

## Tennessee's Constitutional Convention of 1870 and African-American Legislators

*Essential Question: What events led to Tennessee's Constitutional Convention of 1870 and the election of African-Americans to the General Assembly?*

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 whole-heartedly. The second camp wanted to remain in the 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.

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. 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 do otherwise would drive many Tennesseans into the arms of the Confederacy.

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 14<sup>th</sup> amendment through the legislature and ensure that Tennessee would be the first Confederate state to rejoin the Union. Brownlow was many things, but a compromiser was not one of them. 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 African Americans the right to vote. Voting rights or

enfranchisement of African Americans angered many Conservative Republicans as well. A split developed in the Republican Party between the Radicals and Conservatives.

It is not coincidental that the Ku Klux Klan was founded in Pulaski, Tennessee in 1865, the same year that Brownlow took office. Former Confederates who found themselves locked out of political power could not bear to see African American men voting when they could not. The Klan quickly evolved into a terrorist organization that used violence and threats of violence to intimidate voters and control the outcome of elections. Brownlow responded by sending out state troops to capture Klansmen, but they were largely unsuccessful in breaking up the group. When the state guard appeared, the klansmen stopped their activities until the guard left. The state already had massive debts from the war and could not afford to maintain the state guard. Once the guard was gone, the Klansmen returned to terrorizing the countryside.

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.

The new constitution did not disenfranchise African American 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 African American voting rights on paper when the Ku Klux Klan was doing it more effectively with violence. The new constitution also contained a number of other provisions designed to weaken the power of the Radical Republicans. The constitution was overwhelmingly approved by voters in March. In November of 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 end of the Reconstruction era in Tennessee. The experiences of African-American legislators in the General Assembly show Tennessee's movement towards segregation and disenfranchisement.

In 1872, the first African American, Sampson Keeble was elected to represent Davidson County in the 38<sup>th</sup> General Assembly. Keeble served only one term. Between 1872 and 1887, thirteen other African Americans were elected to the Tennessee General Assembly. After 1887, no other African Americans were elected until A.W. Willis, who was elected in 1965.

The African Americans who served in the Tennessee General Assembly in the 19<sup>th</sup> century had a number of things in common. Nine of the men represented counties in southwest Tennessee (Shelby, Fayette, Haywood and Tipton counties). The others represented Davidson,

Hamilton and Montgomery counties. Eleven of the fourteen were born into slavery. Four were attorneys, four were teachers and seven attended college. Three of the representatives attended Fisk University, including Greene E. Evans who was part of the earliest group of Fisk Jubilee Singers.

Another commonality was the lack of success these men had in preventing the passage of **Jim Crow laws** in Tennessee. In 1875, just after Sampson Keeble's term ended, Tennessee passed its first Jim Crow law. The 1875 law, Chapter 130 Acts of Tennessee, allowed discrimination in hotels, trains, theaters and most other public places. Under the law, business owners could simply refuse service to anyone they choose. If patron complained, he or she could be fined up to \$100. A number of the African Americans who served in the General Assembly introduced bills to overturn or amend Chapter 130 and similar laws, but were unsuccessful. Only Styles Hutchins (Rep. Hamilton County) had any success in passing legislation. His bills to abolish the poll tax in Chattanooga and to prevent criminals from other states from testifying in Tennessee courts were successful. In general, any legislation proposed by Tennessee's African American legislators that aimed to protect the rights granted by the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> amendments failed.

After the end of Reconstruction, Tennessee's African American legislators faced increasing pressure from violent groups of racist whites. David Rivers represented Fayette County from 1883-1884. He was reelected in 1885, but was prevented from taking his seat when a mob of prejudiced whites drove him from Fayette County. While running for a fourth term in 1888, Samuel McElwee was targeted by white separatists in Haywood County. Armed mobs terrorized African American voters. Local officials deliberately miscounted and misreported votes to prevent McElwee from serving another term. McElwee and his family were forced to flee Haywood County and barely escaped with their lives. Like many of the other former legislators, McElwee eventually left Tennessee. The 46<sup>th</sup> General Assembly (1889-1890) was the first since 1872 to not have any African American legislators. The 46<sup>th</sup> General Assembly passed a statewide **poll tax** designed to greatly reduce the number of African American voters. The poll tax also meant that it would be 75 years before another African American would serve in Tennessee's General Assembly.

**Jim Crow laws**- laws that legalized the segregation of African-Americans and whites. The laws are named after a character from a popular traveling show in the late 1800's. The Jim Crow character, played by a white actor in black face make-up, portrayed African-Americans as stupid, brutish and completely inferior to whites.

**Poll tax** – tax paid by voters at the polling place on election day. Poll taxes became common in the South after the Civil War as a way to keep African-Americans from voting. Discrimination forced many African-Americans into low paying jobs which made it impossible to pay the tax.

Source: 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](http://trace.tennessee.edu/utk_graddiss/2432)>

"This Honorable Body: African American Legislators in 19<sup>th</sup> Century Tennessee." TSLA Exhibits. *Tennessee State Library and Archives*, 2013. Web.

<http://sharetn.gov.tnsosfiles.com/tsla/exhibits/blackhistory/index.htm>

# Tennessee's Constitutional Convention of 1870 and African-American Legislators

Use the text to answer the questions below.

1. Why didn't the 1870 Constitution deny voting rights to African-Americans? \_\_\_\_\_

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2. What did the law known as Chapter 130 do? \_\_\_\_\_

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3. What happened to David Rivers in 1885? \_\_\_\_\_

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4. Why did Tennessee pass a poll tax in 1889? \_\_\_\_\_

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5. What are Jim Crow laws? \_\_\_\_\_

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