existing at the time of the Fourteenth Amendment's proposal that did not support it when it became law or at some point thereafter.

The Fourteenth Amendment rivals the Bill of Rights in importance. The Fourteenth Amendment is fundamental to protection against discrimination on grounds of race, religion or sex, and to safeguarding fundamental rights, such as freedom of speech and the right to marry. In *Brown v. Board of Education*,³ the Supreme Court relied on the guarantees of equal protection in the Fourteenth Amendment to declare that racial

¹ See 1 U.S.C. LXII-LXIII (1994).

² See John Harrison, *The Lawfulness of the Reconstruction Amendments*, 68 U. CHI. L. REV. 375, 378 n.11, 409 & nn. 188-89 (2001) (citing 15 Stat. App. 706, 707 (William H. Seward, Proclamation No. 11, July 20, 1868) & 15 Stat. App. 708 (William H. Seward, Proclamation No. 13, July 28, 1868)). Since Alabama and Georgia ratified the Fourteenth Amendment in mid-July, 1868, the requisite three-fourths of the necessary states was reached regardless of the validity of Ohio's rescission. It is therefore indisputable that the Fourteenth Amendment became a valid part of the United States Constitution in 1868.

³ 347 U.S. 483, 493, 495 (1954).

segregation in schools was illegal. In *Loving v. Virginia*,⁴ the Supreme Court held that Virginia's ban on interracial marriages of whites violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment.⁵ And in a series of decisions the Supreme Court relied on the Due Process Clause of the Fourteenth Amendment to hold that most of the rights guaranteed in the Bill of Rights apply to the States.⁶

Ohio's rescission of the Fourteenth Amendment has not gone unnoticed. National publications, courts and extremist groups have relied on Ohio's rescission of the Fourteenth Amendment in arguing that the Fourteenth Amendment is not a valid amendment. *U.S. News and World Report* published an article by David Lawrence entitled *There is no 14th Amendment*.⁷ Relying in part on Ohio's rescission, Lawrence called the Fourteenth Amendment "null and void." Courts have pointed to Ohio's rescission to suggest that the Fourteenth Amendment was not properly ratified.⁸ Many extremist groups cite Ohio's rescission on their websites and in their literature to argue that the Fourteenth Amendment, and consequentially, federal protection of civil rights, are invalid.⁹

⁴ 388 U.S. 1 (1967).

⁵ *Id.* at 11, n.11.

⁶ See, e.g., *Malloy v. Hogan*, 378 U.S. 1 (1964) (privilege against self-incrimination); *Gideon v. Wainwright*, 372 U.S. 335 (1963) (right to counsel); *Robinson v. California*, 370 U.S. 660 (1962) (prohibition on cruel and unusual punishment); *Mapp v. Ohio*, 377 U.S. 643 (1961) (unreasonable search and seizure); *Largent v. Texas*, 318 U.S. 418 (1943) (freedom of religion); *Gitlow v. New York*, 268 U.S. 652 (1925) (freedom of speech).

⁷ David Lawrence, *There Is No 14th Amendment*, U.S. NEWS & WORLD REPORT, Sept. 27, 1957, at 140 (available at http://www.texasls.org/reading_room/constitution/constitution0024.shtml).

⁸ See, e.g., *Dyett v. Turner*, 439 P.2d 266, 272 (Utah 1968) (noting that "Ohio . . . withdrew its prior ratification"); cf. Douglas H. Bryant, Note, *Unorthodox and Paradox: Revisiting the Ratification of the Fourteenth Amendment*, 53 ALA. L. REV. 555, 575 (2002) (noting Ohio's rescission).

⁹ See, e.g., Lex Angliea, *The Fourteenth Amendment Never Passed*, at <http://www.truthsetsusfree.com/14th.htm>; Gene Healy, *Roger Pilon and the Fourteenth Amendment*, at <http://www.lewrockwell.com/healy/healy3.html>; Dr. Michael Hill, *President's Message*, at <http://www.dixienet.org/spatriot/vol6no6/prez32.htm>; Judge L. H. Perez, *The Fourteenth Amendment is Unconstitutional*, at <http://www.sweetliberty.org/fourteenth.amend.htm>; People's Awareness Coalition, *Fourteenth Amendment Usurpation*, at <http://www.pacinlaw.org/inside/fourteenth.htm>; Shield of Faith, *The Fraudulent Fourteenth Amendment*, at

This report explores the reasons that Ohio rescinded its ratification of the Fourteenth Amendment. Part I demonstrates that Ohio's rescission of the Fourteenth Amendment was a Democrat-led reaction to Republican lawmakers' earlier expansion of African American rights. Part II explains why as a legal matter Ohio's rescission of the Fourteenth Amendment may have been valid. Part III notes that other states have ratified the Fourteenth Amendment in the decades since it was adopted. Part IV establishes that Ohio's ratification of the Fourteenth Amendment would be valid. This report concludes by urging Ohio to ratify the Fourteenth Amendment.

DISCUSSION

I. OHIO RESCINDED THE FOURTEENTH AMENDMENT TO SHOW OPPOSITION TO REPUBLICAN LAWMAKERS' EFFORTS TO PROTECT AFRICAN AMERICAN RIGHTS.

Shortly after taking office in 1868, Ohio Democrats rescinded Ohio's ratification of the Fourteenth Amendment. Since the middle of the century, African American rights expanded or contracted depending on which party was in office. Many Republicans favored extending greater rights to African Americans, while Democrats generally opposed such action. The General Assembly's rescission of the Fourteenth Amendment under Democratic control was another in a string of actions to undo Republican expansion of African American rights.

African American rights first expanded in Ohio when Republicans took control of the Ohio General Assembly in 1857. The General Assembly passed a series of personal

<http://www.shieldoffaith.freehomepage.com/world/freedom/14amendment.htm>; Judge L.H. Perez, *The Unconstitutionality of the Fourteenth Amendment*, at http://www.crownrights.com/books/unconstitutionality_fourteenth_amendment.htm

liberty laws that were meant to nullify the federal Fugitive Slave Act.¹⁰ The personal liberty laws set free persons from Ohio prisons held under Fugitive Slave Act charges, outlawed bringing any person into Ohio with the intention of holding him as a slave, made criminally liable anyone who held or arrested a person suspected of being a fugitive slave, and required that persons removing African-Americans from Ohio establish their right to do so in court.¹¹

Democrats later repealed the first two personal liberty laws,¹² and the Ohio Supreme Court declared the remaining laws invalid since they contradicted federal law.¹³ Democrats also passed a “visible admixture” law (later declared unconstitutional in *Anderson v. Millikin*¹⁴) requiring judges to reject the vote of any person whose skin color betrayed a “visible admixture of African blood.”¹⁵

A year later, in 1860, the General Assembly ratified the Corwin Amendment, which was designed to prohibit Congress from banning slavery.¹⁶ The Corwin Amendment was an effort to appease the South and prevent them from seceding from the Union.¹⁷ Although ratified by the United States Congress, the amendment drew little

¹⁰ See ERIC FONER, *FREE SOIL, FREE LABOR, FREE MEN: THE IDEOLOGY OF THE REPUBLICAN PARTY BEFORE THE CIVIL WAR* 136 (Oxford University Press) (1970).

¹¹ GEORGE H. PORTER, *OHIO POLITICS DURING THE CIVIL WAR PERIOD* 157 (AMS Press) (1968).

¹² See *id.*

¹³ See *Ex parte* Bushnell, 9 Ohio St. 77, 184-185 (1859) (holding that Ohio’s liberty laws contradicted the U.S. Fugitive Slave Act).

¹⁴ 9 Ohio St. 568, 570 (1859) (holding that visible admixture law was invalid since the laws’ definition of race contradicted the definition of race agreed upon in the Ohio Constitutional Convention of 1850).

¹⁵ See PORTER, *supra* note 11, at 22.

¹⁶ Specifically, the Amendment stated: “No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any state, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said state.” See A. Christopher Bryant, *Stopping Time: The Pro-Slavery and “Irrevocable” Thirteenth Amendment*, 26 HARV. J.L. & PUB. POL’Y (forthcoming 2003) (citing CONGRESSIONAL GLOBE, 36th Cong., 2d Sess. 1364 (1861)).

¹⁷ See PORTER, *supra* note 11, at 60.

support among states.¹⁸ However, the Democrat-led General Assembly ratified the Corwin Amendment on May 13, 1861, making Ohio one of only three states to do so.¹⁹

In the 1866 national and 1867 state elections, African American rights remained a divisive issue. Congress proposed the Fourteenth Amendment in June of 1866, and, in the fall elections, Ohio Republicans expressed support for its ratification. Republicans thwarted Democrats' attempts to make the Fourteenth Amendment and African American suffrage central issues during the campaign by downplaying the link between the Fourteenth Amendment and African American suffrage.²⁰ Republican success was partially attributable to the amendment being drafted to avoid direct references to suffrage.²¹ In the end, Republicans won sixteen of nineteen Congressional seats and three state offices.²²

In 1867, under Republican leadership, the Ohio General Assembly passed two important proposals to extend suffrage and other civil rights to African Americans. First, the General Assembly ratified the Fourteenth Amendment.²³ Second, the General Assembly authorized a referendum to allow non-whites to vote by removing the word "white" from the suffrage provision of Ohio's Constitution.²⁴ This change, if passed by

¹⁸ *Id.* at 26.

¹⁹ Illinois and Maryland are the other two states. *See id.* at 25.

²⁰ *See* JOSEPH B. JAMES, *THE FRAMING OF THE FOURTEENTH AMENDMENT*, 191-93 (University of Illinois Press) (1956); *see also* JOSEPH B. JAMES, *THE RATIFICATION OF THE FOURTEENTH AMENDMENT* (University of Mercer Press) (1984).

²¹ *See* JAMES, *FRAMING*, *supra* note 20, at 191-93. Many were unsure at the time whether the federal government (as opposed to state governments) could even confer voting rights. JAMES, *RATIFICATION*, *supra* note 20, 161-64. *See also* the entire rescission message, 64 *STATE OF OHIO, THE JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF OHIO* 12 (1868). Many wanted to confer only citizenship upon African Americans without suffrage. *See* *THE CINCINNATI COMMERCIAL*, August 20, 1866, p. 1.

²² *See* FELICE ANTHONY BONADIO, *OHIO POLITICS DURING RECONSTRUCTION 1865-1868* 205, 214-218, 224 (Yale University Press) (1964); *see generally* JAMES, *RATIFICATION*, *supra* note 20.

²³ *See* 1 U.S.C. LXII-LXIII (1994).

²⁴ Article V, Section 1 of the 1851 Constitution provided suffrage rights for "every white male citizen of the United States." *Anderson v. Milliken*, 9 Ohio St. 568, 570 (1859).

voters, would have extended to African Americans the same political rights that whites enjoyed.²⁵

The election of 1867 proved both of these proposals unpopular. For the first time in more than a decade, Democrats swept both houses of the legislature after campaigning on a platform opposing the Fourteenth Amendment (which had not yet been ratified by the required three-fourths of the states) as well as the proposed expansion of the right to vote to African Americans. The electorate refused to extend the franchise to African Americans by a margin of more than 50,000 votes.²⁶

After their victory, Democrats responded to the voters' opposition to African American civil rights. Since the proposed expansion of suffrage to African Americans had been defeated in the statewide referendum, Democrats turned to Ohio's ratification of the Fourteenth Amendment. The resolution passed by the House provided in part:

WHEREAS, One of the objects to be accomplished by said proposed amendment was to enforce negro [sic] suffrage and negro political equality in the states; and,

WHEREAS, The adoption of said resolution was a misrepresentation of the public sentiment of the people of Ohio, and contrary to the best interests of the white race, endangering the perpetuity of our free institutions: therefore,

*Resolved by the General Assembly of the State of Ohio, That the above recited resolution be and the same is hereby rescinded.*²⁷

Although this language was modified in the final version, it is clear that Ohio's rescission represented opposition not only to African American suffrage but also to African American political equality in general.²⁸

²⁵ See BONADIO, *supra* note 22, at 247-248.

²⁶ *Id.* at 275.

²⁷ See STATE OF OHIO, *supra* note 21, at 12, 32-33.

²⁸ See *id.* at 44-46.

In 1868, the validity of Ohio’s rescission was not directly resolved by Congress or the courts. Despite controversy about the validity of the first rescission of the ratification of a constitutional amendment in United States history, the Republican-controlled Congress passed a concurrent resolution declaring the Fourteenth Amendment adopted, and ordered Secretary of State Seward to promulgate it.²⁹

II. OHIO’S RESCISSION OF THE FOURTEENTH AMENDMENT MAY HAVE BEEN VALID.

Article V of the Constitution establishes procedures for congressional proposal and state ratification of constitutional amendments, but it is silent about the possibility of states rescinding their ratifications.³⁰ Courts and academics have interpreted this silence in different ways. The most persuasive interpretation is that states have the power to rescind a ratification if they act before an amendment becomes effective. If so, Ohio’s rescission was valid.

The Supreme Court addressed the issue of rescission in a case addressing a state ratification of a proposed amendment prohibiting child labor in the United States, *Coleman v. Miller*.³¹ The Court held that the issue of whether a state legislature could ratify a constitutional amendment after that body had previously rejected the same amendment was a political question, “with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment.”³² The Court noted the argument that “ratification [of an amendment] if once given cannot

²⁹ For a brief history of the ratification, see Harrison, *supra* note 2, at 380. Congress passed the concurrent resolution on July 21, 1868, see *supra* note 2. See also CONGRESSIONAL GLOBE, 40th Cong., 2d Sess., 890 (1868) (notification of the rescission).

³⁰ U.S. CONST. art. V.

³¹ 307 U.S. 433 (1939).

³² *Id.* at 450.

afterwards be rescinded and the amendment rejected.”³³ Hence, in *Coleman* the Supreme Court assigned Congress jurisdiction over the issue of ratification, and hinted that once ratified, amendments cannot be rescinded.

The *Coleman* decision is not controlling for several reasons. Most importantly, *Coleman* is a plurality opinion, not endorsed by a majority of the Court.³⁴ Hence the opinion stating that rescission is a matter for Congress is only instructive. It is also dicta, in that the validity of rescission made no difference to the outcome of the case. That *Coleman* is not the last word is made clear by the acts of state legislatures to rescind prior ratifications even after *Coleman* was decided. For example, several legislatures ratified the Equal Rights Amendment but later rescinded their ratifications.³⁵

The Court’s holding in *Coleman* has also been criticized by scholars who contend that rescission is not a political question to be decided by the U.S. Congress, but an issue to be resolved by state legislatures. This argument was carefully articulated by Professor Michael Stokes Paulsen of the University of Minnesota Law School. Professor Paulsen argues that, before an amendment has been ratified by three-fourths of the states, the authority to ratify an amendment rests with the states. Paulsen explains that the ratification process under Article V is made up of many separate and distinct legislative acts. First, Congress proposes an amendment. Then, each state legislature ratifies (or does not ratify) the proposed amendment. Paulsen argues that a state ratification is a standard legislative act. Just as a state can repeal a law it has passed, a state can also repeal the ratification of an amendment until three-fourths of the state legislatures have

³³ *Id.* at 447.

³⁴ Michael Stokes Paulsen, *A General Theory of Article V: The Constitutional Lessons of the Twenty-seventh Amendment*, 103 YALE L.J. 677, 708 (1993).

³⁵ See SAMUEL S. FREEDMAN & PAMELA J. NAUGHTON, *ERA: MAY A STATE CHANGE ITS VOTE?* 1 (Wayne Books) (1978) (discussing rescissions of Idaho, Nebraska and Tennessee).

ratified the amendment. Hence, under Paulsen’s view, “an amendment results, once and for all, whenever there *concurrently exists* a valid, *unrepealed* enactment of Congress proposing an amendment and the valid, *unrepealed* enactments of thirty-eight state legislatures ratifying that proposal.”³⁶ Paulsen also notes that, on this basis, “Ohio and New Jersey validly rescinded their ratifications of the Fourteenth Amendment in early 1868 and should not have been included in the number of states voting affirmatively.”³⁷

A U.S. District Court adopted a similar position to Paulsen’s position in *Idaho v. Freeman*.³⁸ In *Freeman*, the court held that the rescission of a congressional amendment is valid when it occurs before the ratification of three-fourths of the states. The court reasoned that a state should be allowed to change its position before the ratification process is complete. The court explained that not allowing rescissions would allow for an amendment to become part of the Constitution even though “the people have not been unified in their consent.”³⁹ Specifically, without rescission, there would be no way to ensure that there was support of the people of three fourths of the states since some states could have changed their position after ratifying the amendment.

The validity of Ohio’s rescission has never been, and may never be, definitively resolved as a legal question; there is respectable authority on both sides. There is no doubt, however, that Ohio’s last word on this fundamental issue is a formal act of the General Assembly opposing the Fourteenth Amendment.

³⁶ Paulsen, *supra* note 34, at 722.

³⁷ *Id.* at 726. See also Walter Dellinger, *The Legitimacy of Constitutional Change: Rethinking the Amendment Process*, 97 HARV. L. REV. 386 (1983).

³⁸ 529 F. Supp. 1107, 1149 (D. Idaho 1981), *vacated as moot sub nom.* National Org. for Women v. Idaho, 459 U.S. 809 (1982). In *Freeman*, the district court held that Idaho’s rescission of its ratification of the Equal Rights Amendment was valid and therefore could not be counted as a ratifying state.

³⁹ *Id.*

III. MANY STATES HAVE RATIFIED AMENDMENTS AFTER THEIR ADOPTION TO RECOGNIZE THE IMPORTANCE OF THOSE AMENDMENTS.

The Fourteenth Amendment is similar in stature to the Bill of Rights and the Nineteenth Amendment which extended the franchise to female U.S. citizens. Both the Nineteenth Amendment and the Bill of Rights have been ratified by every state existing in the United States when they became law. Many of these ratifications occurred after the amendments were adopted.⁴⁰ With the exception of Ohio, the same can be said for the Fourteenth Amendment. Every state existing at the time the Fourteenth Amendment was proposed either ratified it at the time, or subsequently expressed support for it, but for Ohio.⁴¹

Many states ratified the Fourteenth Amendment after it became law in 1868. Delaware did so in 1901, California and Maryland ratified it in 1959, and Kentucky celebrated the Bicentennial by ratifying the Fourteenth Amendment in 1976.⁴² (Delaware, Maryland and Kentucky had rejected the amendment when they first considered it). New Jersey, which, like Ohio, ratified the Fourteenth Amendment but rescinded before it became effective, expressed support for the amendment in 1980.⁴³

The texts of state ratifications reflect a desire to support the principles of the Fourteenth Amendment and honor the role the amendment has played in American society. For example, Maryland and California's ratifications of the Fourteenth Amendment each recognized that, "[the] said 14th Amendment has long been a vital part

⁴⁰ See 1 U.S.C. LX (1994).

⁴¹ See 1 U.S.C. LXII-LXIII (1994). Oregon rescinded its ratification, but it did so after the Fourteenth Amendment became effective, and therefore the rescission was clearly invalid. New Jersey, like Ohio, rescinded its ratification before the Fourteenth Amendment became effective, but in 1980 it passed a resolution expressing support for the amendment.

⁴² See 1 U.S.C. LXIII (1994).

⁴³ See 1 U.S.C. LXIII (1994).

of the Constitution of the United States and should be ratified by the State of [Maryland or California, respectively] to show the concurrence of this great State with the principles therein enunciated.”⁴⁴

At least two states’ efforts to ratify the Fourteenth Amendment reflect a desire to rectify their historical error of not ratifying the amendment earlier. Kentucky ratified the Fourteenth Amendment as part of its celebration of the Declaration of Independence in 1976.⁴⁵ Kentucky’s ratification recognizes that, “this Bicentennial year is an appropriate time to erase this shadow on Kentucky’s history.”⁴⁶ Similarly, New Jersey’s current efforts to repeal its rescission of the Fourteenth Amendment are motivated by a desire to correct its historical mistake. According to Rutgers historian Clement Price, New Jersey rescinded the Fourteenth Amendment to prevent the migration of “hundreds of thousands of blacks . . . into New Jersey.”⁴⁷ New Jersey Senator Leonard Lance, who drafted and is a co-sponsor of the resolution, recognized that “New Jersey has a checkered past regarding the 14th Amendment . . . As a matter of setting the record straight historically, this resolution says we withdraw our withdrawal.”⁴⁸

At present, Ohio is the only state in the Union as of 1868 not to have either ratified or expressed support for the Fourteenth Amendment. Ohio’s reasons for rescinding its ratification were racist. Despite the importance of the Fourteenth Amendment, the last word from the Ohio legislature is to reject the principles enunciated in the Amendment. The Ohio General Assembly must change that.

⁴⁴ See 1959 MD. LAWS 1458. See also 1959 CAL. STAT. 5695.

⁴⁵ See 1 U.S.C. LX (1994).

⁴⁶ See 1976 KY. ACTS 563.

⁴⁷ See Herb Jackson, *Senate Panel Rights a 133-year-old Wrong*, BERGEN (NJ) RECORD, Feb. 22, 2002.

⁴⁸ *Id.*

IV. POST-ADOPTION RATIFICATION IS VALID AND EFFECTIVE.

Post-adoption ratification has been used by many states to ratify amendments, and it has a firm legal footing. Article V does not limit the time a state has to ratify an amendment,⁴⁹ and diligent research suggests that the Supreme Court has not invalidated any post-adoption ratifications.

Some constitutional scholars argue that there must be a “contemporaneous consensus” amongst state amendment ratifications.⁵⁰ In other words, states must ratify an amendment within a reasonable time period (even where the amendment does not specify a time period) for their ratifications to have legal effect in the amendment’s ratification.⁵¹ Actual practice suggests that the “contemporaneous consensus” model is not correct. Proof of this seems to be the Twenty-Seventh Amendment, which was first proposed in 1789, ratified by Ohio in 1873, and not ratified by the final state until 1992,⁵² hardly a contemporaneous ratification process. No plaintiff has successfully challenged the

⁴⁹ See U.S. CONST. art. V.

⁵⁰ See Paulsen, *supra* note 34, at 684.

⁵¹ This view finds the most judicial support in *Dillon v. Gloss*, 256 U.S. 368 (1921), in which the Supreme Court stated that Congress had the power to put time limits on constitutional amendments and added that all constitutional amendments have some reasonable “expiration date.” However, the Court’s statements about amendment expiration are dicta; the holding is that Congress may put time limits on constitutional amendments. Although statements in *Dillon* seem to support the requirement of a “contemporaneous consensus,” in the subsequent case of *Coleman v. Miller*, the Court refused to decide the case on those grounds, despite a claim that the Kansas ratification at issue had “expired.” See Paulsen, *supra* note 34, at 707, for a lengthy discussion. The Twenty-seventh Amendment adds further doubt to any future application of *Dillon*. The Twenty-seventh Amendment became effective on May 7, 1992, as Michigan became the thirty-eighth state to ratify it. 1 U.S.C. LXVIII. The *Dillon* court specifically mentions what would become the Twenty-seventh Amendment as one of “four amendments proposed long ago [which] are still pending and in a situation where their ratification in some states many years since by representatives of generations now largely forgotten may be effectively supplemented in enough more states to make three-fourths by representatives of the present or future generation. To that view few would be able to subscribe, and in our opinion it is quite untenable.” 256 U.S. at 375. If the Twenty-seventh Amendment is indeed valid, as many commentators hold, then the Court’s statement is simply incorrect.

⁵² 1 U.S.C. LXVIII (1994)

validity of the Twenty-Seventh Amendment.⁵³ Mississippi, the last state to ratify the Nineteenth Amendment, did so in 1984, six decades after it became law in 1920; several states ratified the Bill of Rights in 1939, a century and a half after adoption. Additionally, the Supreme Court seems to have abandoned any requirement that state passage of constitutional amendments must be roughly “contemporaneous.” Hence, post-adoption ratification has been used by many states to add their names to the list of states that ratified certain amendments and it has solid legal footing.

CONCLUSION

For the foregoing reasons, it is respectfully recommended that the General Assembly of the State of Ohio pass a joint resolution ratifying the Fourteenth Amendment to the United States Constitution.

Respectfully submitted,

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⁵³ The Department of Justice issued an opinion that the Twenty Seventh Amendment was validly adopted. See Office of Legal Counsel, *Memorandum Opinion for the Counsel to the President*, 16 U.S. OP. OLC 87 (Nov. 2, 1992).