

# Tennessee's Constitutions

*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.

The delegates created a government with three branches: legislative, executive and judicial. The legislative branch was bicameral meaning that it was made up 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 African-American landowners. Finally, the delegates created a tax system in which land and enslaved people were taxed at the same rate 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. 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.

Tennessee was governed by its original constitution until 1834. By then a number of issues had arisen that Tennesseans sought to redress by writing a new constitution. The first issue to be addressed was taxation. Middle Tennesseans were happy with the old system, but West and East Tennesseans were not. They were able to and change to a system in which taxes were based on the actual value of the property. Another area of complaint was the judicial branch. The new constitution created a state supreme court with three justices drawn from each of the three divisions of the state.

As was common in most state constitutions adopted at this time, property owning requirements were dropped for voters. This greatly expanded the number of voters in the state. However, the convention also inserted the word *white* into the constitution thereby stripping

free African American males of their voting rights. The delegates were also forced to consider the issue of emancipation when sixteen counties sent petitions in favor gradual emancipation. In a close vote, the convention decided that the General Assembly would not have the power to make laws allowing for the emancipation of enslaved people. The closeness of the vote and the strong support for gradual emancipation as evidenced by the number of county petitions, revealed a definite divide in opinions on slavery that would continue to influence regional divisions until after the Civil War.

The final issue considered by the convention was selecting a permanent state capital. Knoxville served a 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. 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. The cornerstone for the state capitol building was laid on July 4, 1845 and completed using the labor of enslaved people in 1859.

The Civil War brought great changes to Tennessee. East Tennessee remained strongly Unionist, while Middle and West Tennessee favored secession and joining the Confederacy. 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.

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 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. 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. The former Confederates (Democrats) began running candidates in legislative races across the state. By 1870, the Democrats 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. 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 Constitution of 1870 also created a poll tax, ostensibly to fund public schools. The poll tax was further assurance that while African Americans could vote in theory, few would be able to take advantage of that right. The constitution further stated that monies collected from the poll tax would be used to fund public schools, but also stated that integrated schools would not receive any state money. The new constitution also restricted the power of the governor to use the militia and invoke martial law. It also barred the state from financing private business ventures and limited the number of days for which legislators could collect pay. The constitution was overwhelmingly approved by voters in March, 1870.

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. 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.

Sources:

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

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) Accessed 11 July 2018.

Carroll Van West. "Capital Cities" *Tennessee Encyclopedia and History and Culture*. Tennessee Historical Society. March 6, 2018. <https://tennesseeencyclopedia.net/entries/capital-cities/> Accessed 14 June 2019.

# 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 Constitution | 1834 Constitution | 1870 Constitution | 1977 Constitution |
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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.

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

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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.