

Tennessee's Constitutions

Table of Contents

	Pages
1. Content Essay	2-6
2. Student Activity	7-8

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Essential Question: How did changes in Tennessee's constitution both expand and contract rights for Tennesseans?

Tennessee's first constitution was written in Knoxville in January of 1796. William Blount, Governor of the Territory South of the River Ohio, called the convention when a census revealed that the territory's population was more than large enough to meet the requirements of statehood. The delegates who gathered in Knoxville were the most prominent men in the state and included such figures as James Robertson and Andrew Jackson. The delegates spent four weeks drafting the document which was based on the United States Constitution, North Carolina's constitution and those of other states.¹

The delegates created a government with two distinct branches: legislative and executive. Judicial power was held by a system of courts created by the legislative branch. The legislative branch was bicameral, meaning that it was made up of a House of Representatives and Senate. Representatives and state senators were required to be residents of the county that elected them and to hold at least two hundred acres of land. The governor, the state's chief executive, was required to own five hundred acres of land. Elections were to be held every two years and an individual could only serve as three terms out of every four. Land ownership was also a requirement for voters. Free males, age twenty-one and older, who owned land were eligible to vote in the county they resided. As a result, suffrage was extended to both white and Black landowners. Finally, the delegates created a tax system in which land and enslaved people were taxed at the same right

¹ Paul Bergeron, Stephen Ash and Jeanette Keith, *Tennesseans and Their History*. (Knoxville: University of Tennessee Press, 1999), 64-67.

despite differences in actual value. Blount sent the constitution, which included a clause inserted by Jackson that Knoxville could not be the state capital after 1802, to the national government.² President Washington submitted Tennessee's constitution to Congress in April, but its approval was held up due to the consideration of party politics until June. Tennessee officially became the sixteenth state on June 1, 1796.³

When William Blount oversaw the creation of Tennessee's constitution in 1796, Tennessee was a frontier area. By 1834, Tennessee's population had grown to almost 700,000 and cities had developed throughout the state.⁴ The 1796 Constitution could no longer effectively govern the state. Therefore, the Tennessee General Assembly called for a constitutional convention to meet in Nashville in 1834.⁵ The new constitution resolved a number of problems including establishing a three branch system of government that allowed Tennessee to create a system of courts for the first time. The new constitution also changed the tax structure so that land was taxed according to its value and for the first time counties also had the power to tax.⁶ Perhaps the most important changes had to do with suffrage. The requirement to own property was dropped which made many men eligible to vote for the first time. However, free Black men lost their right to vote when the word "white" was added to the franchise clause. The delegates also held a heated debate on the emancipation of enslaved persons. Ultimately, the convention decided that the General Assembly "would have no power to pass laws for the emancipation of slaves."⁷ Thus, the 1834 Tennessee

² Ibid.

³ Ibid

⁴ "The Tennessee Constitution of 1834." Tennessee State Library and Archives. <https://tsla.tnsosfiles.com/digital/teva/intros/33662.pdf> 6 July 2018.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

Constitution expanded voting rights for white men while simultaneously stripping free Black men of their right to vote and setting up legal barriers to emancipation in Tennessee.

The final issue considered by the convention was selecting a permanent state capital. Knoxville served as capital from 1796 to 1812, except for a single day in 1807 when Kingston served as the capital. The Cherokee were persuaded to cede their rights to land in the area because it was needed to serve as the state capital. The legislature met for a few hours to technically meet the requirements of the Treaty of Tellico. However, there was no real plan to make Kingston the capital. It was simply a ploy to gain more land from the Cherokee.⁸ The capital moved back to Knoxville the next day and stayed until 1812. The capital moved to Nashville in 1812, but returned to Knoxville in 1817. In 1818, the legislature moved the capital to Murfreesboro which had the distinction of being the geographic center of the state. The legislature met in a church there until 1826, when they returned to Nashville. The delegates to the 1834 constitutional convention decided to push the decision onto the 1843 legislature. That body eventually settled on Nashville as the state capital after a long debate in which Democrats favored Murfreesboro and Whigs favored Nashville.⁹ The cornerstone for the state capitol building was laid on July 4, 1845 and completed using the labor of enslaved people in 1859.¹⁰

To understand the roots of the Constitutional Convention of 1870, one must look back to Tennessee's Civil War experience beginning with the fight over secession. Once South Carolina seceded in December 1860, Tennesseans were roughly divided into three camps. The first camp wanted to secede wholeheartedly. The second camp wanted to remain in the

⁸ Carroll Van West., "Capital Cities" Tennessee Encyclopedia and History and Culture. Tennessee Historical Society.. https://tennesseeencyclopedia.net/entries/capital_cities/ Accessed 14 June 2019.

⁹ Ibid.

¹⁰ Ibid.

Union at any cost. The third group wanted to remain in the Union, but they did not want to force other states like South Carolina to remain in the Union if they wanted out. When the question of secession was first put to voters in February 1861, 69,000 voted to remain in the Union while 58,000 voted for secession. After the Battle of Fort Sumter and President Lincoln's call for 75,000 troops, many Tennesseans in the third group changed their minds. A second vote on secession in June 1861 resulted in 105,000 votes for secession and only 47,000 against. Thus, Tennessee became the last state to join the Confederacy.¹¹

The majority of Unionists lived in East Tennessee. William "Parson" Brownlow and Andrew Johnson were two key leaders of the movement. The Unionists wanted to form a separate state as West Virginia had done, but this was never accomplished. Instead, they settled down to endure four years of ruthless guerilla warfare in which they were sometimes the victims and sometimes the perpetrators of brutally violent acts.¹² Ironically, Middle and West Tennessee, where most of the secessionists lived, quickly came under Federal control. President Lincoln appointed Andrew Johnson, the loyal Unionist, military governor. In an effort to bring order to Tennessee, Johnson ruled with an iron hand. His harsh mandates left many of the moderate Unionists feeling betrayed. Emancipation was an especially tricky issue in Tennessee. Many Unionists including the very vocal Brownlow opposed emancipation. In fact, Johnson asked Lincoln to exclude Tennessee from the Emancipation Proclamation because he feared that to do otherwise would drive many Tennesseans into the arms of the Confederacy.¹³

When Johnson left Tennessee to assume his duties as vice-president, he was replaced by William Brownlow. Brownlow was able to push ratification of the 14th amendment through the legislature and ensure that Tennessee would be the first Confederate state to rejoin the

¹¹ Bergeron, Ash and Keith. *Tennesseans and Their History*, 134-136.

¹² *Ibid.*, 139-140.

¹³ *Ibid.*, 147-149.

Union. Brownlow was not a man given to compromise. Instead of trying to reunite former Confederates (Democrats) and Unionists (Republicans) he drove them further apart with two laws. The first stripped voting rights from former Confederates in order to keep the Republicans in power. The second granted Blacks the right to vote. Voting rights or enfranchisement of Blacks angered many Conservative Republicans as well. A split developed in the Republican Party between the Radicals and Conservatives.¹⁴

In 1869, Brownlow left his post as governor to assume his duties as United States Senator. DeWitt Clinton Senter, Brownlow's successor, assumed the governorship. Senter eased the voting restrictions that Brownlow had put in place on Conservative Republican voters. The Conservative Republicans favored granting suffrage to former Confederates. In order to gain the support of Conservative Republicans, Senter agreed. He appointed election commissioners who allowed more Conservatives and former Confederates to vote. The former Confederates (Democrats) saw this as their path back to political power. The former Confederates began running candidates in legislative races across the state. By 1870, the former Confederates had enough seats in the legislative branch to call for a constitutional convention.¹⁵

The new constitution did not disenfranchise Black voters as many of the legislators wanted, but it did completely restore voting rights to former Confederates. At a practical level there was no need to anger the federal government by denying Black voting rights on paper when the Ku Klux Klan was doing it more effectively with violence. The poll tax was further assurance that while Blacks could vote in theory, few would be able to take advantage of that right. The new constitution also contained a number of other provisions designed to weaken

¹⁴ Hardy, William Edward, "'Fare well to all Radicals': Redeeming Tennessee, 1869-1870. " PhD diss., University of Tennessee, 2013. http://trace.tennessee.edu/utk_graddiss/2432 Accessed 11 July 2018.

¹⁵ Ibid.

the power of the Radical Republicans. The constitution was overwhelmingly approved by voters in March. In November 1870, John C. Brown was elected governor of Tennessee. Brown was a Democrat, former Confederate and member of the Ku Klux Klan. His election signaled the end of the Reconstruction era in Tennessee.¹⁶ The experiences of Black legislators in the General Assembly show Tennessee's movement towards segregation and disenfranchisement.

The 1870 Constitution remained in effect until a new convention was held in 1977. The impetus for the convention was to rescind the ten percent cap on interest rates.¹⁷ However, the convention ultimately dealt with a number of different issues. The ten percent limit on interest rates was removed. The governor was allowed to serve two consecutive terms. The state was barred from undertaking deficit spending and county governments were modernized. Several other changes were made to remove clauses that had been invalidated by federal law such as the ban on interracial marriage and segregated schools.¹⁸

¹⁶ Ibid.

¹⁷ Robert B. Jones, "Government." Tennessee Encyclopedia. <https://tennesseeencyclopedia.net/entries/government/> 1 July 2021.

¹⁸ Ibid.

Tennessee's Constitutions Student Activity

Use the information in the reading to complete the graphic organizer and answer the questions below. List the key provisions of each state constitution.

1796	1834	1870	1977

Over time, Tennessee's constitutions have both expanded and restricted the rights of its citizens.

1. Describe one example of how Tennessee's constitutions restricted the rights of citizens.

2. Describe one example of how Tennessee's constitutions expanded the rights of citizens.

Tax reform has been a persistent theme in Tennessee's history. For the last several years, the possibility of replacing the high sales tax with a state income tax, like those found in several other states, has been the main tax reform issue. Investigate both sides of the debate and write a short essay expressing your opinion on the issue.

Tennessee's Constitutions Student Activity Answer Key

Use the information in the reading to complete the graphic organizer and answer the questions below. List the key provisions of each state constitution.

1796	1834	1870	1977
Answers will vary	Answers will vary	Answers will vary	Answers will vary

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