

July 24, 1933

To the Committee on Graduate Study:

I submit herewith a thesis by Mr. Joseph E. Walker, "The Negro in Tennessee During the Reconstruction Period," and recommend that it be accepted for nine quarter hours credit in fulfillment of the requirements for the degree of Master of Arts, with a major in History.

P. M. Hamer  
Major Professor

At the request of the  
Committee on Graduate  
Study, I have read this  
thesis, and recommend its  
acceptance.

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Accepted by the Committee

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Chairman

THE NEGRO IN TENNESSEE  
DURING THE RECONSTRUCTION PERIOD

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A THESIS

Submitted to the Graduate Committee  
of  
The University of Tennessee  
in  
Partial Fulfillment of the Requirements  
for the degree of  
Master of Arts

by

JOSEPH E. WALKER

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## PREFACE

The emancipation of the slaves, as a result of the Civil War, forced upon the South the difficult problem of determining the place of the free negroes under a new organization of society. In this thesis an attempt has been made to show the development of certain phases of the problem in Tennessee during the period of radical rule from 1865 to 1869. A large part of the material for this study was taken from the newspapers of that period and unfortunately the files to which I had access were not complete. In order to fill in the gaps I accepted the very kind offer of Doctor P. M. Hamer to use his history of Tennessee which has not yet been published. I have been greatly aided in this work also by the helpful suggestions and criticisms which Doctor Hamer made while it was being done.

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## Chapter I

### THE PROBLEM OF THE FREEDMAN

The occupation of Tennessee by the Union Army virtually killed slavery there in the early years of the war, but legal freedom for the slaves was not secured until war was almost over. Lincoln desired to keep the support of the Tennesseans who had remained loyal to the Union. Wishing to avoid any step which might antagonize them, he exempted Tennessee from the Emancipation Proclamation of January 1, 1863. Therefore, that state was the only member of the Confederacy which was permitted to free its slaves by state action.

The Tennessee Unionists were split by the question of emancipation into two groups, and this alignment dominated the political battles of the state until 1869. A conservative group opposed abolition and tried to prevent the reelection of Lincoln in 1864 because of his negro policy. Among the leaders of this party were Thomas A. R. Nelson and ex-Governor William B. Campbell. However, a majority of the loyalists favored emancipation because they believed slavery had been the chief support

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1. Caleb Patterson, The Negro in Tennessee, p. 197.

of the Rebellion and that freedom for the slaves would help bring the war to an end.<sup>2</sup> Andrew Johnson, at this time a Radical, desired emancipation because he believed it to be "right in itself" and because the emancipation of the slaves would "break down an odious and dangerous aristocracy." He declared, "I think we are freeing more whites than blacks in Tennessee."<sup>3</sup>

The divisions among the Unionists and the progress of the war delayed action on the question of freeing the slaves. The first step was taken at a meeting of Unionists in Nashville, January 21, 1864. The men present recommended that a constitutional convention be called when Military-Governor Andrew Johnson should believe all parts of the state could be represented. These men pledged themselves to seek the election of delegates to the convention who would favor immediate and universal emancipation.<sup>4</sup>

When, by the fall elections of 1864, Johnson became Vice President-elect of the United States, he determined to set up a civil government in Tennessee. A convention of Union men, called to meet in Nashville,

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2. Brownlow's Knoxville Whig, January 11, 1865.  
 3. P. M. Hamer, Tennessee - A History, p. 584.  
 4. Ibid., p. 582.

assembled on January 9, 1865. Plans were made to set up a state government which could be controlled by the people of the state who had been loyal to the Union. Restrictions were placed on voting to exclude the Confederates and leave the government in the hands of the Unionists minority.

Three amendments to the state constitution were proposed. Of these two were designed to abolish slavery. The first stated that, "slavery and involuntary servitude, except as a punishment for crime, . . . are hereby forever abolished and prohibited throughout the state;" and the other that, "the Legislature shall make no law recognizing the right of property in man." These amendments were adopted by a vote of the "loyal" people of the state on February 22, 1865. In April of the same year, the legislature of the reorganized government ratified the Thirteenth Amendment to the National Constitution -- the abolition amendment.

Emancipation had now been accomplished in Tennessee. A question, however, was raised over the right of a minority of the people to take such action. Some persons contended that slavery had ceased to exist at the time the Union Army occupied the state and that nothing

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5. Acts of Tennessee, 1865, p. X.  
6. James G. Blaine, Twenty Years of Congress, Vol. II, p. 52.

more had been necessary to free the slaves. One negro sued his former master for wages for all work done after the Union Army occupied the state. The State Supreme Court rendered a decision on this case in December, 1867. It ruled that the slaves had been freed by the amendment to the state constitution which had been adopted on February 22, 1865, and thus they were not entitled to wages for work done before that date.<sup>7</sup> The incorporation of the Thirteenth Amendment into the Constitution of the United States settled any doubts which may have remained concerning the existence of slavery in Tennessee.

The census of 1870 showed that there were 322,331 colored persons in Tennessee in a total population of 1,259,520. Thus, over one fourth of the people of the state were negroes. Most of them were living in Middle and West Tennessee and only a few in the eastern section. There were several thousand free negroes in Tennessee before the war, but most of the colored people had never experienced any condition except servitude. The necessity for such a large part of the population to adjust itself to new conditions caused many serious difficulties both during and after the war.

Thousands of the slaves left the plantations

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7. Nashville Union and Dispatch, January 22, 1868.



and flocked to the Union Army when it invaded Tennessee. They looked upon it as an army of deliverance. These negroes constituted a big problem for the army commanders and General Ulysses S. Grant sought to handle it by appointing Chaplain John Eaton, Jr. to take charge of negro affairs in the Mississippi Valley above Louisiana. Eaton put the unemployed negroes to work gathering the corn and cotton crops in the abandoned fields. He began the work of education among the blacks and appointed minor officers to register the negroes, make labor contracts, locate and manage relief camps and care for the infirm, vagrant and idle on the plantations. Eaton's work, which seems to have been notably successful, was continued until a government bureau was created to take charge of all work among the negroes.

On March 3, 1865, the Freedmen's Bureau was established by an Act of Congress to care for the newly emancipated negroes in the South. At first the Bureau was authorized to remain active during the war and for one year thereafter, but the time was later extended through most of the Reconstruction Period. This Bureau took over the work which had been done under the

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8. Walter L. Fleming, The Freedmen's Savings Bank, p.7.  
 9. Paul S. Pierce, The Freedmen's Bureau, p. 15.  
 10. W. A. Dunning, Essays on Reconstruction, p.74.

army and extended its efforts to many people whom the army was unable to reach.

In Tennessee and Kentucky the work was directed by General Clinton Bowen Fisk as District Bureau Agent. One of the first problems he had to meet was the organization of relief for the needy of both races. Fisk accomplished much toward relieving the destitute. Over a half million rations were issued in his district from June, 1865, to September, 1866.<sup>11</sup> Seven asylums and two hospitals were being maintained by the Bureau by the end of the second year of its work.<sup>12</sup> General Fisk personally directed the establishment of Wilson Hospital in Nashville because the city had made no provision for medical care for paupers despite a very great need. Fisk secured a building and fitted it with supplies to care for one hundred persons.<sup>13</sup>

The colored people themselves took some part in relief work among members of their own race. A committee was organized in Murfreesboro in January, 1866, for work among orphans and needy. Finances were secured by a levy of ten cents per month upon every male black over twenty-

11. Pierce, op. cit., p. 98.

12. Ibid., p. 92.

13. Nashville Republican Banner, December 24, 1865.

one years of age.<sup>14</sup> Unfortunately, not all of the negroes were so self-provident. The need for relief work was unnecessarily increased by the attitude of some of the freedmen toward the nature of freedom.

Many of the negroes believed that freedom meant that they no longer had to work. They left the plantations and flocked into the army camps and the cities with no idea as to how they would earn a living there. They were surprised when told that freedom did not grant them the right to live in idleness, supported by the government.<sup>15</sup> Others of the freedmen were willing to work but did not wish to work for the white planters. They believed that it would be more in keeping with their new freedom to be able to work for themselves on their own farms.<sup>16</sup> The negroes were encouraged to hold this position by widespread reports that large tracts of land were to be divided among the families of the ex-slaves. They were told that the government would give them forty acres and a mule from confiscated Confederate property.<sup>17</sup> Some negroes were even told that they would be "branded" if they consented to work for the "rebels" and that the government would support them without work if they refused

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14. Ibid., January 14, 1866.

15. E. P. Oberholtzer, A History of the United States, Vol. I, p. 64.

16. Republican Banner, November 24, 1865.

17. Cleveland Banner, quoted in the Republican Banner, November 29, 1865.

to aid the ex-Confederates.

Deluded by these false reports and fantastic hopes, many freedmen refused to sign any labor contracts. The greatest difficulty was with the negroes of Memphis and Nashville. There were thousands of them in these cities without work and the planters were anxious to secure laborers, but few negroes could be persuaded to return to the plantations. Some negroes signed contracts and made all arrangements to go to work, but when the time came to report they could not be found.

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A Northern man related an unsuccessful attempt to secure laborers to farm a seven hundred acre plantation near Memphis. He estimated that there were ten to fifteen thousand negroes in Memphis, most of them idle, but he could not secure any to work for him. He appealed to the Freedmen's Bureau officials for aid and through them secured the promises of several laborers to sign contracts. None kept his promise. In a final effort the planter offered a special agent twelve dollars for each workman he could obtain. The terms he was authorized to offer were: fifteen dollars per month, house, food and clothing. The agent failed to get any contracts signed and gave up the job as hopeless.

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18. Republican Banner, January 5, 1866.  
 19. Ibid., January 18, 1866.  
 20/ Philadelphia (Pa.) News, quoted in the Republican Banner,  
 March 3, 1866.

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The planters were to blame in part for the difficulty in securing laborers. Some failed to pay for the work done and the negroes had to rely upon the Bureau to protect their rights.<sup>21</sup> Another difficulty between the negroes and the planters was caused by the effort on the part of some of the latter to get laborers to migrate to Tennessee from other states and from foreign countries. By this means they hoped to be able to do without negro labor. This policy turned the negroes against them and when the plan failed its sponsors had difficulty in hiring workers.<sup>22</sup>

The disinclination of a part of the freedmen to return to the plantations caused more work for the Freedmen's Bureau. The Bureau had been established because of a suspicion of the good faith of the white people and a presumption of enmity between the whites and the blacks. Therefore, one of the chief duties of the agents was to secure fair labor contracts for the negroes. These officials were instructed to impress upon the freedmen the need to work and support their families; and upon the planters the advantage to be gained in treating the negroes fairly. The Bureau did not interfere with the freedom of contract as long as the terms were fair and there was no

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21. Daily Press and Times (Nashville), January 28, 1868.
  22. Knoxville Whig, December 4, 1869.

exploitation of the ignorance of the blacks. But Bureau officials were given the right to annul unauthorized contracts and force the planters to pay the current rate of wages. Contracts made out under the direction of the Bureau agents could be enforced by them upon planters and laborers alike.<sup>23</sup>

General Fisk said the Bureau would make every effort to find work for the negroes and keep them active. He denied that the negroes as a group were more lazy than any other group and explained their preference for city life by asserting that the freedmen were going to the cities in order to give their children educational opportunities. Fisk advised that schools be started on the plantations as a means of keeping the freedmen there.<sup>24</sup> Bureau officials all over the state followed the lead of General Fisk in trying to induce the negroes to return to the plantations. Most of the labor contracts were made out under the supervision of Bureau agents during the first year after the war.<sup>25</sup>

In Memphis a large meeting was held in the depot in December , 1865, to consider labor conditions. Persons of both races attended and were addressed by two Freedmen's Bureau agents. The negroes were advised to make contracts

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23. Pierce, op. cit., p. 140.

24. Republican Banner, December 9, 1865.

25. Pierce, op. cit., p. 140.

at once for the coming year in order that they might be happy and have comfortable homes, and they were warned against persons who advised them to do anything else.<sup>25</sup>

General William Dudley, agent for the Memphis district, bound out a number of negro children to planters with the assurance that they would have "good treatment, good homes, and an opportunity of learning how to earn their bread in the future."<sup>27</sup> This same official tried to lessen vice among the freedmen by arresting negresses charged with prostitution and sending them to plantations with instructions that they be put to work.<sup>28</sup> These are just a few of the many attempts made by the Bureau agents to reduce the number of idle negroes in the cities. Not even the most severe critics of the Bureau accused its agents of failing to try to induce the negroes to leave the cities and return to work.

Considering the state as a whole, the Bureau was rather successful in its effort to put the freedmen to work despite the large number of idle blacks in the cities. Labor conditions in the smaller towns of the state were much better than in the larger cities. Reports from Franklin, Murfreesboro, and many of the other towns

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26. Republican Banner, December 22, 1865.  
27. Ibid., November 4, 1865.  
28. Ibid., November 9, 1865.

early in 1866 stated that most of the negroes who had gathered there had signed contracts and had gone to the country.<sup>29</sup> Two northern observers found labor conditions to have been exceptionally good in Tennessee. Ben Truman reported, following a trip into the South late in 1865, that the freedmen in Tennessee were in good condition. Not more than a few hundred, he said, were destitute and dependent upon the Bureau.<sup>30</sup> General George Henry Thomas told the Reconstruction Committee in March, 1866, that the freedmen of Tennessee had no difficulty finding employment at fair wages. "There is a general understanding among the negroes and the whites", he said, "that each is to comply with his part of the contract, so that there is no difficulty and dissatisfaction."<sup>31</sup>

The number of negroes in Tennessee had been decreased during and just after the war. The war itself, disease, and famine had killed many of them and many more had left the state to migrate to other sections of the country.<sup>32</sup> Thus there was a shortage of laborers despite the abandonment of much land because of the war. Most of the freedmen would have been able to find work if they had desired it. And most of them had secured employment for the year 1866, except in some of the large towns

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29. Ibid., January 30, 1866.  
 30. New York Times, quoted in the Republican Banner, January 12, 1866.  
 31. Republican Banner, March 3, 1866.  
 32. Republican Banner, January 30, 1866.

where groups of blacks preferred to remain in idleness.

The idle negroes in the cities were responsible for increasing the seriousness of another problem of this period--race antagonism. It was inevitable that there should have been considerable race hatred after the war. The changed position of the negro race would have been cause enough to arouse the resentment of the white people toward the freedmen. Most of the conflict between the races in Tennessee centered in the large cities because of the commoner and more unaccustomed contacts between the races there. It was greatly intensified because many of the negroes, in the absence of employment, turned to crime as a means of livelihood.

The newspapers of 1865 contained many accounts of crimes from petty thieving to murder charged against the negroes. In Nashville most of the cases before the Police Court were those of drunken and disorderly blacks. "The town is infested with vagrant negroes to an extent almost incalculable," reported a newspaper.<sup>33</sup> A pitched battle between negroes and whites occurred in Nashville, November 9, 1865, over the efforts of a party of negroes to appropriate the personal property of everyone who came along the streets. Rocks and sticks were hurled and several persons wounded before the soldiers could be called out. The negroes fled when the troops appeared.<sup>34</sup>

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33. Ibid., October 22, 1865.

34. Ibid., November 9, 1865.

Murders and robberies became so common that few people  
ventured out on the streets after dark and those who did  
kept to the middle of the street and carried lanterns.<sup>35</sup>

The police force was utterly incapable of coping with the  
wave of crime which swept the city. The mayor called a  
special meeting of the citizens of Nashville to organize  
patrols to protect the people on the streets at night.

Most of the respectable white men of the city volunteered  
for service on the patrols.<sup>36</sup> The Freedmen's Bureau closed

the dance halls in Nashville because they were gathering  
places for the worst class of negroes and breeding places  
for crime.<sup>37</sup>

The negroes did not commit all of the crimes,  
but they received most of the odium because the emancipation  
of the slaves furnished a ready explanation for the increase  
in the number of crimes.

In East Tennessee, where Union sentiment pre-  
dominated, the negro was decidedly unpopular. A Freedmen's  
Bureau official reported:

It is a melancholy fact that among the  
bitterest opponents of the negro in  
Tennessee are the intensely radical  
loyalists of the mountain district--the  
men who have been in our armies . . . .

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35. Ibid., November 24, 1865.  
36. Ibid., November 24, 1865.  
37. Ibid., November 22, 1865.

In Middle and West Tennessee the largest and the wealthiest planters of the old slaveholding population have more cordially co-operated with me in my duties than the people of East Tennessee.<sup>38</sup>

Another Bureau agent told of an old Union soldier who said:

If you take away the military from Tennessee, the buzzards can't eat up 39 the niggers as fast as we'll kill them.

J. T. Trowbridge reported in 1865 that although East Tennesseans had opposed slavery and secession they did not like the blacks.<sup>40</sup>

A leading Radical paper in East Tennessee gave an account of the condition of the negroes in Knoxville which explains a part of this dislike. Again it was the idle negroes in the cities who were giving the trouble. Thousands were collecting in the towns, it was reported, who wanted no work, loafing on street corners and in the dance halls. They insulted the whites on the public streets. The negroes demanded that they be permitted to vote. They threatened to use violence if the ballot were denied to them and claimed that the national government would support any steps they took to secure for the freedmen the right to participate in elections. The ex-Union soldiers, the writer threatened, would not stand for any coercion by the

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38. W. L. Fleming, Documentary History of Reconstruction, Vol. I, p. 82.

39. W. L. Fleming, The Sequel of Appomattox, p. 48.

40. Fleming, Documentary History, op. cit., p. 81.

negroes they had fought four years to free. In Memphis, he said, the freedmen were being made to return to the country and work, but there was no such leadership in East Tennessee.<sup>41</sup>

The evidences of race hatred were even more pronounced in West Tennessee than in the other districts, despite the assurance of the Knoxville journalist to the contrary. Negro troops stationed in Memphis were the basis of most of the trouble. The white people of the city opposed the use of negro soldiers for patrol duty. The natural opposition of the southern people to soldiers who had recently been their slaves was greatly increased by the disorderly conduct of many of these men and by the poor discipline maintained by the white officers. General Richard Johnson, in his official report for January, 1866, said that there was a prejudice against colored soldiers among the citizens, "and this prejudice is increased by the inconsiderate conduct of many of the [white] officers of the colored regiments."<sup>42</sup> Judge Thomas Leonard of Shelby County asked for two regiments of white soldiers to police the city of Memphis and replace the negro troops which were being used.<sup>43</sup> Many residents of the city signed a petition

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41. Knoxville Whig, September 27, 1865.  
42. Republican Banner, January 14, 1866.  
43. Ibid., December 24, 1865.

which demanded the disbanding and disarming of the negro soldiers. The petition suggested that, if any troops were needed, white soldiers might relieve the negroes.<sup>44</sup> Nevertheless, the black soldiers remained on duty.

Negro soldiers were charged with leading disorderly gangs of vagrant blacks. These gangs participated in several clashes with the police. In December, 1865, a small riot resulted from an attempt to arrest a negro soldier for stealing a piece of meat from the market. A large crowd of negroes gathered around and rescued the soldier from the police. The blacks then threatened the officers. The policemen escaped but were pursued by the negroes who searched the streets, shops and homes in the vicinity, taking some private property when they failed to find their quarry. A white military officer was present when the soldier was arrested but his conduct served to encourage rather than restrain the actions of the negroes.<sup>45</sup>

Bad feeling between the negro soldiers and the Memphis police continued to grow during the winter of 1866. The colored soldiers were frequently used by the Freedmen's Bureau agents and several times they found opportunity to arrest members of the police force. The policemen in turn took advantage of every chance to place the colored soldiers in custody. The soldiers could always find support among

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44. Ibid., January 30, 1866.  
 45. Ibid., December 22, 1865.

the idle or criminal freedmen of the city in any fight with the police. At the same time many white men were willing to join any quarrel against the blacks. The people of the city were lining up for a war of the races and only awaited an excuse to begin a fight. The excuse was found on May 1, and for three days Memphis was the scene of a race riot that eclipsed all others in Tennessee.

A large party of negroes, including many recently discharged soldiers, was congregated at Main and South Streets. Most of those present were intoxicated and they were causing considerable disturbance. Several policemen approached and arrested two of the most disorderly men in the crowd. As they left with the prisoners, the other negroes followed a short distance behind, using threatening language and firing pistols into the air. The policemen turned and fired at the mob, wounding one negro. The shooting was returned with enough effectiveness to wound an officer. <sup>46</sup> The police sent for aid and slowly retreated until help arrived. The entire police force was called out and soon arrived to support their fellows who also were joined by many armed citizens. The negroes were reenforced by members of their own race and a few white men from the south side of the <sup>47</sup> city <sup>48</sup> until their force numbered about one hundred and fifty.

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46. House Executive Documents, 39th Congress, 1st Session, No. 122.

47. Republican Banner, May 4, 1866.

48. Memphis Daily Commercial, May 5, 1866.

The antagonists met in a sharp engagement in the streets, but the police and their allies quickly defeated and scattered their opponents. The whites then broke up into small groups which patrolled the city, shooting, beating, and threatening any negroes found on the streets. Disorder and violence reigned throughout the city until about midnight when a small detachment of Federal troops succeeded in restoring order.<sup>49</sup> Rioting was resumed during the morning of May 2nd and was again halted by the soldiers. Late the following night a party of mounted men rode through the colored section of the city and set fire to many negro churches, schoolhouses, and dwellings. The ineffective resistance of the negroes was easily beaten down.<sup>50</sup>

During the three days of the riot forty-eight persons were killed, of whom forty-six were negroes, and seventy-five people were wounded; ninety-one dwellings, four churches and twelve schools were burned. The total damage to property was about \$130,000.<sup>51</sup> General Fisk ordered the city to replace all negro schoolhouses and churches burned during the race riots and to pay for all other damage done by the rioters.<sup>52</sup>

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49. House Executive Document, op. cit.

50. Ibid.

51. Hamer, op. cit., p. 613.

52. Republican Banner, May 12, 1866.

A bill was hurried through the legislature a few days after the Memphis affair for the purpose of placing the metropolitan police directly under the state government. The governor was authorized to appoint commissioners who should be in command of the police force and who should replace the justices of the peace in the trial of cases. For little apparent reason Nashville and Chattanooga were included with Memphis in the provisions of this bill.

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The Conservatives of the state expressed the opinion that the conflict between the races had been caused by the efforts to place the negroes upon a basis of equality with the white people. They said that the negroes had gained their freedom through the war and they did not deserve anything more for the support they had given to the Union.

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Conservatives and Radicals both believed that time would restore good feeling and co-operation between the races. Difficult adjustments had to be made but conditions in the state were such that eventually a settlement would be reached on the race question. Conservatives charged that a few selfish men wanted to use the negroes for political purposes and these were the ones causing the trouble.

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53. Ibid., May 15, 1866.

54. Ibid., December 21, 1865.

55. Ibid., January 21, 1866.

A Radical editor declared that the negroes were being deceived into thinking the southerners were their enemies. Time would prove this false, he said, because the two races must work together as each was dependent upon the other.<sup>56</sup>

A Conservative said that the former slaveholders still liked the negroes and would be willing to take care of them if the Freedmen's Bureau were removed.<sup>57</sup> The southerners needed the freedmen to work for them, and it was to their interest to keep the friendship of the blacks.<sup>58</sup>

Even before the Memphis riot occurred General George Henry Thomas reported that the race problem in Tennessee was being solved satisfactorily. In March, 1866, he said he believed that in another year confidence would be restored between the races to such an extent that the negroes could be left to the protection of the civil authorities of the state.<sup>59</sup>

One of the most hopeful signs of an improvement in the relations between the races was the progress made in negro education during the war and the Reconstruction Period. Education of the ex-slaves constituted one of the

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56. Knoxville Weekly Whig, April 6, 1870.

57. Republican Banner, January 18, 1866.

58. Ibid., September 27, 1866.

59. Ibid., March 10, 1866.

greatest problems which had to be met by those persons who were working among the freedmen. In the days of slavery laws had been passed in Tennessee which forbade teaching the slaves to read and write as it was feared such learning would cause the negroes to become dissatisfied to be mere laborers. <sup>60</sup> It was natural that the negroes should look upon education as one of the important privileges of their new freedom. Schools had been reserved for the whites-- for free men. Now that they were free the black men wanted this proof of their freedom. Their leaders repeatedly expressed the desirability of negro education and sent many petitions to the legislature, asking for aid to start and maintain schools for negro children. The "colored citizens of Greeneville, Tennessee" addressed a petition to the legislature in January, 1867. It ran in part:

The war has set us free; but, as yet, we are without the means of making this freedom a blessing to us. In order to use our freedom for our own good, and for the good of society, we must be educated, christianized.

The first thing we need is a schoolmaster. Before that can possibly be obtained, we must have a schoolhouse. In order to get a school-house, we are reduced to the necessity of building one. This, without aid, in our destitute condition, we cannot do. We would, therefore, humbly present ourselves before your honorable body as petitioners, and most respectfully ask your assistance

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60. Oberholtzer, op. cit., p.54.

in getting this new and most desirable state of things inaugurated.<sup>61</sup>

At about the same time another was read in the Senate which asked for an appropriation of \$5,000.00 to build a schoolhouse to educate the colored children in Nashville.<sup>62</sup>

Mayor Farquharson of Fayetteville said that education was the greatest need which the legislature had to fill for the freedmen. They had no conception of character, he asserted, and education would be the best way to fill this deficiency. He suggested that a levy be made against the negroes to raise the money necessary to provide schools for them.<sup>63</sup>

Many of the leading men of the state saw that it would be necessary to provide facilities for negro education if the freedmen were to become useful citizens; but there was considerable opposition in parts of Tennessee. Teachers were not permitted to work, negroes were dispossessed of schoolhouses, and at times negro schools and churches were burned. The greatest amount of this opposition was found in the mountain regions among the Union supporters, many of whom had been in the Union Army.<sup>64</sup>

Chaplain Eaton had begun the work of education

<sup>61</sup>. Senate Journal, 1866 - 1867, p. 200.  
<sup>62</sup>. Ibid., p. 215.  
<sup>63</sup>. Republican Banner, December 15, 1865.  
<sup>64</sup>. Pierce, op. cit., p. 80.

among the negroes before the end of the war. When the Freedmen's Bureau was established, it continued this work. Much, perhaps most, of the money for starting and early maintenance of the schools was furnished by charitable societies in the North. Most of the teachers came from the North and a little later from among the negroes themselves. General Fisk recommended that the ladies of the South should take the lead in educating and christianizing the negroes. They understood them better than the missionaries from the North he said, and could do the work better.<sup>65</sup> But the benevolent associations continued to support the schools, and supply most of the teachers, during the Reconstruction Period.

The progress of negro education under difficult war conditions was rather remarkable. By the end of the war there were three thousand pupils in Memphis alone being taught by teachers paid by the northern societies.<sup>66</sup> The Freedmen's Bureau reports for 1865 indicated that there were fifteen thousand negro pupils in the two states of Tennessee and Kentucky.<sup>67</sup>

During the next four years the Bureau greatly extended the work of negro education in Tennessee. It

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65. Republican Banner, June 5, 1866.  
 66. Oberholtzer, op. cit., p. 90.  
 67. House Executive Documents, 39th Congress, 1st Session, no. II.

established many new schools--both local common schools and colleges-- as well as directing the schools which had been begun by Eaton and by the northern societies. The common schools were later taken over by the state. Many of the colleges soon disappeared but a number continued to exist after the Bureau was withdrawn. Among this latter group were Fisk University, Wesleyan College, Roberts College, and Maysville College.

Churches in the North also took part in the work of negro education apart from the activities of the Bureau. The General Assembly of the United Presbyterian Church of Pittsburgh started and maintained freedmen's schools in Knoxville, Nashville, and Memphis. The one in Knoxville was begun in 1865 and during the next four years averaged one hundred and eighty pupils and six teachers. The state was the last agency to begin educational work among the freedmen. A legislative act of March 5, 1867 provided that common schools should be established for the freedmen in districts having twenty-five or more negro students. If the number in attendance fell below fifteen for any month, the school was to be closed for a period not to exceed five months.

In February, 1868, D. Burt, Bureau Superintendent

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68. Pierce, op. cit., p. 78.

69. Knoxville Whig, June 16, 1869.

70. Acts of Tennessee, 1866-1867, p.39.

of Education in Tennessee, reported a total of 132 schools, 144 teachers and 6,689 pupils under his supervision. These were divided among private schools and those supported by societies and by the Bureau. The society schools included 87 buildings, 90 teachers and 4,503 students which comprised the largest section of the Bureau educational system.<sup>71</sup> In 1869, John Eaton, State Superintendent of Public Instruction, reported that 18,808 negro pupils were being taught in 302 colored schools. The growth of negro education is further indicated by the fact that at this time 196 of the teachers<sup>72</sup> were from the colored race.

By the close of the period of reconstruction and radical rule in Tennessee some notable progress had been made in negro education. The combined efforts of the state and local authorities, the negroes themselves, the Freedmen's Bureau and benevolent societies had brought into existence a system of negro education and a fairly large proportion of the children of the freedmen were receiving instruction.

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71. Nashville Union and Dispatch, February 11, 1868.  
 72.  Knoxville Whig, August 26, 1869.

## Chapter II

### CIVIL RIGHTS FOR THE FREEDMEN

The emancipation of the negroes placed them in a peculiar position as members of the population of the state and nation. They were free inhabitants, but they were denied many important rights granted to citizens. They could not appear in court to testify in defense of their persons or property. They could not take any part in the selection of the officers who were to govern them or serve as such officers themselves. They could not sit on juries to judge their fellows who were brought before the courts.

In slave days the negroes were protected in courts by their "white folks" who were interested in securing justice for their slaves or having them escape the punishment of the law for their misdemeanors. But in freedom, the negroes no longer had anyone who was interested in their protection. Many of the white people did continue to look after their former slaves and prevented much injustice being done them, but not all the freedmen were so fortunate. The war broke up much of the plantation life, many of the negroes moved to other parts of the state and some of the former slave owners were

willing to let their emancipated slaves shift for themselves in freedom.

It was necessary that the freedmen be given certain civil rights to secure their freedom and their protection by the law. The legislature was somewhat reluctant to grant any important rights to the negroes. It was not until near the close of their first year of freedom that any legislation was passed granting important privileges to the blacks. The spirit of the session which met from April 3 to June 12, 1865, seems to have been that of the Senate resolution which stated that, because of the large amount of business, no legislation should be enacted concerning negroes until the next session other than what was necessary to protect them in person and property.<sup>1</sup> This resolution was not adopted but the suggestion was rather faithfully carried out during the session. Little was done, however, to protect the negroes "in person and property." The House passed a bill to repeal all laws in relation to slaves.<sup>2</sup> The Senate passed it over until October.<sup>3</sup> The House postponed all action on a bill which

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1. Senate Journal, 1865, p. 55.
  2. House Journal, 1865, p. 179.
  3. Senate Journal, 1865, p. 218.

proposed to prohibit involuntary servitude for negroes.<sup>4</sup>  
A bill to grant to negroes the right to buy, hold, and sell  
real and personal property in the same manner as white  
people passed the second reading in the House only to be  
postponed indefinitely.<sup>5</sup> The legislature had much  
business demanding its attention in this first meeting  
after the restoration of civil government. But the negroes,  
representing about one-fourth of the population of the  
state, deserved some more definite action in their behalf  
than was made by this session of the General Assembly.

The legislature reassembled in October for the  
second session which lasted through May, 1866. During  
this time a number of acts were passed concerning the  
freedmen of the state. An appropriation of ten thousand  
dollars was made to the Asylum for the Insane to be used  
to build quarters for colored defectives, and that  
institution was instructed to receive negro patients.<sup>6</sup>  
Another act removed all disqualifications against negroes  
engaging in business. They were to be restricted only  
by the requirement of obtaining licenses in the same manner  
as white persons who engaged in the same business.<sup>7</sup>

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4. House Journal, 1865, p. 250.
  5. Ibid., p. 531.
  6. Acts of Tennessee, 1865-1866, p. 5.
  7. Ibid., p. 23.

On May 26, 1866, an important measure pertaining to the negroes was passed. It was somewhat in the nature of an omnibus bill since it contained many different provisions. The purpose of the bill was to define the term 'persons of color' and to state the lawful rights of such persons. It declared that "all Negroes, Mulattoes, Mestizoes and their descendents, having any African blood in their veins, shall be known in this State as Persons of Color." Their rights and restrictions were given in the four sections of the bill which followed this definition. They were to have the right "to make and enforce contracts, to sue and be sued, to be parties and give evidence, to inherit, and to have full and equal benefit of all laws and proceedings for the security of person and estate, and shall not be subject to any other or different punishment, pains or penalty, for the commission of any act or offence than such as are prescribed for white persons committing like acts or offences." Black defectives should have all of the privileges of the asylums granted to whites. This act, however, specifically denied to negroes the right to serve on juries or attend the same schools as whites. The final provision declared all free negroes who had lived together as husband and wife while slaves to be man and wife. Their

children were to be legitimate and entitled to inherit<sup>8</sup> property.

Some of the provisions of this act had been passed in separate form previously, but were included in this in order that there might be a concise statement of the rights of people of the African race at that time. One of these, the right to give evidence in court, assumed an important place in the fight to secure rights for the black race. It was the first important civil right granted to them after emancipation. This concession in January, 1866, after a determined fight by the opposition in the House, marked the beginning of the process whereby the negroes became citizens of Tennessee as well as free men. Before this right was granted negroes had almost no privileges in the courts.

Attorney General Horace Maynard was asked late in 1864 concerning the law of Tennessee governing negro testimony in courts of the state. He said no negro or Indian to the third generation could testify in courts except against each other, and no person of mixed blood of any degree who had been liberated from slavery within the previous twelve months could testify against a white

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8. Acts of Tennessee, 1865-1866, p. 65.

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person. In the first session of the legislature after the war a bill was introduced in the Senate to make persons of African and Indian descent competent as witnesses. It passed only one reading and then further consideration of it was postponed until October.<sup>10</sup>

Governor William G. Brownlow made negro testimony one of the important points of his message to the legislature in October, 1865. At that time he was opposed to extending many privileges to the negroes, but there were some he believed were necessary that they should have:

I call your attention especially to the propriety and necessity of conferring upon the freedman the privilege of testifying in courts of justice. His status and his relation to the white race are entirely changed. He was property; he is now a person. For the first time he has a right to enter into contracts, and to enforce them in the courts; to sue and be sued, and to prosecute those who may injure him in person or property. These rights will avail him but little if any evil disposed white person may deprive him of them with impunity. As our law now stands, a freedman may be deprived of his life in the presence of a hundred colored witnesses, whose lips are sealed in the courts.<sup>11</sup>

The Governor continued by asserting that this neglect in the law had brought the Freedmen's Bureau into the South. It would remain permanently, he threatened, if the laws

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9. Brownlow's Knoxville Whig, February 15, 1865.

10. Senate Journal, 1865, p. 136.

11. Senate Journal, 1865, p. 136.

were not changed. Most of the opposition to negro testimony, according to the Governor, was due to the education and habit of the white people. They feared that the negroes would not have sufficient regard for the oath. But the negroes were subject to the same penalties for perjury as the whites, he pointed out, and the negroes were religious and would be influenced by the penalties in the world to come. As a final safeguard, he said, the juries were composed of intelligent persons who would no doubt take into consideration the intelligence, character and truthfulness of the witnesses, black or white. "In short", Brownlow concluded, "let us ask and demand for this long oppressed race the protection and enjoyment of his liberty."<sup>12</sup>

It was now the duty of the legislature to take some stand on the question of whether or not negroes should be permitted to testify in courts in Tennessee. On October 10, 1865, the Senate Judiciary Committee reported that it had considered a bill "to do justice and render persons of African and Indian descent competent witnesses in all courts of the State, in as full and ample manner as such persons are by an act of the Congress of the United States." The committee reported this bill favorably and recommended its passage.<sup>13</sup> An attempt was made to amend the bill to

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12. Ibid., p. 17.

13. Senate Journal, 1865-1866, p. 43.

make it applicable only when an Indian or an African was  
 a party to the suit. This amendment was tabled,<sup>14</sup> and the  
 bill then passed its third reading in the Senate by a  
 vote of 10 to 9.<sup>15</sup>

When the testimony bill was sent to the House,  
 it met an opposition almost strong enough to defeat it.  
 The opponents were able, on December 5, to carry a motion  
 to table the bill by a vote of 30 to 27.<sup>16</sup> Most of the  
 opposition came from the East Tennessee Radicals. On this  
 vote to table, twenty of the thirty votes for the motion  
 were cast by representatives from the eastern part of the  
 state.<sup>17</sup> This district had given loyal support to the  
 Union during the war but the people held no great love for  
 the negroes after freedom was secured. The opposition was  
 prompted by three considerations. Some wished to deny the  
 demand of the negroes in any shape; others were willing to  
 grant negroes more rights only when the white man was  
 restored to his former position; and others were actuated  
 by a fear that it would lead to enfranchisement.<sup>18</sup>

Just before the bill came to vote in the House,  
 Governor Brownlow wrote to East Tennessee to ask for sup-  
 port for it because it was in danger of defeat by the votes

14. Ibid., p. 69.

15. Ibid., p. 70.

16. House Journal, 1865-1866, p. 224.

17. Ibid., p. 224

18. Nashville Republican Banner, November 12, 1865.

of that district. But he went on to say that opposition to giving the negroes rights came from enemies of the Government.<sup>19</sup> Since Brownlow's chief support was from these extreme Radicals, the Governor apparently wished to imply that the best interests of the Government would be served by granting the right to testify to the negroes.

Later in December, Brownlow pointed out to the people why it would be to their advantage to pass the negro testimony bill:

If our people can get off by giving the colored man his evidence, without giving him more, they will do well, and may consider themselves fortunate. And if they don't chose to do it of their own accord, Congress will do it for them, and add to it the right of voting also. We know whereof we speak, and we warn our people that the mutterings of a few sore heads who lost their slaves will not avert the cvil.<sup>20</sup>

That there was, however, considerable support for the negro testimony act among the people is shown by the results of several meetings of citizens in different sections of the state. In Knoxville a meeting was held in the courthouse on November 6, at which resolutions were adopted supporting President Johnson's Reconstruction policy and the right of the negroes to act as witnesses in court.<sup>21</sup> A meeting of Conservatives in Memphis deplored the action of the legislature in refusing to pass the bill:

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19. Ibid., December 3, 1865.

20. Knoxville Whig, quoted in the Republican-Banner, Dec. 31, 1865.

21. Republican Banner, November 9, 1865.

. . . Our present legislature has failed to comprehend the true situation of public affairs, and their late action in refusing to accord to the freedmen the right to testify in our courts of justice, is, in our opinion, a deliberate attempt on their part to thwart the policies of President Johnson in reorganizing the Government of these States, and restoring them to their former position in the Union under the Constitution.<sup>22</sup>

One direct result of the delay in the legislature was the establishment of the Freedman's courts by the Bureau and the removal of cases involving negroes from the jurisdiction of the civil courts. General Clinton B. Fisk issued orders that the judges of this court should follow the State Code "except in so far as said code . . . makes a distinction on account of color." He expressed a wish that states under his control would give the negroes equal rights in order that the Bureau could be withdrawn.<sup>23</sup> Fisk asked the city council of Nashville to turn all cases concerning negroes over to the Freedman's Court. On December 28, that court was in session in the capital city.<sup>24</sup>

The Conservative Republican Banner was strongly in favor of the negro testimony bill. It declared that if all the people of the state were permitted to vote the measure would be adopted and Tennessee would then receive

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22. Ibid., January 2, 1866.

23. Republican Banner, December 17, 1865.

24. Ibid., December 19, 1865.

recognition from Congress for her representatives to that body and the Federal militia would be removed from the state. This newspaper stated that the ex-Confederates were not the ones who were trying to deny the negro civil rights in Tennessee.<sup>25</sup>

The inconvenience of refusing to admit negro testimony was shown in the case of two men of Pulaski who were caught in the act of trying to break into the homes of several negroes. They could not be tried in Pulaski because negro testimony was not admitted there and the only witnesses of the crime were blacks. The men had to be sent to the Freedman's Court in Nashville for trial.<sup>26</sup>

In January the House again resumed discussion on the advisability of permitting negroes to act as witnesses. Representative F. S. Richards of Memphis made a long speech in favor of such action. He gave the following reasons why the measure should pass: the bill gave the negroes a right which was necessary to the defense of their lives and property; without it they were at the mercy of every unscrupulous white man who wished to defraud them; the word of negroes was accepted every day outside of court and not questioned, members of the House

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25. Ibid., December 19, 1865.

26. Ibid., December 31, 1865.

acted every day on some information given by negroes and never thought to question it; by virtue of an act of Congress, negroes were permitted to appear before the Supreme Court and all other Federal Courts; in many cases white men were not able to secure justice because the only witnesses were negroes. According to Richards, the only objections were that it was feared it would establish negro equality in society and would increase the crime of perjury. But the cry of social equality had been raised so often it had ceased to be effective - - it was so vague that no one knew what it meant - - certainly it did not follow that there was any need to invite to your home or make kinsmen by marriage anyone who witnesses in a court of justice. If negroes were to be excluded because some of them were liars, the whites could be excluded on the same grounds. Missouri had tried such a law with the "happiest results." Richards concluded by asserting that the right to testify was owed to the negroes "for their wonderful forbearance and good deportment throughout a violent rebellion which robbed a majority of white citizens of discretion and reason."<sup>27</sup> Representative James R. Hood of Hamilton County wanted the bill amended to prevent the negroes from voting. He would then favor it as a means of

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27. Republican Banner, January 17, 1866.

getting rid of the Freedmen's Bureau.

On January 23, 1866, the motion to table the testimony bill was reconsidered. This time the vote was  
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against tabling. During the subsequent discussion of the bill the House accepted the following amendment:

Provided, however, that this act shall not be so construed as to give colored persons the right to vote, hold office or sit on Juries in this State, . . . 30

This amendment was included because the State Constitution, adopted in 1834, said no one should be disqualified from voting who was, by the laws of the state, a competent  
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witness in court against a white person. The amended bill passed the third reading in the House. The Senate quickly concurred in the House amendment and the act be-  
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came law on January 25, 1866.

The acceptance of negro testimony was not general throughout the state even after the law had been passed. A negro was permitted to testify in a robbery case in Nashville just three days after the legislature made it  
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legal. But the first attempt to use negro evidence in Knoxville was not made until five months later. At that

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28. Republican Banner, January 20, 1866.

29. House Journal, 1865-1866, p.280.

30. Ibid., p. 294.

31. Statutes of Tennessee, p. 54. Constitution of 1834, Art. IV, Sec. 1.

32. Republican Banner, January 31, 1866.

33. Republican Banner, January 31, 1866.

time, both sides refused to accept such evidence and it was ruled out.<sup>34</sup>

In May the Freedmen's courts in Tennessee were abolished as a result of the action of the legislature in permitting the negroes to testify in the state courts.<sup>35</sup> However, as late as 1868 Bureau officials were permitted to take action to protect the freedmen if the evidence were clear that the courts had failed or refused to take action. In such cases the evidence against the courts was to be sent to the headquarters of the Bureau.<sup>36</sup>

During the summer of 1866 the Fourteenth Amendment to the Federal Constitution was sent to the states for ratification. The first section of the Amendment declared that all persons born or naturalized in the United States were citizens and no state should deny or limit any of the privileges of citizens of the United States. Governor Brownlow called a special session of the General Assembly to ratify this Amendment. When it assembled on July 4, it was found that no quorum was present in the House. The Conservative members opposed ratification and in order to prevent a quorum refused to attend. A resolution was passed by those present directing the speaker to issue warrants for the arrest of certain absent members. The sargeant-at-arms was to carry out the action and employ as

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34. Ibid., June 21, 1866.  
35. McPherson, op. cit., p. 43.  
36. Nashville Union and Dispatch, January 4, 1868.

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much assistance as he needed. On July 19 two members were brought to the capitol and forcibly detained. They were invited to take their seats but refused; and they also refused to answer the roll call. It was ruled, however, that a quorum was present and action was taken on the resolution of ratification which had already been passed by the Senate. The two arrested members refused to vote, so they were recorded present but not voting. The resolution was then passed. The speaker ruled that no quorum existed because not enough members had voted, but the decision of the chair was overruled by a vote of the House. The Fourteenth Amendment was then declared

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ratified by Tennessee. Six members of the House entered a protest against the method of ratification. They believed that, since two members had refused to answer the roll call, no quorum had been present and, therefore, the ratification was not legal. However, the House refused to change its ruling that the two members

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had been present.

Congress admitted the Tennessee delegates to seats in that body on the basis of the ratification of this Amendment and Tennessee was once again a member of the National Union, represented in the Government.

This was probably the chief incentive of the Radicals of Tennessee in favoring the ratification. But regardless of

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37. House Journal, July 4-July 25, 1866, p.10.

38. Ibid., p. 26.

39. Ibid., p. 39.

40. James G. Blaine, Twenty Years of Congress, Vol, II, p.215.

motive and despite rather questionable procedure, the negroes had been made citizens and were entitled to all the privileges of such.

In February, 1867, the legislature passed a new Franchise Act which permitted the negroes to vote.<sup>41</sup> But section sixteen of the act specifically denied to them the right to hold office or sit on juries.<sup>42</sup> There was considerable protest by the Conservatives and the negroes over the action of the legislature in enfranchising the negroes and at the same time denying them the right to hold office. Both groups charged the Radicals with a conspiracy to stay in office through the aid of negro voters without giving the freedmen anything in return. Matt Dyer, colored, of Jackson, Tennessee, wrote to Governor Brownlow to protest against this omission from the act;

I learn that you and the lower house of your legislature have passed a law to allow the colored people of this state to vote. So far, so good. But, sir, you have, at the same time, provided in the law that they shall not hold office! Now, what does such legislation mean? I am a colored man, and have wool on my head, but you and your white trash can't pull that wool over my eyes. The darkies in Tennessee generally, will understand what you are after and will put their broad feet down upon you. . . . O, yes, you want us to go voting with you, but every time office for white man and vote for nigger.<sup>43</sup>

41. Enfranchisement is dealt with more fully in a later chapter.  
42. Acts of Tennessee, 1866-1867, p. 33.  
43. The News, (Bristol, Tennessee), March 7, 1867.

In the election of a governor in the summer of 1867, the Conservatives tried to win the negro voters by charging that the Radicals wanted the negroes enfranchised in order to secure a Radical victory in the election, but they were opposed to negro office holders.<sup>44</sup> Nevertheless, the Radicals, with the support of most of the negro voters, won an easy victory.

When the General Assembly met in October, 1867, a measure to permit freedmen to hold office and sit on juries was one of the first bills to be considered. House Bill Number One<sup>45</sup> and Senate Bill Number Three<sup>46</sup> were both "to repeal all laws disqualifying persons of color from holding office or sitting on juries." Senator William H. Wisener, Chairman of the Judiciary Committee, reported favorably concerning the Senate Bill. He said that giving these rights to the freedmen was against all education and social training of the members of the Senate, but so were freedom and enfranchisement. The negro had fought bravely and loyally for the Union during the war, Wisener continued, and now with the national crisis passed he should be worthy to be trusted with offices. Many of the Senators were present, he reminded them, because of the loyalty of

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44. Brownlow's Knoxville Whig, April 3, 1867.  
 45. House Journal, 1867-1868, p. 44.  
 46. Senate Journal, 1867-1869, p. 21.

of the negroes to the Republican Party. In recommending the passage of this bill, the Judiciary Committee declared it was merely carrying out the will of the people as expressed in the last election.<sup>47</sup> This bill, as well as the one first proposed in the House, failed of passage. Several other bills were presented for the same purpose. A House bill proposed "to extend the right of sitting on juries and holding office, to all enfranchised persons," but it was<sup>48</sup> later withdrawn by its author.

Citizens of Hamilton and Giles Counties sent memorials to the Senate on December 5 asking, in both cases, for the repeal of all laws disqualifying negroes from holding office and serving on juries.<sup>49</sup> Finally, a bill was presented to about the same effect as the first two and it passed both houses. However, it met some opposition from members who wished to place a poll tax on negroes. The friends of the bill pointed out that the State Constitution exempted negroes from paying a poll tax and, since the freedmen had no part in making this provision, that they should not be denied the right to hold office or<sup>50</sup> serve on juries because of it. On January 31, 1868,

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47. Senate Journal, 1867-1868, p. 97.

48. House Journal, 1867-1868, p. 568.

49. Senate Journal, 1867-1868, p. 176.

50. Nashville Union and Dispatch, January 31, 1868.

it was enacted that, "from and after the passage of this act, there shall be no disqualification for holding office, or sitting on juries, on account of race or color."<sup>51</sup>

There was some discussion of the constitutionality of this act. The schedule composed by the Convention of January, 1865, contained this provision:

The qualification of voters and the limitation of the elective franchise may be determined by the General Assembly which shall first assemble under the Amended Constitution.

This General Assembly served until after the elections of August, 1867. The last franchise act passed by it was that of February, 1867, which prohibited the freedmen from holding office or sitting on juries. The assembly which met in October, 1867, and which granted these rights to the negroes was the second elected under the amended Constitution. It did not have a right to pass a new franchise law, opponents of the new act declared, yet it had changed one section of the former franchise act.<sup>52</sup> A Conservative newspaper said that the Radicals were compelled to waive constitutionality because of the protest made by the negroes against the exclusion provision.<sup>53</sup>

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51. Act of Tennessee, 1867-1868, p. 32.

52. Union and Dispatch, February 1, 1868.

53. Nashville Union and American, September 15, 1868.

The constitutionality of the act was taken up in the first case in which a negro jury was used in the state. The trial was in Memphis early in March, 1868, on charges of murder against two negroes. After a heated debate between the lawyer for the defense and the district attorney, the judge ordered a negro jury to be empaneled and sworn to try the case.<sup>54</sup> In Nashville Judge J. Hugh Smith used negro juries to try two larceny cases during the following summer.<sup>55</sup>

In East Tennessee the first attempt to use a negro jury was defeated by the judge of the county court of Chattanooga. He refused first on the grounds that he had not before him a copy of the new law and was not certain that the sixteenth section of the franchise law of 1867 was not still in force.<sup>56</sup> When he was presented with a copy of the law permitting negroes to sit on juries, he announced that no more jury cases would be heard that term.<sup>57</sup> A similar result was obtained by another method in the Circuit Court of Marion County. The sheriff had called one negro juror. He had been drawn for the Grand Jury. The judge ruled that he could not serve on the

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54. Nashville Union and Dispatch, March 8, 1868.  
 55. Nashville Daily Republican, August 20, 1868.  
 56. Union and Dispatch, February 22, 1868.  
 57. Ibid., March 3, 1868.

Grand Jury but could serve on the jury for the trial of causes if the others on that jury agreed. They refused to serve with a negro.

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The section of the act which permitted the negroes to hold offices proved to be of little actual value to the freedmen. Both political parties opposed black candidates, although, with a consideration for the vote of the colored electorate, each tried to force upon the other the responsibility for the failure of the negroes who desired to be elected to positions. A Radical said that the Conservative newspapers were opposing negro aspirants to offices, but that they were trying to appeal to the colored voters by reminding them of the happy days on the plantations and of the pleasant relations between the slaves

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and the white families. The Conservatives blamed the absence of negro office holders on the Radicals. Conservatives charged that the white Radicals in most of the counties had succeeded in keeping negroes from being selected as candidates for any offices, but that in a few counties - - Williamson and Davidson - - the negroes had taken matters in their own hands and determined to run despite the opposition of the white Radicals.

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Another Conservative pointed out that

58. Ibid., July 26, 1868.  
59. Nashville Daily Republican, August 20, 1868.  
60. Nashville Union and Dispatch, February 13, 1868.

although the negro voters outnumbered the whites fifty to one in West Tennessee, not one negro was a candidate for office in the November, 1868, elections. One had been on the ticket in Memphis but he was replaced by a "scalawag". Conservatives said that negroes were not permitted to present themselves as candidates in East Tennessee. No colored candidates had appeared before October, 1868, for seats in the legislature or in Congress even in districts where they had a great majority of the votes. <sup>61</sup>

The Maryville Republican, a newspaper conducted by two negroes, suggested that a negro should be elected to Congress from the state at large to represent the forty thousand negro voters. <sup>62</sup> In 1869 John Long, a negro, announced himself a candidate for the legislature from Rutherford and Bedford Counties. He said that the negro voters could have controlled those counties since 1867 if they had cared to do so, and could give him a majority of over one thousand without a white vote. <sup>63</sup> His failure to be elected perhaps shows that the lack of independent action by the negroes was in part responsible for the fact that members of their race were not elected to important

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61. Nashville Union and American, October 27, 1868.

62. Nashville Union and Dispatch, June 23, 1868.

63. Knoxville Whig, June 19, 1869.

offices.

Whatever the reason might have been or who was responsible, the offices held by negroes in the state before 1870 were confined to those of minor importance. They were largely town or city positions and in a few cases county jobs. Several negroes held unimportant city offices and one county office in Nashville. A negro was elected constable in Shelby County. His white opponent contested before the County Commissioner the right of the legislature to permit blacks to be eligible to hold office.<sup>64</sup> Another received the same office in Bristol; but only after strong opposition by the white Radical voters.<sup>65</sup> Maryville gave the new state law its sanction by electing four of the seven city aldermen from the negro race.<sup>66</sup> Knoxville also had a black representative on the city council.<sup>67</sup>

The Conservatives regained control of the legislature by their victory in the election of 1869. A number of laws were passed by this legislature concerning the civil rights of negroes. The legislature provided in one of these acts for the inheritance of the real and personal property of the negroes who had died while slavery still

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64. Nashville Union and Dispatch, March 27, 1868.  
 65. Ibid., March 15, 1868.  
 66. Ibid., April 12, 1868.  
 67. Knoxville Whig, June 26, 1869.

existed. Such property was to descend to the widow, children or next of kin of the deceased owner despite the condition of the heirs, as to freedom or servitude, at the time of the death.<sup>68</sup> The new Constitution of 1870 renewed the guarantee of freedom for the negroes and the prohibition of acts by the legislature recognizing property in man.<sup>69</sup> The franchise provision contained no reference to race or color but gave the ballot to all male persons over twenty-one years of age who could fulfill the citizenship and residence requirements.<sup>70</sup> Two sections of the Constitution did mention race differences and were designed to prevent too intimate relations between the two races. The article concerning public schools stated that,

no school established or aided under this section shall allow white and negro children to be received as scholars together in the same school.<sup>71</sup>

A later section prohibited mixed marriages:

The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation, inclusive, or their living together as man and wife in this State, is prohibited. The Legislature shall enforce this section by appropriate legislation.<sup>72</sup>

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68. Acts of Tennessee, 1869-1870, p VII.  
 69. Ibid., May 9, -- July 11, 1870, p. VII.  
 70. Ibid., p. XVI.  
 71. Ibid., p. XVI.  
 72. Ibid., p. XXVIII.

### Chapter III

#### THE ENFRANCHISEMENT OF THE NEGRO

While the negroes were being granted civil rights the question of negro suffrage also was confronting the political leaders of the state. At the beginning of the Radical regime few of the men in the government were willing to permit negroes to vote. But a change in conditions during the next two years made it appear that it would be to the advantage of the dominant party to enfranchise the negroes. Consequently, the right to vote was granted to the black men as a part of the plan of the Radical Party for retaining political control of the state.

Voting by free negroes was not entirely new to Tennessee. In the state constitution framed in 1796 the free blacks were placed on the same basis as the whites in the suffrage requirement. Article IV, Section I, of the Constitution of 1796 read:

Every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this state, and every freeman being an inhabitant of any one county in the state six months immediately preceding the day of election, shall be entitled to vote for members of the General Assembly,<sup>1</sup> for the county in which he shall reside.

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1. Edward Scott, Laws of Tennessee, Vol. I, p. 531.

Any free negro could vote if he could fulfill these requirements, and many of them did vote under this constitution. In some counties they were able to control elections because they held enough votes to decide the results in favor of either party.<sup>2</sup>

In the convention which framed the Constitution of 1834 many delegates favored a continuation of the policy of permitting free negroes to vote. The original draft of the constitution provided for this restricted negro suffrage and it was not removed until the document was being considered clause by clause. An amendment to the section on the franchise was then adopted, by a fairly small majority, by which the word "white" was inserted as a qualification. This action probably was due to the steadily increasing number of freedmen participating in elections.<sup>3</sup>

Among Southern men of influence, there were many in 1865 who favored the limited enfranchisement of negroes. Andrew Johnson opposed their general enfranchisement because he feared it would cause a war of the races. He pointed out the mutual hatred between the former slaves and the non-slave holding whites.<sup>4</sup> But he declared that

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2. C. P. Patterson, The Negro in Tennessee, p. 168.

3. Ibid., p. 172.

4. Walter L. Fleming, Documentary History of the Reconstruction, p. 117.

he would not oppose giving the ballot to those who could read the Constitution of the United States and write their names and those who owned real estate to the value of two hundred and fifty dollars. Such a program, he believed, would disarm the radicals who proposed to keep the Southern States unrepresented in Congress pending the enfranchisement of the negroes.<sup>5</sup> S. R. Mallory, Secretary of the Navy under the Confederacy, said: "I know many negroes whom I would trust with the ballot and the number will steadily increase and they must at no distant day become voters under certain qualifications." General R. E. Lee expressed a belief that Virginia would permit negro suffrage if she believed that the freedmen would vote "properly and understandingly." And Alexander H. Stephens said he would not oppose "a proper system of restricted or limited suffrage."<sup>6</sup>

There was much agitation for negro suffrage in the North by groups who favored it for several very different reasons. The old abolitionist groups continued their fight by merely substituting equality of the races for freedom. The Radicals saw in it a means of punishing the South and of continuing and extending their

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5. Ibid., p. 177.

6. James Ford Rhodes, History of the United States, Vol. V, p. 563.

political power through a large body of voters who, they  
believed, would be easy to control. Others, such as  
Carl Schurz, favored it as a necessary means by which the  
negro could defend his rights.

In Tennessee, at the end of the war, most of the  
Radicals and Conservatives were united in opposing the  
extension of the franchise to the freedmen. The Radical  
Governor, Brownlow, at this time opposed granting such  
rights. He told his legislature, April 6, 1865:

I am, myself, the advocate of providing  
for them [negroes] a separate and  
appropriate amount of territory, and  
settle them down permanently, as a nation  
of freedmen. In this case, as in most  
others, it will probably be well to  
guard against exceptional legislation.  
The negro has had no agency himself in  
bringing on our troubles, and does not  
merit unkind treatment at our hands.

Later in the same year he modified his position somewhat  
and admitted that there were some negroes to whom he might  
be willing to give the franchise, but he thought it would  
be unwise to extend it to all of them. He took no  
action at this time in favor of those who were ready accord-  
ing to his qualifications. In a speech in Knoxville early

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7. Howard K. Beale, The Critical Year, p. 174.

8. Carl Schurz, Speeches, Correspondence, and Political  
Papers, Vol I, p. 367.

9. Acts of Tennessee, 1865, p. 5.

10. H. A. Herbert, Why The Solid South?, p. 184.

in 1866 he stated:

On the negro question I have only to say that, for the present, I am willing to be content with the freedom of the slaves. . . I want them to be qualified first; it will come in time. They voted in Tennessee prior to 1832. 11

Brownlow wrote an article for the Knoxville Whig in which he stated that Congress might consider it "appropriate" for loyal negroes to vote and to testify in courts. Apparently he believed that Congress had the right to grant these  
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privileges.

The Conservative newspapers opposed general enfranchisement of the negroes. Some, for example the Nashville Republican Banner, based their opposition on the ignorance of the former slaves and even favored an act to permit those freedmen who could read and write to vote. An interesting proposal by this newspaper was to extend the suffrage to all who could read and write and who were free before February 22, 1865; any other negroes who could read and write should have this privilege after February 22, 1875. Such a bill was presented to the General Assembly but re-  
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ceived little support. This same newspaper expressed the belief that the most intelligent of the southern whites had the greatest interest in the welfare of the negroes and

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11. Nashville Republican Banner, March 28, 1866.  
12. Ibid., December 31, 1865.  
13. Ibid., October 6, 1865 and October 20, 1865.

wanted to see them prosper. If they should make the improvement expected, it was promised, there should be then no difficulty about suffrage for intelligent freedmen.<sup>14</sup>

Some of the Conservative newspapers were more unqualified in their opposition. One of them pointed out that the negro was just out of a condition of absolute obedience and so was in no position to exercise freedom of the ballot. He was utterly ignorant of law and politics. What matter, it was argued, if he could read and write and had borne arms; white men who could read and write and were liable to bear arms in war were denied the right to vote if they were intellectually unfit because they were under twenty-one years of age.<sup>15</sup> The negro was inherently unqualified by his nature to exercise the right of suffrage, according to another opinion. The same article continued:

Any individual familiar with his character knows that he can be bought for a price, and the consequence of admitting him to the right of suffrage, would be to give increased power to the demagogue who makes a trade of politics.<sup>16</sup>

A Shelbyville paper expressed a willingness to give to the freedmen all rights due them under the constitution:

But, that the doctrine of extending the elective franchise to the negro race, is a policy erroneous, ruinous, preposterous, and radically wrong - - equally degrading to the plainest principles of our reason

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14. Ibid., October 29, 1865.

15. Murfreesboro Monitor, quoted in the Republican Banner, October 31, 1865.

16. Murfreesboro Monitor, quoted in the Republican Banner, November 1, 1865.

and common sense, as it is to the wise instructions which we received by the teachings and examples of the most illustrious and pious of our progenitors - - is an opinion that fire couldn't melt out of us - - we would die for it at the stake.<sup>17</sup>

Despite the opposition to general enfranchisement in the state, a policy of granting some rights to the freedmen received support in the legislature. A minority of the members of the General Assembly which met on April 3, 1865. favored negro suffrage. A bill was introduced in the Senate entitled "An act to aid in the burial of the Southern Confederacy." It provided for voting by negro soldiers and all others who had been free for five years,<sup>18</sup> who were of good character and who could read and write. The bill was postponed until the October term. On January 25, 1866, the negroes were given the right to testify in courts in Tennessee. The act, however, specifically denied to them the right to vote, hold office or sit on<sup>19</sup> juries. The negro now had one very important civil right and the first step had been made on the road toward legal equality. The next month a new franchise law was proposed to the Senate which omitted the word "white" as a qualification. An amendment was offered which would have inserted this word. But both motion and amendment were tabled and

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17. Shelbyville Expositor, quoted in the Republican Banner, November 29, 1865.  
18. Hamer, op. cit., p. 604.  
19. McPherson, op. cit., p. 42.

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again no action resulted.

In May, 1866, a new franchise act was passed by the legislature. It further restricted the exercise of the right of suffrage to the "loyal union" men of the state by placing the registration of voters directly under the control of men who were subject to appointment and recall by the Governor. Section seven of this act caused much comment from the anti-negro suffrage forces of the state. That section stated:

Be it further enacted, that it shall be the duty of the Governor, before any State or other general or special election, to issue writs of election to commanding officers of regiments, batteries or detachments of officers and soldiers, who may be at the time in the service of the State, or of the United States army, wherever located; and it shall be the duty of the officer to whom such writ is directed, to open and hold, or cause to be opened and held, the election required by said writ, and make returns thereof to the Secretary of State, and the votes of such officers and soldiers shall be counted the same as if such votes had been cast in the counties in which said officers and soldiers may reside, and the returns shall designate the county in which said voters may reside.<sup>21</sup>

No mention was made in this act of enfranchising any negro, but many negroes were included among the soldiers stationed in the state at that time and the bill did not make any

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20. Tennessee Senate Journal, 1865-1866, p. 328.  
21. Acts of Tennessee, 1865-1866, p. 46.

distinction between colored and white soldiers.

Senator DeWitt C. Senter, who three years later was to bring about the re-enfranchisement of the ex-Confederates, opposed this franchise law and attempted a filibuster by proposing an amendment to the effect that everyone who had served willingly in the Confederate Army should be permitted to vote. <sup>22</sup> The Republican Banner suggested that the franchise bill should be called the "Capsize law," "for it caps the climax of legislation, and will be certain to overturn the Radical boat before it reaches shore." <sup>23</sup>

The Conservative members of the legislature feared that it was the intention of the Radicals to enfranchise the negro soldiers. Senator B. Frazier of Knox County said the seventh section was "drawn indefinite and uncertain" with the evident intention of permitting colored soldiers to vote. Such an act, he believed, was against the intent <sup>24</sup> of the majority of the voters of the state.

Even in East Tennessee, the stronghold of Radicalism, the franchise act met opposition. According to a Knoxville Correspondent:

The franchise law is decidedly unpopular with the true union people of East Tennessee. . . . The present law, recognizing as it does in its seventh section

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22. Nashville Republican Banner, April 26, 1866.  
 23. Ibid., April 13, 1866.  
 24. Senate Journal, 1865-1866, p. 494.

the right of the negro soldier to participate in all future elections, is a dose they are unwilling to swallow.<sup>25</sup>

No important election was held before the negroes were enfranchised early the next year, so it is unknown whether the negro soldiers would have voted under this act. Some of the Conservatives in the legislature tried to secure the reenfranchisement of the ex-Confederates by supporting limited suffrage for the negroes. In May, 1866, the State Senate rejected by a vote of 16 to 5, a bill proposed by the Conservatives to allow all blacks and whites of legal age to vote, and excluding all, after 1875, who could not read.<sup>26</sup> Discussion of this bill centered more directly than formerly upon the expediency of negro suffrage. Senator W. R. Hall, a Conservative from West Tennessee, said:

The material reputation of this state now depends upon the action of this legislature in the disfranchisement of all disloyal and the enfranchisement of all loyal citizens either black or white. . . .<sup>27</sup>

Senator John G. Carrigan, of Franklin County, predicted the disruption of the union party over negro suffrage. The whites would not permit their exclusion if the negroes were enfranchised. Why, he asked, should Tennessee grant negro suffrage when in the North, where they had been free for

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25. Republican Banner, June 24, 1866.

26. McPherson, op. cit., p. 28.

27. Senate Journal, 1865-1866, p. 484.

Years, they were not permitted to vote except in a few states and even in these were restricted? The negroes had not even asked for the ballot and there was no excuse for forcing it upon them. "Is negro suffrage to be administered to our people as a punishment for past offences?", he asked. "Such measures are not authorized by law and your only excuse is the uneasiness of your party for place and power."<sup>28</sup>

Senator Frazier expressed the opinion that the Radicals were hoping that Congress would give them an excuse to permit negroes to vote and that their only aim was to remain in power. They would abandon the franchise law at once, he believed, if they could get the freedmen to the polls without having to assume responsibility for it.<sup>29</sup>

Congress determined to take some action in behalf of the freedman and passed the Fourteenth Amendment which granted citizenship to the negroes and submitted it to the states for ratification. The Conservatives of Tennessee feared that Congress had given the excuse the Radicals desired for permitting negroes to vote. The Republican Banner believed that this amendment meant negro suffrage. The Conservatives wondered if the anti-negro suffrage men in the

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28. Republican Banner, May 3, 1866.  
29. Ibid., June 14, 1866.

General Assembly and the people of East Tennessee would permit Congress and Brownlow to "put this over on them on the strength of a vague promise to restore Tennessee representatives in Congress."<sup>30</sup> The Conservatives were suspicious of the intent of the amendment because of the support given to it by outspoken advocates of negro suffrage.<sup>31</sup> The Fourteenth amendment did not force negro suffrage on the South, but it did make the negro equal with the white before the law and reduced Congressional representation in those states which did not give the ballot to the blacks.<sup>32</sup> The desire of the Radicals in Tennessee to be re-admitted to membership in Congress caused them to force ratification by rather questionable procedure.<sup>33</sup> As a result of this ratification Congress passed a resolution re-admitting the Tennessee representatives to their seats. During the debate George S. Boutwell, a New Englander, tried, unsuccessfully, to make negro suffrage a condition of re-admission.<sup>34</sup> Shortly after Tennessee was readmitted to Congress the Radicals of the state began openly to support negro enfranchisement.

Colonel William B. Stokes told Wendell Phillips in the summer of 1866 that if the vote were given exclusively to the white man in Tennessee, the negroes and such as himself ( Radicals) could not remain in the state for twenty-four hours. In reply a Conservative commented that Stokes

30. Ibid., June 29, 1866.

31. Ibid., July 11, 1866.

32. Rhodes, op. cit., Vol. 6, p. 2. (footnote).

33. House Journal, July 4-July 25, 1866, p. 10.

34. James W. Fertig, Secession and Reconstruction in Tennessee, p.107

had an uneasy conscience over his cruel treatment of the negroes during the war, but that there was no opposition to the negroes remaining in Tennessee.

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It has previously been stated that the Conservatives in Tennessee had fears during the spring and summer of 1866 that the Radicals contemplated the enfranchisement of the negro as a means of remaining in power. They were very shortly to receive confirmation of their fears. The Radicals believed that the strength of the opposition had increased sufficiently to endanger the government at the next election. Therefore, they began an agitation for negro suffrage in order to augment their numbers with a body of colored voters. With action on the way, some of the Conservatives, not wishing to drive so many votes into the Radical camp, gave up their opposition and supported negro enfranchisement. They entertained hopes that the negro voters would then be divided between the two parties.

In September, 1866, the National Radical Republican Party held a convention in Philadelphia. Tennessee sent a delegation of fifteen members which included Governor Brownlow, Colonel Stokes, T. H. Harris, Joseph S. Fowler, A. J. Fletcher and Samuel M. Arnell. In several speeches in the con-

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35. Republican Banner, July 22, 1866.  
36. Ibid., September 4, 1866.

vention Brownlow declared that he favored negro suffrage. He said that he had never held a doubtful position on any question and had no hesitancy in asserting that he was for negro suffrage, and would rather be elected to office by loyal blacks than by disloyal whites. Furthermore, he would rather associate with loyal blacks in life, be buried with them when he died, and go to heaven or hell with them than with rebels.<sup>37</sup>

A few days later the political motive in his plan to enfranchise the negroes was revealed in another address to the delegates. Brownlow said:

The rebels boasted that they had President Johnson on their side; but even so, the speaker's friends had on their side truth and righteousness, the loyal north and the loyal world. BY means of the policy which would be pursued in Tennessee, fifty or sixty thousand negro votes would be added to the forty thousand loyal votes, and this would put the Union cause ahead.<sup>38</sup>

Later in New York he stated:

I find here at the north that you do not need and many of you do not want negro suffrage. It is not so with us. We want loyal negroes to help us put down disloyal traitors.<sup>39</sup>

Johnson started on his "swing around the circle" speaking through the North in favor of the conservative candidates for seats in Congress. He hoped to have enough

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37. Ibid., September 9, 1866.

38. Ibid., September 14, 1866.

39. Ibid., September 16, 1866.

support from Congress to supplant the Radical Reconstruction program with his own. He appealed directly to the people to elect a conservative Congress to accomplish this. Upon learning of the President's plans, Brownlow announced that he would follow "Andy" around the circle speaking for the Radical candidates for Congress:

I am traveling as one of an expedition going around, around and around again, to try to wipe out the mocasin tracks of Andrew Johnson and William H. Seward.<sup>40</sup>

This trip was made before the Governor and his party returned to Tennessee.

In the elections throughout the North in 1866 the Radicals were victorious, and it became apparent that negro suffrage would be required of the South as a part of the Reconstruction program. Blaine attributed this movement to the Northern people rather than to the politicians:

There was an unmistakable manifestation throughout the whole political canvass of 1866, by the more advanced section of the Republican party, in favor of demanding impartial suffrage as the basis of reconstruction in the South. It came from the people rather than from the political leaders.<sup>41</sup>

For the most part the "leaders" were afraid to propose this because of the restrictions on negro suffrage in northern states. Five New England states gave negroes the right to

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40. Ibid., September 14, 1866.

41. James G. Blaine, Twenty Years of Congress, Vol. II, p. 243.

vote on the same basis as the whites. Connecticut restricted it to those who had been free before 1818. New York placed the following restrictions: three years a citizen of the state and one year ownership of a freehold worth two hundred fifty dollars, free of incumbrances. All the other states denied the vote to the blacks. As recent as the year 1865, Connecticut, Wisconsin, Minnesota and Colorado Territory had repudiated negro suffrage when it was submitted to a popular vote.<sup>42</sup> Blaine believed that the Northern people supported negro enfranchisement because of the refusal of ten of the southern states to ratify the Fourteenth Amendment. When this amendment was passed Congress had believed that it would be sufficient to guarantee citizenship to the negroes and the South would be permitted to come to suffrage by a gradual process. But, by the refusal of these states to accept the amendment, the Radical Republicans saw that the South was not willing to co-operate in the matter of the blacks and, consequently, negro suffrage was insisted upon<sup>43</sup> as a condition for readmission.

The Radical Republicans saw clearly in this refusal that they would have no support from these states after reconstruction unless they created a large body of negro voters throughout the South. Like the Radicals of

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42. Ibid., p. 244.  
 43. Ibid., p. 263.

Tennessee, they were interested in the political influence to be gained through negro votes with themselves posing before these new voters in the role of benefactors.

While Brownlow was still in the North, the Radical newspapers in Tennessee began to write in favor of the policy of negro suffrage. One editor, in commenting upon the bloody race riot which occurred in New Orleans on July 30, 1866, declared that this incident proved that the freedmen must have the right to vote in order to secure protection for themselves. He continued:

The blood of the martyr is indeed the seed of the church. Men who shook their heads at the mention of colored suffrage a few weeks ago, have begun to consider the matter in a new light since the massacre at New Orleans. Impartial suffrage must come since that time. We mean that the loyal colored citizens must be admitted to the ballot-box on the same terms which we require of the white man. . . . Let the watchword be Union and Impartial Suffrage.<sup>44</sup>

Conservatives declared that if the negro were to be enfranchised, restrictions should be imposed by requiring a property or an intelligence qualification.<sup>45</sup> They believed, however, that there was little sentiment in the state which was favorable to negro suffrage. "We believe," wrote a Conservative, "the whole population of Tennessee is almost

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44. Nashville Press and Times, quoted in the Republican Banner, September 5, 1866.

45. Republican Banner, September 29, 1866.

a unit in opposition to the negro suffrage idea. In East Tennessee the measure is particularly abhorrent to the people."<sup>46</sup> "Even the negroes themselves do not desire it, we believe, and we have talked with a number of the more intelligent of the class, who declare to us that they would much prefer to see the politicians devote the time and labor they bestow upon the negro suffrage question to the education and moral and mental improvement of their race."<sup>47</sup>

The Tennessee legislature met in November for the session which was to decide the question of negro suffrage. The Governor had already announced that he would support a measure to enfranchise the negroes and the congressional elections in the North had favored such a policy.

Governor Brownlow, true to his promise, made negro suffrage one of the leading points of his annual message. The Fourteenth Amendment, he believed, still left with the states the power to determine who should exercise the right to vote, but it encouraged "the enfranchisement of all loyal male citizens of whatever color." He pointed out that if negroes were not enfranchised, Tennessee would have only six representatives in Congress, but by giving them the ballot that number would be raised to nine. Many things, he said, had happened since his last message of a

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46. Ibid., October 7, 1866.

47. Ibid., October 9, 1866.

year before when he had opposed negro suffrage: negroes had "shown greater aptitude for learning and intelligence than was expected;" negro enfranchisement was a natural outgrowth of the war and opposition to it came "from a lingering sentiment of disloyalty in the South." According to the Governor, the supporters of Johnson could not oppose negro suffrage with any show of consistency since the President had declared that if he were in Tennessee he would work for the enfranchisement of those negroes who had been in the Union army, who were literate, and who owned property of two hundred to two hundred fifty dollars value. Brownlow concluded with the statement that Tennessee should stick by the principles of the national Republican Party in the matter of negro suffrage.

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Even before the legislature took any action, the Governor's policy was receiving support from the Conservative Republican Banner. In December several articles appeared in that paper, written by a former Confederate soldier, in support of negro suffrage. They pointed out that about one-third of the population of the state were negroes who were free and possessed <sup>of</sup> civil rights. In time, the writer believed, many of them would become highly intelligent citizens. Some even then were as intelligent as some whites who were permitted to vote and this number was increasing. These,

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48. House Journal Appendix, 1866-1867, p. 4-5.

he said, should be admitted to the ballot on the same right as that enjoyed by the lowest grade of white men (as to intelligence). A standard of intelligence -- the only standard possible in a Republic -- should be established for both whites and blacks. "Is it fair," he asked, "to accord to the negro every right except that so dear to us as freeman? He is free -- let him be as free as we."<sup>49</sup>

"We have flung the banner of suffrage out to all who deserve it. The ignorant alone, both white and black are denied admittance. . . . Education is made the basis of manhood -- of gentility -- of patriotism. . . . Does some crack-brained [person] say, here we will have amalgamation -- because of suffrage? Ridiculous, that freedom should not produce it, yet that suffrage should."<sup>50</sup>

There was again some attempt in the legislature to secure the reenfranchisement of those whites who were disqualified, at the same time as the negroes were given the ballot. On November 19, a bill was submitted proposing universal suffrage, but it was tabled.<sup>51</sup> Two months later the following resolution was presented to the House:

Resolved, that all male persons, whose homes are in this state, and are of the age of twenty-one years, and have all the time been loyal to the Government of the United States, all who have been connected with the rebellion, and have returned to

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49. Republican Banner, December 15, 1866.

50. Ibid., December 23, 1866.

51. House Journal, 1866-1867, p. 42-43.

loyalty, all colored soldiers, and all colored persons, who can read and write, should be admitted to the ballot box.

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This resolution was sent to a committee and was lost there. So these attempts to remove the political disabilities from the ex-Confederates were not successful.

The legislature also showed considerable reluctance to enfranchise the negroes. In November, 1866, a bill to permit them to vote but not hold office or sit on juries was tabled on the first reading by a vote of 39 to 29. It was very rare for any bill to be tabled on a first reading. The people of East Tennessee were opposed to such a measure because it would mean the loss of the political control they had enjoyed since the reorganization of the civil government. Most of the negroes were in Middle and West Tennessee; therefore, those sections would gain in political influence by the enfranchisement of the blacks.

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Because of the delay in the legislature and the opposition of the East Tennesseans to negro suffrage, Brownlow sent a special message urging action on the question:

I must therefore, be permitted to express the hope that this General Assembly will not close its present session without the passage of a bill granting suffrage to all loyal males, properly qualified by age and citizenship. Onward is the watchword which thrills and inspires two continents! and Now is the time for Tennessee to show the

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52. Ibid., p. 192.  
53. Republican Banner, November 20, 1866.  
54. Ibid., November 16, 1866.

world, that she belongs to the advance guard on the great question of equal suffrage. With the loyal men of the state allowed to vote, the Government thereof will remain in loyal hands -- without their votes, the state will pass into disloyal hands, and a reign of terror, not so easily described as realized, will be the result.<sup>55</sup>

This second message betrayed the fact that the growing strength of the opposition was of more importance in determining the Governor's policy than the improvement made by the negro race during the previous year.

The Governor's second message to the legislature seemed to have had the desired effect of showing to the Radicals the need for negro suffrage to maintain their control over the state government. A new franchise bill which omitted any race qualification was prepared and presented to the legislature early in 1867. On February 25, it was enacted by substantial majorities in both houses -- 38 to 25 in the House and 14 to 7 in the Senate. The chief support for the bill in both houses came from the representatives of Middle Tennessee, who cast half of the votes in favor of it. West Tennessee supplied the strongest opposition. The members from the ten counties of the state which had the highest percentage of negro population gave exactly the same

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55. Senate Journal, 1866-1867, p. 170.

number of votes for as against the bill in each house. Apparently there was a conflict in the districts having large negro populations between the desire to increase the political influence of those counties by means of negro votes and the fear of negro domination. Section one of the act named the qualifications for voters:

. . . every male inhabitant of this state of the age of twenty one years, a citizen of the United States, and a resident of the County wherein he may offer his vote, six months next preceding the day of election, shall be entitled to the privilege of the elective franchise, subject to the following exceptions and dis-qualifications, to-wit:

1st. Said voter shall never have borne arms against the Government of the United States, for the purpose of aiding the late rebellion, nor have voluntarily given aid, comfort, countenance, counsel or encouragement to any rebellion against the authority of the United States Government; nor aided, countenanced or encouraged acts of hostility thereto.

2d.. That said voter shall have never sought or voluntarily accepted any office civil or military, . . . under the authority or pretended authority of the so-called Confederate States of America, . . .

3d. That said voter shall never have voluntarily supported any pretended government, power of authority hostile or inimical to the authority of the United States, by contributions in money or property, by persuasion or influence, or in any other way whatever; . . .<sup>57</sup>

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56. Senate Journal, 1866-1867, p. 306 and House Journal, 1866-1867, p. 243.

57. Acts of Tennessee, 1866-1867, p. 26-27.

The ex-Confederates were to continue to be disfranchised, but any negroes who had been loyal to the Union were to be permitted to vote on the same basis as the white Unionist. Section sixteen of this act stated that negroes were not to be permitted to hold offices or sit on juries in the state. 58 On March 21, the state supreme court sustained the constitutionality of the act enfranchising the negro. 59

The clause which excluded the negroes from holding office and sitting on juries caused the bill to be met with some disfavor among the blacks. One of them wrote to Brownlow accusing him of trying to get the negro votes without giving them anything in return and intimating that the negroes would look with disfavor upon the Radicals for this selfish action. 60 But, in general, they seem to have accepted the privilege as a boon. The Radicals began at once to formulate plans by which they could secure a solid freedman vote for their candidate in the gubernatorial election in 1867.

The Radical newspapers planned for this campaign and tried in every way to secure the good will of the "persons of color." A Radical editor in explaining their

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58. Ibid., p. 33.

59. McPherson, op. cit., p. 256.

60. The News (Bristol, Tennessee), March 7, 1867.

position toward the freedmen said:

The self-styled Conservatives of Tennessee, seems to think that the Radicals have acted in bad faith towards the freedmen, in that they have enfranchised them, and did not, at their February convention, nominate one of them for Governor. . . . There are talented and worthy colored men, and the present Governor out of the way, the Radicals would support them in preference to a Rebel -- Johnson -- Conservative with a white skin.<sup>61</sup>

The negro voters were encouraged by the Radicals to organize for the campaign.

In Washington County a colored convention was held in the Court house at which resolutions were adopted to support the Radical union party in return for the extension of the suffrage to them: "We will stand by, and support the nominee of the Radical union party of Washington County for Representative in the next General Assembly of the state, giving him an undivided support."<sup>62</sup>

The Maryville Republican said that the Democrats hated the negro because he did not support "the work of treason during the war," and the freedman "will not vote the Democratic ticket now, because he adheres to the cause of freedom and nationality rather than to treason and slavery."<sup>63</sup>

Secretary of State Fletcher gave this summary of

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61. Brownlow's Knoxville Whig, April 3, 1867.  
62. The Union Flag (Jonesborough), April 5, 1867.  
63. Maryville Republican, November 2, 1867.

the reasons for granting negro suffrage:

I have said that the negro was enfranchised for his own protection. I may add that other great reasons made it necessary. It was necessary for the protection of the loyal white men of the state that their ranks should be recruited by loyal voters, of whatever color . . . the legislature chose the . . . course of enfranchising all the friends of the Union, so that upon a reasonable estimate, we have now 100,000 enfranchised, and only 40,000 disfranchised citizens.<sup>64</sup>

To be assured that all these "friends of the Union" would be Radicals, the Union or Loyal League was organized in the state. The Radicals urged that chapters be organized in each district. "By this means", they said, "a concert of action can be secured and the harmony of the Radical Party, the chief essential to success, be accomplished beyond all peradventure. In unity is strength. If the sceptre of power departs from the Radical Party the fault will be its own",<sup>65</sup>

The Union League was a secret political organization formed in the North. It was brought South by those whites who were working among the freedmen, and it quickly got the negro voters behind the Republican Party. The few southern whites who did join soon withdrew when its real nature became apparent.<sup>66</sup> This organization is to a large

64. Knoxville Whig, June 22, 1867.

65. The Union Flag, April 5, 1867.

66. Paul S. Pierce, The Freedmen's Bureau, p. 163.

degree responsible for the partizan division in the South  
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so nearly paralleling the race division.

The purpose of the Union League, as stated in its constitution, was to:

Preserve liberty and the Union of the United States of America; to maintain the constitution thereof and the supremacy of the laws; to sustain the Government and assist in putting down its enemies; to protect, strengthen, and defend all loyal men, without regard to sect, condition, or race; and to elect honest reliable Union men to all offices of profit or trust in national, state and local government; and to secure equal civil and political rights to all men under the Government.<sup>68</sup>

A long catechism was adopted purporting to be a dialogue between a newly enfranchised negro and a Radical Republican. The colored voters were told that they owed their suffrage to the Union Republican Party, and that their protection and the welfare of the state and nation depended upon their support of that party.<sup>69</sup> This organization made an appeal to the negroes with its secret nature and its forms and rituals and they joined in large numbers. It was undoubtedly a big influence in securing the support of the negroes for the Republican Party.

Unfortunately, the Union League became closely associated with the Freedmen's Bureau. This latter agency had been formed by the National Government to protect the

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67. Ibid., p. 171.

68. Fleming, op. cit., p. 7.

69. Ibid., p. 13.

rights of the southern negroes. There was a great temptation for the Bureau officials to use their offices for partisan ends, especially if they had any political ambitions. Many of them did run for local, state and national offices.

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The work of Bureau officers in the Union League and among the negro voters caused much of the hatred which was held against the Freedmen's Bureau.

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The Union League was opposed by the Ku Klux Klan. This organization was formed in part in opposition to negro political power, but probably more in opposition to the use of negro militia. The fact that the Republican Party lost control in Tennessee, North Carolina, Georgia and Virginia while the Ku Klux Klan was at its height has led many to believe that its purpose was to overthrow the negro party by violence. General N. B. Forrest, the reputed national leader of the Klan, testified concerning it:

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I think this was a sort of offset gotten up against the Loyal Leagues. . . . The negroes were holding night meetings; were going about; were becoming very insolent, and the southern people all over the state were very much alarmed. . . . There was a great deal of insecurity in the country, and I think this organization was got up to protect the weak.

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But the members of the Klan undoubtedly did have some influence

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70. Pierce, op. cit., p. 167.  
71. W. H. Cook, Secret Political Societies in the South, p. 6.  
72. Dunning, Essays, p. 356.  
73. Fleming, Documentary History, p. 344.

on elections through intimidation of negro voters. They did not work directly with the negroes and so did not counter-balance the effect of the Union League.

The Radical Republicans renominated Brownlow for Governor in 1867 and adopted a platform which breathed the equality of man, inalienable rights and equality under the law. But, having enfranchised the negroes, they made no promises to give them anything more.<sup>74</sup> The Conservatives, with Emerson Etheridge as their candidate, made a definite bid for negro support in their platform:

. . . our colored fellow citizens, being now citizens of the United States and citizens of the State of Tennessee and voters of this state, are entitled to all rights and privileges of citizens under the laws and constitution of the United States and the State of Tennessee.<sup>75</sup>

Brownlow had under his control the regulation of the registration of voters and of elections. The Conservatives had no chance for a victory unless they could secure a large majority of negro voters. Many of the Conservatives worked industriously to win this support. Many of the delegates to the Conservative Convention were negroes. Elias Polk, colored, was Vice President of the convention and Joseph E. Williams, colored, was one of the prominent speakers.<sup>76</sup>

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74. McPherson, op. cit., p. 249.  
75. Ibid., p. 248.  
76. Hamer, op. cit., p. 622.

On May 25 Etheridge addressed a large gathering in Nashville. About one third of his audience were negroes. In his speech he charged the Radicals with desiring negro aid to help only the Radicals. That, he stated, was the reason for refusing to give the negroes offices. He said that he wished the freedmen could run for offices because he could trust them but he could not trust the Radicals.<sup>77</sup> The policy of trying to win the support of the negro voters, which was adopted by Conservative candidates and newspapers, was opposed by many whites who denied that negro votes were wanted for their ticket.<sup>78</sup>

The Radicals said Etheridge had opposed the emancipation proclamation and the enlistment of negro soldiers. They also pointed out that negro suffrage had been granted by the Radicals.<sup>79</sup>

The campaign was marked by much excitement and high feeling. Some fighting took place between the two groups. At Greeneville a negro Radical group and some Conservatives exchanged shots on July 22. In the fight one Conservative was killed and another was seriously wounded.<sup>80</sup> Earlier in the month the Loyal Leaguers at Franklin had engaged in a fight with the Conservatives which resulted in the death of one person and the wounding of forty others.

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77. Ibid., p. 623.  
 78. Ibid., p. 624.  
 79. Ibid., p. 625.  
 80. Ibid., p. 626.

The election took place on August 1. Both parties took steps to preserve the peace on that day and as a result the election was held without disorder. The outcome was an overwhelming victory for Brownlow and the Radicals by a majority of over fifty thousand.<sup>81</sup> Both parties charged that there had been fraud among the negro voters by the opposing group. The Conservatives could have had little success with it considering their light vote. They later regretted the stand they had taken on negro suffrage during this campaign.<sup>82</sup>

A Radical, commenting the next year on the effects of this defeat, said no Democrat held hopes that any Democratic candidate could carry the State of Tennessee. He explained:

When Etheridge was nominated for Governor they professed to have hopes, basing them upon the ignorance of the colored men, who had just been given the right of suffrage. They learned however, that the colored voter knew what he was about and who were his friends. The ignominious defeat of Etheridge cooled their ardor, and they have not had the heart to make a bold fight since. They gave Tennessee up and no longer claim to favor negro suffrage.<sup>83</sup>

The negroes again played a part in the presidential campaign of 1868 in Tennessee. The friends of Seymour and Blair wished to secure the support of the colored voters in

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81. Ibid., p. 628.

82. Ibid., p. 629.

83. Nashville Daily Press and Times, June 11, 1868.

order to carry the state. The Democrats were more cautious in their promises to the negroes than they had been the year before. A Democratic speaker in Nashville on September 5, declared:

We the white citizens of Tennessee have to realize the existing fact that the native Tennessee negro is a voter. . . . We still adhere to the Democratic doctrine, that this shall be a white man's government . . . but there are certain rights of which they [the colored race] may not be deprived without detriment to the cause we urge them to support.<sup>85</sup>

Some negro support was given to the Democratic ticket. Democratic clubs, composed entirely of negroes, were organized in West Tennessee and some of the most intelligent of the colored men of Memphis campaigned for the Democratic candidates.<sup>86</sup>

The Republican Party represented itself as the party of the laboring man -- white or black. The speakers threatened a return to slavery for the negroes if the Democrats were successful.<sup>87</sup> Again their arguments carried the most weight with the negro voters and the Republican ticket carried the state.

The election of 1868 was the last in which the Radicals secured a victory in Tennessee. The next year the

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84. Nashville Daily Republican, September 19, 1868.  
85. Ibid., September 7, 1868.  
86. Nashville Union and Dispatch, August 18, 1868.  
87. Nashville Daily Republican, September 21, 1868.

Conservatives regained control of the state because of a split in the Radical ranks. In the gubernatorial election of 1869, two Radicals appeared as candidates -- DeWitt C. Senter, who had become governor when Brownlow resigned in March, 1869, and General William B. Stokes. Stokes had the support of almost all of the negroes and many of the Radicals. Therefore, in order to win the election, Senter used his power as governor to control the registration of voters. He removed most of the Radicals who were serving as commissioners of registration and appointed Conservatives to take their places. The new registrars issued certificates to thousands of the ex-Confederates. With the aid of these reenfranchised voters, Senter was victorious. The Conservatives took advantage of the division among the Radicals and secured a majority of the members in both houses of the legislature.<sup>88</sup> The return of the Conservatives to power marked the end of the Republican dominance in Tennessee. Since most of the negroes were members of the latter party, the black race has never since been as important a factor in the state elections as it was during the first two years after negro suffrage was granted.

When the Conservative legislature met in 1869, it was called upon to consider the ratification of the Fifteenth

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88. J. A. Sharp, "The Downfall of the Radicals in Tennessee." The East Tennessee Historical Society's Publications. January, 1933, p. 124.

Amendment to the United States Constitution. This amendment was designed to secure nation-wide negro suffrage. In his annual message, Senter recommended the ratification of the amendment. The Governor pointed out that it would cost Tennessee nothing to accept the amendment, because the negroes were already enfranchised there. He said that it would be well to keep in the good graces of Congress while so many "worthy men of Tennessee . . . labor under the disabilities imposed by Congress, and which consequently, our State powers are inadequate to reach."<sup>89</sup> Nevertheless, a resolution to ratify this amendment was rejected by the Senate Judiciary Committee.<sup>90</sup> And on February 24, 1870, by a Joint Resolution of the two houses, the proposal to ratify the Fifteenth Amendment was rejected.<sup>91</sup> The objection which was made to the amendment was that it interfered with the reserved rights of the states. Each state, it was claimed, should be permitted to regulate for itself the qualifications for its voters.<sup>92</sup>

The legislature in 1869 passed an act authorizing the people to call a convention to frame a new constitution for the state. The Constitution of 1870 reasserted the

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89. House Journal Appendix, 1867-1870, p. 12.

90. Senate Journal, 1869-1870, p. 361.

91. Acts of Tennessee, 1869-1870, p. 712.

92. Knoxville Weekly Whig, February 2, 1870.

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emancipation of slaves. The franchise clause guaranteed negro suffrage:

Every male person of the age of twenty-one Years, being a citizen of the United States, and a resident of this state for twelve months, and of the county wherein he may offer his vote for six months next preceding the day of election, shall be entitled to vote for members of the General Assembly, and other Civil Officers for the county or district in which he resides.<sup>94</sup>

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A poll tax, however, was levied which probably excluded a greater percentage of negro than of white votes.

The legislature expressed its thanks to the convention for its action in favor of universal suffrage, ". . . this amendment to our Constitution," the resolution said, "will secure the peace, harmony and prosperity of our whole people."<sup>96</sup> On June 11, 1870, the legislature adopted

a new franchise law to conform with the provisions of the Constitution.<sup>97</sup>

J. R. Neal suggests that negro suffrage was included in the Constitution because it was feared that Federal intervention would follow the exclusion of the freedmen from the franchise.<sup>98</sup> But the present franchise law of the state is still that of the Constitution of 1870.<sup>99</sup>

93. Acts of Tennessee, May 9 - July 11, 1870, p. VII.

94. Ibid., p. XVI.

95. Ibid., p. XVI.

96. Acts of Tennessee, 1869-1870, p. 701

97. Ibid., p. 25.

98. John R. Neal, Disunion and Restoration in Tennessee, p.76.

99. E. N. Haston, Compilation of the Election Laws of Tennessee, p. 16.

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