



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

April 7, 2025

Anne L. Weismann
CREW

[REDACTED]

[REDACTED]

foia@citizensforethics.org

Re: FOIA-2025-01037
24-cv-1709 (D.D.C.)
VRB:JMB:ABS

Dear Anne Weismann:

While processing your Freedom of Information Act (FOIA) request dated January 25, 2023, for all opinions, memoranda, or analyses issued by the Office of Legal Counsel ("OLC") concerning Section 3 of the Fourteenth Amendment, OLC referred two pages of material to this Office for processing and direct response to you. For your information, the material was received by this Office on November 15, 2024, and OLC's file number associated with this request is FY23-035.

At this time, I have determined that two pages are appropriate for release without withholdings, and copies are enclosed.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Tabitha Bartholomew of the U.S. Attorney's Office for the District of Columbia at (202) 252-2529.

Sincerely,

Jonathan Breyan
Senior Supervisory Attorney
for
Vanessa R. Brinkmann
Senior Counsel

Enclosures

Files
Gauf
Durham
Glovsky

Honorable Peter W. Rodino, Jr.
Chairman, Committee on the Judiciary
House of Representatives
Washington, D.C. 20510

*To Durham
5/23/74*

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.J. Res. 931, a joint resolution, "to restore citizenship posthumously to General R.E. Lee."

As the result of President Andrew Johnson's December 25, 1868 proclamation of general amnesty, General Lee died with no disability which is subject to the power of the President to pardon. However, it appears to be quite clear that this proclamation could have no effect on section 3 of the Fourteenth Amendment, ratified on July 9, 1868, which would have operated to prevent General Lee from holding any state or federal office unless such disability were removed by a two-thirds vote of each House of Congress. H.J. Res. 931 appears to be a vehicle for that two-thirds vote in the House.

Passage of H.J. Res. 931 involves policy considerations concerning which the Department of Justice makes no recommendation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. Vincent Rakestraw
Assistant Attorney General

J.J.

PMW:ML:JH:em

Files
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Honorable Peter W. Rodino, Jr.
Chairman
Committee on the Judiciary
House of Representatives
Washington, D.C.

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Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.J. Res. 258, "To restore posthumously full rights of citizenship to Jefferson E. Davis."

As a result of President Andrew Johnson's December 25, 1868 proclamation of general amnesty, Mr. Davis died with no disability which is subject to the President's power to pardon. It is quite clear, however, that this pardon did not affect Section 3 of the Fourteenth Amendment, adopted July 21, 1868, which would have prohibited Mr. Davis from holding any state or federal office until the disabilities were removed by a vote of two-thirds of each House. Mr. Davis predeceased the general removal of these disabilities by the Act of June 30, 1898, 30 Stat. 432, which applied only to individuals still living.

H.J. Res. 258 appears to be the vehicle for the necessary two-thirds vote in the House. Its passage involves policy considerations on which the Department of Justice has no opinion.

Sincerely,

Patricia M. Wald
Assistant Attorney General
Office of Legislative Affairs

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