

THE POLITICS OF RACE IN A FREE AND A SLAVE  
SOCIETY: FREE BLACK ISSUES IN THE  
LEGISLATURES OF ANTEBELLUM  
OHIO AND TENNESSEE

By

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## ACKNOWLEDGMENTS

This dissertation draws heavily upon the pioneering work of the once-upon-a-time “new” political history. The writings of these scholars, simply put, encouraged me to consider the words and actions of historical figures in more systematic and comparative ways across localized levels of activity. Granted I followed a less traveled path of investigating the policy formation process rather than simply grassroots mobilization but this decision was based, in part, on repeated calls in earlier literature for the need to learn more about what transpired at the statehouse, too. Finally, the “new” political historians raised questions about the past relationship between democratic ideals, white racism, and advent of “modern” forms of two-party politics in early America that shaped my decision to revisit themes about antebellum-era party warfare and racial issues.

My initial surmise was mere comparison of a northern and southern state would fill lacunae in our knowledge. Analysis of roll-call voting behavior, supposedly, would clinch the case that parties acted either similar or different on racial matters and thereby help resolve outstanding debates on consensus and conflict. Hence, even before the research was fully compiled, I already was engaging in preliminary imaginative exercises of explaining why it was one thing or the other. Given that my initial surveys of roll-call data came from the Ohio legislature in the mid-1840s, moreover, I was predisposed at the onset to entertain the notion that a conflict scenario was the better explanation.

In retrospect, it is evident I initially began to work the qualitative data to fit this expectation. Only after I began to expand the scope of the investigation did it become increasingly evident that patterns were much more complex and rarely replicated consistently over time. Ultimately, I realized an attempt to explain why parties acted racist or not was a premature endeavor at this point, given that so much additional data was available which had not been examined in depth (and which might alter earlier assessments drawn from samplings of rhetoric or episodic evaluation of isolated roll-call votes).

What was needed, it seemed, was a baseline account of what actually happened over an extended period of time in the legislative arena to pinpoint with more exactitude to what degree each party acted in a racist fashion or not, rather than merely assuming such outcomes as a predicate foundation for attempting to explain other things. In other words, I was prepared to attempt to fill the “holes” in our knowledge with educated guesses on cause-and-effect relations, based on the known data. Yet, given that the documentary records held such a rich reservoir of neglected information, it seemed an initial task was to diminish the gaps in our knowledge as much as possible and thereby reduce the extent to which hypothesis and conjecture is necessary in the first place.

In short, rather than repeated illustrations of the plausibility of theoretical constructs, it seemed testing of theory with greater rigor was in order. Here, I am merely following the advice of “new political historians” from a half-century ago to recognize the temporal and sociological limits of would-be generalizations, rest firm conclusions on sampled data, and not extrapolate localized findings to proximate things without proper qualification. Hence, despite initial intentions otherwise, I opted to employ a thick

descriptive approach to the subject matter to establish an empirical foundation with regard to how parties reacted to racial issues across the board as prelude to forthcoming attempts in the future to explain why considerations about racial matters occupied the place within party agendas that they seemingly did.

A variety of archivists and librarians provided me essential assistance during the research phase of this project. In particular, I should express my appreciation to the staffs at Oklahoma State University, Vanderbilt University, Fisk University, Harvard University, the University of Illinois, Dana College, the Tennessee State Archives and Historical Society, the Ohio Historical Society, the Cincinnati Historical Society, and the Library of Congress. My thanks also are due to the dean of the graduate school at Vanderbilt University who awarded me funding for travels to Cambridge and Washington, D. C.

The various professors that shaped my thinking about the historical craft over the years are too numerous to mention by name. Virtually everyone I studied with has left their mark in some way. I should single out two mentors in particular. First, Dr. James Huston provided invaluable oversight and guidance in pushing me through the final stages of this project, helped to tighten the focus, and challenged me to reconsider sloppy thinking on several occasions. Second, Dr. Samuel McSeveney was instrumental to the initial framing of the study. His meticulous attention to detail also rubbed off. Finally, it was in his seminars that I became a serious student of political history.

Especial thanks go out to Dr. Jonathan Atkins of Berry College who generously provided me with his database on slaveholdings among Tennessee legislators. In addition, Dr. William Shade of Lehigh provided crucial insight and critique when he

commented on a conference paper I delivered years ago on the Tennessee scenario. His writings, of course, have made a significant impact, too. The members of the dissertation committee at Oklahoma State University also warrant recognition: Dr. Joseph Byrnes and Dr. Ronald Petrin of the History Department and Dr. Robert Darcy of the Political Science Department. I should mention Dr. Richard Rohrs, too, who loaned me a copy of Joel Silbey's dissertation years ago and thereby first exposed me to roll-call analysis. It would be remiss, moreover, to not mention the deep debt of gratitude owed to Dr. LeRoy H. Fischer whom cultivated my interest in nineteenth-century America from an early age through my undergraduate days.

Finally, I wish to acknowledge the important role of my mother and maternal grandfather in nourishing my early interest in historical inquiry. As a math teacher, my maternal grandmother, in addition, cultivated my interest in quantitative applications and learning in general. Unfortunately, none of them survived to see the end result of their foundational work. Kristie, my sister, and Bret, my brother, have provided invaluable support to this day in too many ways to itemize with brevity. Suffice it to say, I never would have reached this point without their aid. Above all else, though, my deepest appreciation goes to my daughter, Alex, and son, Kris, who often endured with good cheer my absenteeism as their father to work on this manuscript, yet sustained me nonetheless throughout with their encouragement, companionship, and assistance.

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## CHAPTER I

### INTRODUCTION

#### I. The “Negro Question”

On the eve of the American Civil War, political discourse throughout the land featured much noisy declamation about the “Negro Question,” or “white problem” as modern writers phrase it. Public preferment in olden times meant accommodating bigoted expectations of a white electorate riddled with racial prejudice. A state legislator in Tennessee denoted, for example, how few southern public officials, given the state of public opinion, dared openly to defend African-American rights. An Ohio lawmaker related his apprehensions, after arriving in Columbus, that demagogues at the state capitol would willfully misconstrue his rather liberal personal views to generate political capital. There was a morbid sensitivity “upon every question that relates to the people of color” of which he previously had no conception.<sup>1</sup>

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<sup>1</sup> Nashville Republican Banner, December 21, 1859; January 5, 1860; J. V. Smith, Official Reports of the Debates and Proceedings of the Ohio State Convention Called to Alter, Revise, or Amend the Constitution of the State, Held at Columbus, Commencing May 6, 1850 and at Cincinnati, Commencing December 2, 1850 (Columbus: Scott and Bascom, 1851):1258. Hereinafter work cited as Smith, Official Reports. Also see Walter A. Jackson, Gunnar Myrdal and America’s Conscience: Social Engineering and Racial Liberalism, 1938-1987 (Chapel Hill: University of North Carolina Press, 1990); E. Nathaniel Gates, ed., Critical Race Theory: Essays on the Social Construction and Reproduction of “Race” (4 vols.; New York: Garland Publishing Co., 1997).

While certain witnesses describe racial imperatives as a dominant motif in the public forum, this testimony alone is not incontrovertible evidence that the politics of race was so all-consuming. Both our men, after all, opted to resist the tide. One refers specifically to like-minded southerners; granted, the intent was to allude to sparse numbers. Statements of the other indicate not every public official--prior to political tutorials at the statehouse--always pandered to racist proclivities of the white masses. Finally, demonstrating that racist allusions are commonplace in rhetorical flourishes cannot fully persuade that racist convictions set at the core of deep ideological persuasions or consistently trumped other matters of public policy.

It does seem fair to say certain insinuations hit close to the mark. Much public opinion at the time did reflect vulgar assumptions and negative stereotyping. The volume of racial discourse in party politics also was noteworthy and increasing. Nevertheless, based on sampled evidence in its entirety, I am inclined to regard the politics of race as a much more complicated phenomenon. Widespread racist tendencies did not mean political parties perennially saw eye-to-eye on all policy options regarding specifics of how to regulate race relations, or why; altogether, it was a more haphazard affair. My main undertaking, though, is to demonstrate the unstable relationship between party politics and racial prejudice prior to mid-century. Based on this analysis, I am reticent about using the example of party politics as unequivocal evidence of consensual white racism during most of the antebellum era. At a minimum, such an interpretation necessitates considerable qualification and nuance.

Bipartisanship was present on many occasions. Yet such instances at times favored more "liberal" agendas. A racist consensus of sorts did prevail with plenty of wiggle

room in the bigger tent. Politicians, regardless of party, agreed that adult white male residents would dominate the public forum, at least for the time being. Most disclaimed any affinity for racial amalgamation. Finally, political leaders of all stripes agreed domestic slavery was under the near exclusive jurisdictional control of states wherein it already had an existence. Beyond this common ground, though, contention surfaced regularly on a host of collateral issues.<sup>2</sup>

No major party, to be certain, touted itself as special advocate of black people but responses across party lines to racist proposals were not always uniform or even close to uniformity. Parties polarized at times but also clustered at the political center depending on the precise framing of the issue. Internal division frequently rent parties from within; patterns could fluctuate over time, too. Records do show certain individuals, and larger factions, regularly endorsed a wide array of discriminatory policies. But while racist ideologues outnumbered vocal critics, they usually were a minority element themselves. In certain locales, in addition, liberal outlooks were more prominent and persistent, even though they were sparse in other areas.<sup>3</sup>

On the middle ground was a majority of public men, moderate-minded individuals who equivocated or expressed qualms and uncertainties as to what they thought in regard

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<sup>2</sup> For commentary on such issues from members of different parties in each state, see Ohio State Journal, January 18, 1839, January 18, 1840, January 16, 1861; James Walker to James K. Polk, October 20, 1833, in Herbert Weaver, et. al., Correspondence of James K. Polk (5 vols.; Nashville, 1969), 2:116-117; Adam Huntsman to James K. Polk, January 15, 1844, in Emma I. Williams, ed., "Letters of Adam Huntsman to James K. Polk," Tennessee Historical Quarterly, 6 (December 1947):357; C. L. Martzloff, ed., "Thomas Ewing: Address at Marietta, Ohio, 1858," Ohio Archaeological and Historical Society Publications, 28 (January 1919):194; Robert H. White, Messages of the Governors of Tennessee (8 vols.; Nashville: Tennessee Historical Commission, 1952-1972), 2:601-608.

<sup>3</sup> Herbert Aptheker, ed., A Documentary History of the Negro People in the United States (New York: The Citadel Press, 1951):261-265, 316-318, 363-366; Proceedings of the State Convention of Colored Men in the State of Ohio, Held in the City of Columbus, January 21<sup>st</sup>-23<sup>rd</sup>, 1857 (Columbus: John Geary and Son, 1857):2-6; Howard H. Bell, ed., Minutes of the Proceedings of the National Negro Conventions 1830-1864 (New York: Arno Press, 1969):3, 16-20.

to racial diversity. Historians typically slight the preponderance of these lawmakers. Because they aired views less often, more radical “show horses” left disproportionate commentary in official records. But when all is said and done, it was the “moderates” that functioned as gatekeepers of the law. Due to numerical strength they determined what measures were enacted, sustained, or discarded. Here, though, is the rub—how should we categorize “moderate” racists?<sup>4</sup>

If indication of prejudicial attitudes towards African Americans of any sort on some occasion is the standard, few politicians (some will argue none) escape the racist label. If consistent and zealous action is the guide, hard-line racists constitute a growing and sizeable but less formidable host. In short, racial prejudice was rampant, even before the 1850s, and no party was immune. Each organization defended white privilege of some sort while paying lip service, at a minimum, to the ideal of a “white republic.” But central tendencies and normative persuasions often varied, too. The parties, moreover, diverged in style, tone, and content of speech--the very lexicons they employed often seem distinct, as do the precise philosophic underpinnings invoked to legitimate respective behaviors.<sup>5</sup>

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<sup>4</sup> An examination of participants in legislative debates indicates certain areas within each state elected more “talkative” representatives than did others. East Tennessee Democrats, for example, constituted about one-fourth of the legislative party yet this cohort account for about one-half of all sampled speeches prior to the mid-1840s pertaining to racial issues. The analogous figure for the next decade is under ten percent. In Ohio, Whigs from the Western Reserve also filled roughly a fourth of their state party’s seats in the legislature. These men, on average, provided about a third of Whig party participants in debates and this figure rose to one-half in the late 1840s and early 1850s. The sample is drawn from numerous debates and speeches reported in the party press between 1827 and 1861.

<sup>5</sup> Jean H. Baker, Affairs of Party: The Political Culture of the Northern Democrats in the Mid-Nineteenth Century (Ithaca: Cornell University Press, 1983); Daniel W. Howe, The Political Culture of the American Whigs (Chicago: University of Chicago Press, 1979); Michael F. Holt, The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War (New York: Oxford University Press, 1999); Alexander Saxton, The Rise and Fall of the White Republic: Class, Politics, and Mass Culture in Nineteenth-Century America (New York: Verso, 1990); Waldo W. Braden, ed., Oratory in the Old South, 1828-1860 (Baton Rouge: Louisiana State University Press, 1970).

Party politics, through campaign slogans, hoopla, and other means, served as an important institutional mechanism for disseminating and perpetuating negative cultural attitudes about African Americans. These electoral machines also transcended that educational role, however, serving as vehicles for staffing government which, in turn, set a racist tone in the legal environment at times in contradistinction to promises made on the stump. Consequently, an appreciation of two-party politics at the statehouse is vital to the study of white racism, especially given the decentralized system of federalism at the time. In short, the basic contours and overt features of local variants of racial prejudice fluctuated in response to changes in this underlying context.<sup>6</sup>

Examination of political life also helps inform about racial attitudes in conjunction with other considerations because trade-offs and compromises abounded. Antebellum politicians, as a rule of thumb, did harbor racist attitudes fostered in part from cultural conditioning. Fair enough. Yet available evidence relating to rhetorical and behavioral patterns, when juxtaposed against each other, shows they also resorted to cost-benefit analysis for determining when to act or not to act on prejudices if confronted with choices producing dissonance within their value systems. As an Ohio legislator explained,

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<sup>6</sup> On parties as electoral machines, see Richard McCormick, The Second American Party System: The Jacksonian Era (Chapel Hill: University of North Carolina Press, 1966); Edward Pessen, Jacksonian America: Society, Personality, and Politics (Urbana: University of Illinois Press, 1969); Brian G. Walton, "The Second Party System in Tennessee," East Tennessee Historical Society Publications, 43 (1971):18-33. On politics at the statehouse, see Jonathan M. Atkins, Parties, Politics, and the Sectional Conflict in Tennessee, 1832-1861 (Knoxville: University of Tennessee Press, 1997); Ralph A. Wooster, Politicians, Planters, and Plainfolk: Courthouse and Statehouse in the Upper South, 1850-1860 (Knoxville: University of Tennessee Press, 1975).

statecraft resembled “a vast checkerboard, in which remote as well as immediate effects of every possible move must be duly considered.”<sup>7</sup>

## II. Historiography: Scientific Racism and Its Critics

As a foundation it is appropriate to situate my line-of-argument within the context of what other historians already have said. Historical analysis of white racism in America, to be blunt, has undergone watershed change during the past half-century. “Scientific racism,” once the rage, now has become the basic foil against which later writers frame their own alternative interpretative slants. For the most part, early historians did not probe into the topic all that much besides documenting anecdotal cases showing racial differences, subordination, and animosities existed in the past. The main enterprise simply was compiling random instances of white achievement to contrast against assumptions about degradation amongst the black masses and, finally, in the end, assert that these conditions had been constant throughout the recorded history of mankind.<sup>8</sup>

The basic scaffolding for the early interpretation relied on dogmas of scientific racism, especially its pet hobbyhorse that natural law explained differences in anatomy, character traits, and social propensities across the “color line,” to include mental and moral endowments widely regarded as requisite to the exercise of self-directed, rational liberty. These assumptions, in turn, became an explanation for why the “white races,” in collective terms, uplifted themselves over the centuries while “primitive” Africans

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<sup>7</sup> Ohio State Journal, January 18, 1839; J. Morgan Kousser, “‘The Onward March of Right Principles’: State Legislative Actions on Racial Discrimination in Schools in Nineteenth-Century America,” Historical Methods, 35 (Fall 2002):177-204.

<sup>8</sup> Thomas F. Gossett, Race: The History of an Idea in America (New York: Vintage, 1976); Theodore L. Stoddard, The French Revolution in San Domingo (Boston: Houghton, 1914); Viscount James Bryce, Race Sentiment as a Factor in History (London: University of London Press, 1915); R. W. Shufeldt, The Negro a Menace to American Civilization (Boston: Badger, 1907).

stagnated or declined. Artificial constraints, it was conceded, might bend individual feelings and practices, at least for awhile. But theory, again, postulated old patterns would reappear in due course of time once natural law invariably reasserted itself.<sup>9</sup>

Biological determinism, in other words, provided essential underpinnings for asserting racial prejudice was a primordial instinct designed to preserve purity of blood-lines, especially amongst superior breeds of mankind whom seemingly formed the vanguard of human progress. Obligations to uplift the weak in the scale of humanity still might pertain. At issue was viability. What degree of elevation was possible and how long was it to take to become manifest. As for racial equality, early scholars employed a usable past model discounting any such standard as not ethically mandated, socially wise, or politically safe.<sup>10</sup>

These writers attracted critics, yet it was not until near the mid-twentieth century that a new departure began to carry the field with an alternative perspective which, initially, simply substituted a different set of theoretical assumptions and value judgments. Historians now stressed the causal impact of environmental factors. From this angle of vision, gene pools did not explain the “superiority” of white peoples. Power relations were more contingent on privileged status, access to resources and technologies, or control of governmental apparatus and the law. Inherent racial incapacity, in other words, did not perpetuate degradation. Dire straits among African Americans resulted

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<sup>9</sup> Ivan Hannaford, Race: The History of an Idea in the West (Baltimore: The Johns Hopkins University Press, 1996); William H. Flower, “The Study of Race,” In Essays on Museums (London: Macmillan, 1898).

<sup>10</sup> George M. Frederickson, The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914 (New York: Harper and Row, 1971); Juan Comas, “‘Scientific’ Racism Again?” Current Anthropology, 2 (1961):303-340.



primarily from misfortunes of history, generations of economic deprivation and exploitation, and pathological effects of negative stereotyping.<sup>11</sup>

Above all else, these studies emphasized the long tenure of racial slavery in America and its stubborn residual legacy as the main culprit accountable for uneven rates of social uplift and improvement across racial lines. Given this scenario, logic seemed to dictate that presumptions about instinctual racial prejudice were also suspect. Repugnance and friction across racial lines, it now was said, were not an inevitable circumstance but were contingent on the processes of socialization; racial prejudice, at its core, was a learned attitude whose function was to justify exploitation of non-white peoples without a guilty conscience.<sup>12</sup>

In addition, historians began searching out the precise origins of “modern” forms of racial prejudice. Studies variously located beginnings of “racial consciousness” in early modern Europe sometime between the fifteenth and eighteenth centuries, but little consensus emerged on whether it preceded or postdated the start of colonial slavery in North America. A less contested point-of-view, for the moment, dated the heyday of

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<sup>11</sup> For early critics, see Charles Beard, “The Teutonic Origins of Representative Government,” American Political Science Review, 26 (February 1932):28-44; Roland G. Usher, “Primitive Law and the Negro,” Journal of Negro History, 4 (January 1919):1-6; W. O. Brown, “Rationalization of Race Prejudice,” International Journal of Ethics, 63 (1933):299-301. Also see Clyde Kluckhohn, “The Myth of Race,” in William R. Sperry, ed., Religion and Our Racial Tensions (Cambridge: Harvard University Press, 1945):3-27; Gunnar Myrdal, An American Dilemma: The Negro Problem and Modern Democracy (2 vols.; New York: Harper, 1944).

<sup>12</sup> Guion G. Johnson, “The Ideology of White Supremacy, 1876-1910,” in Fletcher Green, ed., Essays in Southern History (Chapel Hill: University of North Carolina Press, 1949), pp. 124-156; Hannah Arendt, “Race Thinking Before Racism,” Review of Politics, 6 (1944):36-73; Kenneth Stampp, The Peculiar Institution (New York: Knopf, 1956); E. Franklin Frazier, The Negro in the United States (New York: Macmillan, 1949). Also see Gaines M. Foster, “Guilt over Slavery: A Historiographic Analysis,” Journal of Southern History, 56 (November 1990):665-694.

white supremacist dogma to post-emancipation times in the late nineteenth century when new theories of evolutionary naturalism surged to the fore.<sup>13</sup>

Because these historians traced so much to the agency of environmental factors or historical contingency it seemed to follow logically that different geographical settings would not prove equally conducive as wellsprings of racism. Once this reasonable supposition was linked to a set of dubious propositions, some concluded that racism, first, is an all-or-nothing dualism and, second, attitudes about slavery are a suitable proxy for measuring racist sentiment. Revisionists, not surprisingly, traced the chief mechanisms promoting it into the Old South. White migrants from there, in this view, ultimately spilled out into other parts of the country bringing racist cultural baggage with them.<sup>14</sup>

### III. Modern Historiography: “Whiteness Studies”

Historians today almost universally accept the premise that all races share the common traits of humanity; natural degradations do not exist. DNA coding seems to be on their side. Hence, they perpetuate warnings that it is fallacious to consider that a degraded condition is proof of a natural order that justifies inequitable treatment. Yet

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<sup>13</sup> Winthrop Jordan, The White Man’s Burden: Historical Origins of Racism in the United States (New York: Oxford University Press, 1974); Ronald Sanders, Lost Tribes and Promised Lands: The Origins of American Racism (Boston: Little, Brown, and Co., 1978); John C. Greene, “The American Debate on the Negro’s Place in Nature, 1780-1815,” Journal of the History of Ideas, 15 (1954):384-396; Pradeep Barua, “Inventing Race: The British and India’s Martial Races,” The Historian, 58 (Autumn 1995):107-116; Sue Peabody, “Race, Slavery, and the Law in Early Modern France,” The Historian, 56 (Spring 1994):501-510; Paul F. Boller, American Thought in Transition: The Impact of Evolutionary Naturalism, 1865-1900 (Chicago: Rand-McNally and Co., 1969).

<sup>14</sup> Hannaford, Race; C. Vann Woodward, “The Antislavery Myth,” American Scholar, 31 (Spring 1962):312-327; Robert E. Chaddock, Ohio Before 1850: A Study of the Early Influence of Pennsylvania and Southern Populations in Ohio (New York: Longmans, Green, and Co., 1908); Henry C. Hubbart, “Pro-Southern Influences in the Free West, 1840-1865,” Mississippi Valley Historical Review, 20 (June 1933):45-62. For a more modern assessment, see Nicole Etcheson, The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest, 1787-1861 (Bloomington: University of Indiana Press, 1996).

contentions of early revisionist writers have not endured fully intact either. By the 1960s studies began to appear which channeled scholarly dialogue onto a substantially modified theoretical model. These historians still identified the South as a primary node of racism, both due to the defense of income streams from slavery and imperatives of social order. But, in the new estimate, racial prejudice was more a national than a parochial phenomenon.<sup>15</sup>

The new scholarship unearthed evidence that white northerners were often racists. In addition, it was projected that much northern antislavery protest was predicated on racial prejudice, betrayed in desires to safeguard territories for social mobility of white families without potential complications of labor competition from slaves or free blacks. Similar considerations informed prospective fears amongst both native and foreign-born whites about a future influx of black hordes into the North itself, especially in the wake of general emancipation in the South.<sup>16</sup>

This scenario seemed especially true for the Old Northwest, the region which these studies mined most thoroughly. This focus, in turn, indicated racial prejudice, even if cloaked in a bit different garb than the southern fashion, flourished over vast areas of the country. Historians now wondered how to explain the presence and magnitude of white racism in the North which clearly went behind a mere southern connection alone. As a

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<sup>15</sup> Lorman A. Ratner, Powder Keg: Northern Opposition to the Antislavery Movement (New York: Basic Books, Inc., 1968); Charles W. Morrison, Democratic Politics and Sectionalism: The Wilmot Proviso Controversy (Chapel Hill: University of North Carolina Press, 1967); Leonard L. Richards, "Gentleman of Property and Standing": Anti-Abolition Mobs in Jacksonian America (New York: Oxford University Press, 1970); David Potter, Division and Stresses of Reunion, 1845-1876 (Glenview, Illinois: Scott, Foresman, and Co., 1973).

<sup>16</sup> Leon Litwack, North of Slavery: The Negro in the Free States, 1790-1860 (Chicago: University of Illinois Press, 1961); Eugene H. Berwanger, The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy (Urbana: University of Illinois Press, 1967); Eric Foner, "Politics and Prejudices: The Free Soil Party and the Negro, 1849-1852," Journal of Negro History, 50 (October 1965):239-256; James A. Rawley, Race and Politics: "Bleeding Kansas" and the Coming of the Civil War (Philadelphia: J. B. Lippincott, 1969).

result, scholars began to explore various local indigenous factors that perhaps played a role, such as discriminatory institutional settings, long-term cultural conditioning, and structured patterns of thought.<sup>17</sup>

The existence of northern white racism, in any case, implied the “Negro Question” did not divide white America along sectional lines so much as reflected common ground. Soon so-called “whiteness studies” turned the case for consensual white racism almost into a cottage industry. These authors accepted the initial origins of racial consciousness date back to Europe in earlier times but their studies focused more heavily on indigenous factors to explain its features in America. They also qualify the notion that white supremacy in the late nineteenth century represents a significant break from the past. Instead, the antebellum era now is offered as the crucial spawning ground and transitional period to more modern forms of racial thought and systematic institutionalized racism. According to this research, the scenario in the 1850s closely resembled its postwar counterpart later. Some scholars even push back dating of the “new racism” into the 1820s and 1830s, claiming it then began to percolate in reaction to Upper South debates about initiating gradual emancipation schemes.<sup>18</sup>

A major contribution of this initiative was extending analysis beyond the Old Northwest to evaluate racial prejudice in the Northeast and, particular, what was

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<sup>17</sup> Jacque Voegeli, “The Northwest and the Race Issue, 1861-1862,” Mississippi Valley Historical Review, 50 (September 1963):235-251; Pessen, Jacksonian America; Elmer Gertz, “The Black Laws of Illinois,” Journal of the Illinois State Historical Society, 56 (Autumn 1963):454-473; Ronald P. Formisano, “The Edge of Caste: Colored Suffrage in Michigan, 1827-1861,” Michigan History, 56 (1972):19-41; Frank L. Klement, The Copperheads in the Middle West (Chicago: University of Chicago Press, 1960).

<sup>18</sup> Saxton, Rise and Fall of the White Republic; Leonard L. Richards, The Slave Power: The Free North and Southern Domination, 1780-1860 (Baton Rouge: Louisiana State University Press, 2000); “Special Issue on Racial Consciousness and Nation-Building in the Early Republic,” Journal of the Early Republic, 19 (Fall 1999):577-775; Barbara J. Fields, “Ideology and Race in American History,” in J. Morgan Kousser and James M. McPherson, eds., Region, Race, and Reconstruction: Essays in Honor of C. Vann Woodward (New York: Oxford University Press, 1982).

happening amongst foreign immigrants and urban workers. While not discounting labor competition, or prospective fears of it, as a partial explanation for manifestations of racism, these historians stress traditional cultural patterns and changes therein as major contributing factors. The new eastern orientation added further confirmation that racist patterns were not always uniform.<sup>19</sup>

In the Mid-Atlantic States, for instance, historians find gradual emancipation of recent origin and that it had not wrought rapid change in the plight of blacks. The outreach of southern slavery did not sustain local racism here so much, evidently, as did the residual effects of indigenous forms of servitude, including lingering forms of black apprenticeship. Initially, local whites regarded free black neighbors as “degraded” persons, loosely defined, but blamed their distress on their recent experience in bondage. Over time this perspective, allegedly, began to mutate as decades passed without any significant change for the better evident in the condition of the black masses. Many whites, it is said, came to suspect lingering effects of slavery was an incomplete explanation for the dismal circumstances of free blacks. An alternative answer implied lack of progress indicated African Americans must be deficient somehow in their very constitutional being. New pseudo-scientific theories soon lent academic respectability to this point-of-view.<sup>20</sup>

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<sup>19</sup> David R. Roediger, The Wages of Whiteness: Race and the Making of the American Working Class (New York: Verso, 1991); William L. Van BeBurg, Slavery and Race in American Popular Culture (Madison: University of Wisconsin Press, 1984); Carl Wittke, The Irish in America (Baton Rouge: Louisiana State University Press, 1956).

<sup>20</sup> Lois E. Horton, “From Class to Race in Early America: Northern Post-Emancipation Racial Reconstruction,” Journal of the Early Republic, 19 (Winter 1999):629-650. For an older perspective, see Arthur Zilversmit, The First Emancipation: The Abolition of Slavery in the North (Chicago, 1967).

Historians traditionally exempt New England from inquiries into northern white racism. Recent research now warns us against such naivety. As local forms of involuntary black servitude faded in the region, one study suggests, local whites tolerated the newly freed slaves while still regarding them as “degraded.” Compared to most whites elsewhere New Englanders were more hospitable. But as time passed and rapid improvement was not forthcoming, so the argument goes, whites turned to essentialist racist logic deeming African Americans to be innately inferior. Only in this case another factor accelerated the pace of change. As the national debate on slavery heated up, white New Englanders found utility in effacing the memory of black servitude previously in their midst as a means to sublimate shrill southern accusations of hypocrisy. In doing so, many local whites also jettisoned any serious consideration of their own complicity in stunting black progress.<sup>21</sup>

Most “whiteness” studies do not dismiss economic and political considerations as unimportant but the emphasis leans heavily in favor of cultural factors as the predominant mechanism promoting the rise of systematic white racism. Negative stereotyping, these scholars insinuate, explains much of what transpired in the sense that white prejudice could thrive in places, North, South, East, and West, where blacks did not reside in threatening numbers. From this point-of-view, it was the “imagined Negro,” rather than experiential contacts with actual African Americans, that explains the national reach of racial prejudice.<sup>22</sup>

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<sup>21</sup> Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and “Race” in New England, 1780-1860* (Ithaca: Cornell University Press, 1998); Joanne Pope Melish, “The ‘Condition’ Debate and Racial Discourse in the Antebellum North,” *Journal of the Early Republic*, 19 (Winter 1999):651-672.

As such, manifestations of racial bigotry did not always reflect overt hostility towards black neighbors as much as an attempt to curry favor with other whites. This enterprise, in turn, aimed to secure for these whites free rider privileges for themselves which, once attained, began to take on connotations of an exclusive and inherited property right. Inclusion in the white fraternity brought enhanced legal status, complete political rights, better access to community resources, and various other benefits. Consequently, as certain studies now point out, “fringe” groups, such as Irish immigrants, sought to “become white” once in America under the rubric of Caucasian classification. To facilitate that undertaking, it seemingly proved expedient to distinguish themselves clearly from African Americans through negative reference.<sup>23</sup>

Various scholars similarly argue poorer whites in the South, at a minimum, also embraced prejudicial attitudes for status enhancement and psychic benefits of regarding somebody else as “bottom rail,” while those among them that “strained” for acceptance in “respectable” slaveholding society perhaps exhibited even more virulent racist propensities. Collectively speaking, then, these historians regard racism, in large part, as the result of implanted cultural beliefs which permeated the ranks of society. By this litmus test, almost nobody in the white community escaped its clutches. To be sure, displays of racial prejudice differed from one locality to the next. Northern variants even could appear more vicious than southern brands (although in other ways the inverse was

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<sup>22</sup> Alexander Saxton, “Blackface Minstrelsy and Jacksonian Democracy,” *American Quarterly*, 27 (1975):3-28; James P. Ronda, “‘We Have a Country’: Race, Geography, and the Invention of Indian Territory,” *Journal of the Early Republic*, 19 (Winter 1999):730-756.

<sup>23</sup> Noel Ignatiev, *How the Irish Became White* (New York: Routledge, 1995); Jon Gjerde, “‘Here in America there is neither king nor tyrant’: European Encounters with Race, ‘Freedom,’ and Their European Pasts,” *Journal of the Early Republic*, 19 (Winter 1999):673-690.

clearly the case). But, in the end, racism did not exist simply in some parts of the country it was everywhere.<sup>24</sup>

Modern historians acknowledge that whites did not share the same outlook when it came to racial diversity and its social implications. Party politics therefore is an important field for investigation, given the possibility partisan association reflected substantial divergence in attitudes about race relations and prejudice. “Whiteness studies,” for the most part, assert distinctions are more a matter of infinitesimal degrees than differences in kind. From this perspective, racist-minded whites prevailed in each party. More importantly, racist imperatives, allegedly, were central to the program of them all.<sup>25</sup>

Take the “politics of race” in the Old South. If bipartisan racism was prevalent anywhere in the Union, many earlier historians have told us here is the most probable place to find it. A prominent scholar, for example, posits preserving white liberty through perpetuation of racial slavery was the fulcrum upon which local two-party politics turned. Democrats and Whigs each jockeyed for advantage in a symbolic struggle to depict their own party as the legitimate guardian of the peculiar institution while caricaturing foes as a dangerous threat to its survival. In these studies Southern Democracy serves as the most compelling evidence many politicians in the region

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<sup>24</sup> Bill Cecil-Fronsman, Common Whites: Class and Culture in Antebellum North Carolina (Lexington: University of Kentucky Press, 1992); for alternative point-of-views, see Bruce Collins, White Society in the Antebellum South (London: Longman, 1985); Eugene D. Genovese and Elizabeth Fox-Genovese, “The Religious Ideals of Southern Slave Society,” Georgia Historical Quarterly, 70 (Spring 1986):1-16; Eugene Genovese, “Yeoman Farmers in a Slaveholders’ Democracy,” Agricultural History, 49 (April 1975):331-342..

<sup>25</sup> Lee Benson, The Concept of Jacksonian Democracy: New York as a Test Case (Princeton: Princeton University Press, 1961); Reginald Horsman, Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism (Cambridge: Harvard University Press, 1981); Michael A. Morrison, Slavery and the American West: The Eclipse of Manifest Destiny and the Coming of the Civil War (Chapel Hill: University of North Carolina Press, 1997).



exhibited extreme racist outlooks. But the argument for consensual white racism holds southern Whigs were not very different. The party's campaign appeals, from this perspective, included apologetics for slavery and the ideal of white liberty, too.<sup>26</sup>

But what about northern political culture where slavery did not exist and its apologists were a distinct minority? Do parties here fit the consensual white racism scenario or does that perspective begin to break down? "Whiteness studies" contend the evidence does lend itself to their case. When it comes to the theme of "white liberty," these historians find scant distinction among parties across the sectional divide other than the means recommended to secure it. Northern Democrats, in these investigations, provide solid evidence that racist politicians were not rare. At a minimum, the national connection prompted local Democrats to appease slaveholding southerners.<sup>27</sup>

In their own backyard, moreover, party spokesmen vociferously championed white man's democracy, employed crude racial epithets, and repetitiously invoked ethnological theories about black inferiority. By the 1850s, according to some historians, racial consciousness had moved to a central location in the program and thought of the Democrat Party. Later studies often modified the chronological timing in this assessment, placing racist affinities at the core of Democratic ideology since the party's

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<sup>26</sup> William J. Cooper, Jr., The South and the Politics of Slavery, 1828-1856 (Baton Rouge: Louisiana State University Press, 1978); William J. Cooper, Jr., Liberty and Slavery: Southern Politics to 1860 (New York: Alfred A. Knopf, 1983). Also see Kenneth S. Greenberg, Masters and Statesmen: The Political Culture of American Slavery (Baltimore, 1985); Richard H. Brown, "The Missouri Crisis, Slavery, and the Politics of Jacksonianism," South Atlantic Quarterly, 65 (1966):52-72..

<sup>27</sup> Saxton, Rise and Fall of the White Republic; David B. Davis, "The Culmination of Racial Polarities and Prejudice," Journal of the Early Republic, 19 (Winter 1999):757-775.

inception. Consequently, as in the South, it appeared that Democrats in the North were quite racist in late antebellum times and had been so for a long time.<sup>28</sup>

Certain scholars also began to cast aspersions on earlier notions that a more humanitarian Whig Party in the North squared off against racist Democracy. These historians find northern Whigs to be racists, too, although often reflecting distinct paternalistic, class-oriented underpinnings. Some students of the period argue this depiction is too generous. Northern Whig racism, they claim, did not really differ much at all from its Democratic counterpart. It merely prevailed to a lesser degree or masked itself during periodic attempts to woo third party aid. Party spokesmen, of course, occasionally offered rhetorical challenges to racist dogma but, in practice, they did not do much. For proponents of the argument for consensual white racism, the proper inference seems obvious. If Whig and Democratic parties in North and South, generally speaking, were riddled with racists, then where exactly was the evidence of any substantial dissenting element in the white community?<sup>29</sup>

Perhaps it was the minor parties. Yet “whiteness studies” generally cast doubt on the premise itself that third party men were not racist to some degree, too. Rather than an exception to the rule of a white racial consensus, they instead seemingly clinch the case.

Even the most liberal-minded whites did not rise above it all. The Republican Party

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<sup>28</sup> Baker, *Affairs of Party*; Richards, *The Slave Power*; James B. Stewart, “Modernizing ‘Difference’: The Political Meanings of Color in the Free States, 1776-1840,” *Journal of the Early Republic*, 19 (Winter 1991):691-712.

<sup>29</sup> Saxton, *Rise and Fall of the White Republic*; Holt, *Rise and Fall of the American Whig Party*; Daniel W. Howe, “The Evangelical Movement and Political Culture in the North during the Second Party System,” *Journal of American History*, 77 (March 1991):1216-1239; Stephen E. Maizlish, *The Triumph of Sectionalism: The Transformation of Ohio Politics, 1844-1856* (Kent, Ohio: Kent State University Press, 1983); Herbert Ershkowitz and William G. Shade, “Consensus or Conflict?: Political Behavior in the State Legislatures during the Jacksonian Era,” *Journal of American History*, 58 (December 1971):591-621.

garnered a much larger voting base and therefore has more potential relevance than third parties for arguments about social consensus or conflict. Given the previous tagging of all major and minor parties as racist, it comes as little surprise that whiteness studies” depict most Republicans as not much different. Former Democrats perhaps constitute the worst offenders but, according to these scholars, others were complicit. Know-Nothing accretions and old-line conservative Whigs usually get special mention. But Republicans, in general, these authors suggest, also harbored racial prejudice to some degree and even “Radicals,” on occasion, betrayed signs of it.<sup>30</sup>

What is particularly noteworthy, according to “whiteness studies,” is not simply that the major and minor parties all contained significant elements that disparaged blacks or supported discriminatory policies, but that racist attitudes intertwined so intricately with core ideological beliefs about republicanism and democracy so as to become almost indistinguishable. After all, the documentary record shows politicians across party lines proclaiming America a “white republic” and insisting founding fathers intended it to be that way. The federal high court in 1857 seemingly validated these contentions. To say the Taney verdict actually meant African Americans had no rights distorts context and exaggerates its impact and reach. But, henceforth, scholars point out, the popular mythology of a “white man’s government” in America had endorsement from the highest judicial authority.<sup>31</sup>

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<sup>30</sup> Eugene H. Berwanger, “Negrophobia in Northern Proslavery and Antislavery Thought,” *Phylon*, 23 (Fall 1972):266-275; Joel Silbey, “Taking Antebellum Parties Seriously—To a Point,” *Reviews in American History*, 8 (June 1980):215-220; Hans L. Trefousse, “Ben Wade and the Negro,” *Ohio Historical Quarterly*, 68 (April 1959):161-176.

<sup>31</sup> Saxton, *Rise and Fall of the White Republic*; also see Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government’s Relation to Slavery*, completed by Ward M. McAfee (New

In sum, “whiteness studies” postulate the two-party system provides credible evidence for consensual white racism. The names and slogans of the parties differed, partisan language often was shrill or accusatory, and precise posturing was not always uniform. Still, beneath this façade, according to these writers, the various parties were not so distinctive when it came to the “Negro Question” and its corollary proposition that America was a “white republic.” All organizations contained leaders that reflected racist attitudes and merged those notions with foundational maxims on political theory. The imperative of preserving republican tradition and advancing democratic principles was pervasive, albeit loosely defined, and increasingly yoked to racist logic postulating certain conclusions about racial character traits that made peoples of African ancestry seemingly inimical to that goal.

#### IV. Critics of “Whiteness Studies”

Not all modern historians see things this way. In the past two decades, more and more scholars have expressed concerns about conjectures and assumptions which regularly appear in “whiteness studies”: the heavy reliance on theory, symbolic evidence, and anecdotal stories. This study, at least in a number of important ways, follows in the path of the critics. In particular, it shares the conviction that political divisions within the white community and life in the public forum warrant scholarly reinvestigation in regard to racial proclivities.<sup>32</sup>

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York: Oxford University Press, 2001); Paul Finkelman, “What Did the Dred Scott Case Really Decide?” *Reviews in American History*, 7 (September 1979):369-374.

<sup>32</sup> Kousser, “The Onward March of Right Principles’.”

Nobody dismisses the notion white racism was an important feature in southern political culture. Certain historians are dubious racial issues fully dominated the political arena or aligned parties so neatly along the same path and trajectory. At a minimum they are not yet ready to concede that consensual white racism explains southern politics without reference to class tensions amongst whites. Few students of the region, however, suggest southern Democracy was not a vehicle for promoting racist and proslavery attitudes. But some do query whether its leaders really made racial matters the foremost priority, especially early on, during the 1820s and 1830s, or that the depth of commitment to racist convictions even later was all so deep.<sup>33</sup>

Various historians, as well, stress the differences in broad behavioral patterns of local Democrats and Whigs that go largely undetected in samplings of rhetoric or legal enactments alone. Studies now indicate white racism in the Upper South, in particular, was not always an exact replica of its counterpart in the Cotton States. Skeptics of the consensual white racism argument also have problems with vague descriptions of how forces operated in the public forum, the episodic sampling of evidence drawn from election cycles without considering intervening interludes of time, and a lack of attention as to whether what was said on the campaign trail made any difference later when it came to formation of policy. In addition, certain scholars are dissatisfied at the lack of

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<sup>33</sup> Thomas Brown, Politics and Statesmanship: Essays on the American Whig Party (New York: Columbia University Press, 1985); John M. Grammar, Pastoral and Politics in the Old South (Baton Rouge: Louisiana State University, 1996); Holt, Rise and Fall of the American Whig Party; Jonathan M. Atkins, "The Whig Party Versus the "Spoilsmen" in Tennessee," The Historian, 57 (Winter 1995):329-340; Harry L. Watson, "Conflict and Collaboration: Yeomen, Slaveholders, and Politics in the Antebellum South," Social History, 10 (October 1985):273-298; Lorman A. Ratner, Andrew Jackson and His Lieutenants: A Study in Political Culture (Wesport, Connecticut: Greenwood Press, 1997).

clarification as to why public debates at times fueled two-party polarity but at others brought parties to the center.<sup>34</sup>

Dissenting voices also have raised the complaint that the consensual racism argument is rather misleading in its depiction of politics in the antebellum North. Certain studies, for instance, contend issues about race were of minor relevance to party competition prior to the 1840s. Then third parties arose which pushed for greater public focus on slavery-related matters. Some scholars say the same about African-American rights it is here on the question of third parties that “whiteness studies” are perhaps most vulnerable to charges of overstating their case. From the critics’ perspective, Liberty men, compared to major party leaders, took a stance that was remarkably liberal. Free Soil men, while not so strident as racial egalitarians, also come in for similar assessments. According to some studies, despite hostile public opinion, the Free Soil Party exhibited an impressive degree of support for African-American causes.<sup>35</sup>

The major parties pose greater complications. Certain historians find parties diverged in voting response patterns, with Whigs showing considerably less support for racist initiatives. Many accounts suggest the presence of a less virulent yet distinct brand of

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<sup>34</sup> Lacy K. Ford, Jr., “Making the ‘White Man’s’ Country White: Race, Slavery, and State-Building in the Jacksonian South,” Journal of the Early Republic, 19 (Winter 1999):713-738; Richard Latner, “Untouched but not Hushed: Slavery in Antebellum Southern Politics,” Reviews in American History, 8 (June 1980):228-233; Richard Latner and Peter Levine, “Perspectives on Antebellum Piestic Politics,” Reviews in American History, 4 (1976):15-24.

<sup>35</sup> John M. McFaul, “Expediency vs. Morality: Jacksonian Politics and Slavery,” Journal of American History, 62 (June 1975):24-39; Vernon L. Volpe, Forlorn Hope of Freedom: The Liberty Party in the Old Northwest, 1838-1848 (Kent, Ohio: Kent State University Press, 1990); Richard H. Sewell, Ballots for Freedom: Antislavery Politics in the United States, 1837-1860 (New York: Oxford University Press, 1976); Thomas B. Alexander, “Harbinger of the Collapse of the Second Party System: The Free Soil Party of 1848,” in Lloyd E. Ambrosius, ed., A Crisis of Republicanism: American Politics in the Civil War Era (Lincoln: University of Nebraska Press, 1990):17-53; Frederick J. Blue, “Oberlin’s James Monroe: Forgotten Abolitionist,” Civil War History, 35 (December 1989):285-301; Maizlish, Triumph of Sectionalism.

Whig racism, couched more in terms of ideals on moral stewardship than pseudo-scientific arguments about natural law. Other interpretations go farther to insist that displays of Whig racism were erratic and most often grounded in expedient concerns in order to downplay connections to political abolitionists. Simply put, northern Whigs were not consistent or very united on the subject. Many considered other public matters “a more pressing business.”<sup>36</sup>

Nor do all historians agree that the Republican Party, outside certain factions, can be lumped together with the Democracy. Some scholars suggest that those individuals that became Republicans, while often inclined to racial prejudice, rarely joined the party because of those predilections but did so for reasons relating to free labor ideology, the eclipse of Know Nothingism, or concerns about the “Slave Power.” Others cast doubt on the intensity of Republican exhibitions of racism, viewing it more as a tactical response to repeated Democratic accusations about amalgamation affinities or, alternatively, trace its primary manifestation to former Loco converts, an important but minority group. Surveys of roll-call voting patterns also indicate different central tendencies across party lines. Various studies, in short, posit Republicans, even if at times displaying vulgar attitudes, consistently diverged from Democrats in actions taken on policy options, more often talked about the humanity or natural rights of African Americans, and gave priority to other issues besides white supremacy.<sup>37</sup>

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<sup>36</sup> Maizlish, Triumph of Sectionalism; Holt, Rise and Fall of the American Whig Party; William G. Shade, “Parties and Politics in Jacksonian America,” Pennsylvania Magazine of History and Biography, 110 (October 1986):483-508; Howe, The Political Culture of the American Whigs.

<sup>37</sup> Eric Foner, Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War (New York: Oxford University Press, 1970); William E. Gienapp, The Origins of the Republican Party, 1852-1856 (New York: Oxford University Press, 1987); Tyler Anbinder, Nativism and Slavery: The Northern Know-Nothings and the Politics of the 1850s (New York: Oxford University Press, 1992); Phyllis F. Field, “Republicans and Black Suffrage in New York State: The Grass Roots Response,” in

The most startling critique challenges the seemingly almost self-evident proposition that northern Democracy was a hotbed of racism. According to some historians much evidence cited for this scenario actually reflects anxieties about other things that are misconstrued as proslavery leanings or deeply held racist predilections. Certain scholars admit race-baiting symbols and images sporadically appeared, but they claim northern Democratic racism was not severe. The party's record overall was uneven or erratic prior to the 1860s. Sampling of legislative voting patterns shows considerable support for racist policies; yet, at the same time, this tendency was often subordinated to other agendas. Racial prejudice was common but the degree that it dominated personal value systems or reflected core party principles remains murky.<sup>38</sup>

## V. Conclusion

Some modern research also indicates a portion of the northern Democracy held sincere antislavery convictions, recognized black humanity, and desired social improvement for African Americans. If not racial egalitarians, Democrats were not all aggressively negrophobic. Other concerns about political maxims, local majorities, strict constitutional construction, economic values, or separation of church and state all

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Robert P. Swierenga, ed., Beyond the Civil War Synthesis: Political Essays of the Civil War Era (Westport, Connecticut: Greenwood Press, 1975):149-162; Joel H. Silbey, "After 'the First Northern Victory': The Republican Party Comes to Congress, 1855-1856," Journal of Interdisciplinary History, 20 (Summer 1989):1-24; John M. Rozett, "Racism and Republican Emergence in Illinois, 1848-1860: A Re-evaluation of Republican Negrophobia," Civil War History, 22 (June 1976):101-115.

<sup>38</sup> Stephen E. Maizlish, "Race and Politics in the Northern Democracy, 1854-1860," in Robert H. Abzug and Stephen E. Maizlish, eds., New Perspectives on Race and Slavery in America: Essays in Honor of Kenneth M. Stampp (Lexington: University of Kentucky Press, 1986):79-90; Arthur Schlesinger, Jr., "The Ages of Jackson," New York Review of Books, December 7, 1989; William O. Lynch, "Anti-Slavery Tendencies of the Democratic Party in the Northwest, 1848-50," Mississippi Valley Historical Review, 11 (December 1924):319-331.



militated against sympathy for modern abolitionism yet, from this perspective, none are reliable indicators of proslavery sentiment or racist convictions alone.<sup>39</sup>

This faction, it is said, felt stopping slavery's spread would cause its ultimate demise which in turn would advance white and black interests alike. Granted, some of these men later bolted the party--but not all did. Their existence in the northern wing of the Democracy, at any rate, poses problems for interpretations placing racist sentiment at the core of party principles and its agenda, or that regard opposition to slavery extension primarily as a coincidence between racist dogma and self-interested expediency.<sup>40</sup>

Certain writers have undertaken biographical investigations to revisit questions about the centrality of racial considerations in the political thought and action of specific individuals. According to a study of a prominent Ohio Democrat, interpretations that regard his party as militantly racist cannot account for his affiliation with it. Benjamin Tappan did reject "modern abolitionism" and desire to advance white liberty; those decisions, it is suggested, were predicated on the same natural rights principles—i.e., popular sovereignty and the universal rights of mankind—that informed his antislavery posturing and sympathy for free blacks.<sup>41</sup>

Simply put, in Tappan's alleged perspective, black progress was contingent on preserving tenuous recent gains amongst whites toward greater individualism under

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<sup>39</sup> Joel H. Silbey, "'There are Other Questions Beside That of Slavery Merely': The Democratic Party and Antislavery Politics," in Alan M. Krout, ed., Crusaders and Compromisers: Essays on the Relationship of the Antislavery Struggle to the Antebellum Party System (Westport, Connecticut, 1983); Sean Wilentz, "Slavery, Antislavery, and Jacksonian Democracy," in Melvyn Stokes and Stephen Conway, eds., The Market Revolution in America: Social, Political, and Religious Expressions, 1800-1880 (Charlottesville: University of Virginia Press, 1996):202-223; Daniel Feller, "A Brother in Arms: Benjamin Tappan and the Antislavery Democracy," Journal of American History, 88 (June 2001):48-74.

<sup>40</sup> Feller, "A Brother in Arms."

<sup>41</sup> Ibid.

republican liberty. Any concession to aristocratic pretenses of the “moneyed power” was to be avoided if either whites or blacks were to progress, even if it meant slavery continued to exist under the jurisdiction of some state governments for awhile longer. In short, Tappan’s close adherence to “original” Democratic principles, in conjunction with his attitudes about race and slavery, all make his case problematic for contentions that a racist consensus prevailed in antebellum society across party lines. Here, we have an individual that casts doubt on the very notion that the northern Democracy, the traditional showpiece of racist bigotry, marched in lockstep on the “Negro Question.”<sup>42</sup>

Instead of embracing “whiteness” as a legitimizing construct, Tappan, it is argued, acted on both principle and pragmatic considerations, constantly attuning his position “to practical considerations of context and consequence.” In this accounting, Tappan balanced antislavery convictions “against other competing imperatives,” but “stopped short of demanding full and immediate racial equality.” Democracy, in other words, at least for some northern adherents, seemingly was more than merely the home for champions of white supremacy. Given that assessment, it seems doubtful the politics of race was the fulcrum upon which two-party politics turned. But, of course, biographical analysis of a single person cannot fully make the case, nor can examination of a single party organization in a vacuum.<sup>43</sup>

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

## CHAPTER II

### METHODS AND DATA

#### I. Introduction

Many modern scholars concede rhetorical evidence alone provides an insufficient basis upon which to draw firm conclusions about the precise configuration of broader social patterns or normative alignments across party lines. But, once having expressed wariness, some proceed to rest their analysis extensively on anecdotal statements in the seeming absence of more reliable and informative sources. This approach does have some utility as a means to establish “probable cause” for conducting more extensive investigations. But as a means to gauge the full range and depth of racist commitments, it leaves much to be desired. At day’s end, based on this method, we simply cannot determine reliably what was precisely going on, especially compared to the saliency of other things. There is just too much left out.<sup>44</sup>

I am not implying historians abandon digging into political speeches, personal correspondence, private papers, and the like. These staples of the craft still may yield valuable insight. Debates in the state legislatures, for example, have not been carefully

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<sup>44</sup>For earlier discussions of these problems see Allan G. Bogue, “The New Political History in the 1970s,” in Michael Kammen, ed., *The Past Before Us: Contemporary Historical Writing in the United States* (Ithaca: Cornell University Press, 1980):231-251; Ronald Formisano, “Deferential-Participant Politics: The Early Republics Political Culture, 1789-1840,” *The American Political Science Review*, 68 (1974):473-487; Peter H. Argersinger and John W. Jeffries, “American Electoral History: Party Systems and Voting Behavior,” *Research in Micropolitics*, 1 (1986):1-33; Donald W. Zacharias, “The Know-Nothing Party and the Oratory of Nativism,” in Waldo Braden, ed., *Oratory of the old South, 1828-1860* (Baton Rouge: Louisiana State University Press, 1970):218-233.

examined, in part, because official journals fail to report this information. Scholars consequently must resort to erratic coverage in newspapers, which almost always is tainted with partisan bias. Having read deeply in these sources I can confirm that the recorded dialogue contains much rich material on why legislators acted as they did. We also learn much on how various personal beliefs about republicanism, constitutionalism, political economy, ethnology, scriptural exegesis, and historical interpretation all provided the vocabulary in which public men talked about racial subjects, and justified themselves, all the while appropriating things a bit differently. But detailing this part of the tale lies beyond the scope of this work.<sup>45</sup>

Fragmentary scraps of racial discourse that are accessible, of course, are distributed unevenly across time and space. This data does inform about outspoken racists as well as their critics but precious little about the silent majority. At a minimum, though, a sizeable host of political leaders left trace evidence of prejudicial attitudes in recorded statements or writings. Whether they reiterated the same message consistently is unknown. Nor can we always be sure to what relative degree men explained themselves with sincerity or spoke in code language. Hence, whether strident racists predominated in white society, were a substantial group, a bare majority, or something less, can not always be determined in a definitive way.<sup>46</sup>

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<sup>45</sup>Legislative debates in Ohio are drawn primarily from the state organs of each major party at Columbus—the Democrat Daily Ohio Statesman and, more extensively, the Whig (later Republican) Ohio State Journal. Other Whig sources included The Ashtabula Sentinel, Canton The Ohio Repository Weekly, Chillicothe Daily Scioto Gazette, Dayton Daily Journal, Lebanon Western Star, and the Toledo Blade. Democrat newspapers included the Cincinnati Daily Enquirer and Cleveland Daily Plain Dealer. In Tennessee the Whig Knoxville Register was supplemented with The Nashville Republican, The Nashville National Banner, and the Memphis Tri-Weekly Enquirer. Democratic newspapers included The Clarksville Jeffersonian, Memphis Daily Appeal, and Nashville Union and American.

Of course, some political commentary does provide off-hand observations about opinions amongst the masses, at least for certain locations. Much of this testimony indicates racial prejudice amongst whites was widespread but cannot yield detailed specifics. The primary problem with value-laden statements is that they are not usually accompanied with any explanation of baseline standards and, therefore, comparative assessment proves difficult. What, for instance, does it precisely mean when a source records white racism as prevalent, widespread, or universal?<sup>47</sup>

Finally, although racial thought and action often go hand-in-hand, the relationship in the public forum between personal prejudice and racist behavior does not always bear this out. Lawmakers who entertained severe racial stereotypes did not always condone all forms of institutional racism. Alternatively, some of their colleagues, relative racial egalitarians for their day, voted for certain racist proposals or tolerated the persistence of old discriminatory laws in spite of those attitudes, based on other considerations. Distinctions between prejudicial sentiment and racist action need to be constantly borne in mind and, given that behavior is easier to measure systematically, it makes sense to investigate that line of inquiry much deeper prior to revisiting the rhetorical evidence.

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<sup>46</sup>Lawrence F. Kohl suggests political words, in general, were taken seriously though not always at face value. *The Politics of Individualism: Parties and the American Character in the Jacksonian Era* (New York: Oxford University Press, 1989). Formisano also reiterates warnings about the deceptively modern appearance of historical language. “Deferential-Participant Politics,” pp. 473-487.

<sup>47</sup>Majority Report on Black Laws, in *Journal of the 44<sup>th</sup> Ohio House of Representatives* (1846):60; “Legislative Proceedings,” in *Ohio State Journal*, January 29, 1839, January 18, 1840, February 10, 1849; Smith, *Official Reports*, p. 11; *Journal of the 51<sup>st</sup> Ohio Senate* (1854):145-146; *Journal of the 54<sup>th</sup> Ohio House of Representatives* (1859), appendix, pp. 162-164. Other accounts concede widespread racism but downplay its monolithic reach or common foundations; see White, ed., *Messages of the Governors of Tennessee*, 2:601-608; Smith, *Official Reports*, p. 1123; Minority Report on Black Laws, in *Journal of the 43<sup>rd</sup> Ohio House of Representatives* (1845):26-34.

Perhaps once a more clearly delineated behavioral backdrop is in place, meanings of words might become clearer, too.<sup>48</sup>

## II. Surveying Public Opinion

Given the muddled message conveyed in so much recorded testimony and the difficulties in determining its representative nature and comprehending its meanings, most modern historians who heavily use literary sources invoke theoretical modeling as an essential prop for their line-of-argument. Rather than rely upon the weight of evidence in its abundance to substantiate conclusions, samplings are drawn primarily as a means to illustrate the plausibility of a social theory.<sup>49</sup>

While most studies meet this minimalist threshold, the case for probable accuracy when theory provides the essential foundations is another matter. It comes as little surprise, then, that not every historian is yet ready to draw firm conclusions. As some of this group suggest, the possibility still exists that white racism was not especially deeply entrenched or ideologically consistent in the United States, particularly in the North. Even white southerners, it has been said, perhaps were not solid as a racist phalanx. At any rate, the documentary record thus far examined does not make things very clear.<sup>50</sup>

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<sup>48</sup>This point has been made in Robert R. Dykstra, Bright Radical Star: Black Freedom and White Supremacy on the Hawkeye Frontier (Cambridge: Harvard University Press, 1993).

<sup>49</sup>Much modern scholarship draws upon Clifford Geertz, "Ideology as a Cultural System," in David Apter, ed., Ideology and Discontent (New York: The Free Press of Glencoe, 1964):47-76. Also see Fields, "Ideology and Race in American History," in Kousser and McPherson, eds., Region, Race, and Reconstruction; Jean Baker, "From Belief into Culture: Republicanism in the Antebellum North," Reviews in American History, 15 (March 1987):532-550.

<sup>50</sup>Daniel Feller, "A Brother in Arms: Benjamin Tappan and the Antislavery Democracy," Journal of American History, 88 (June 2001):48-74; Sean Wilentz, "Slavery, Antislavery, and Jacksonian Democracy," in Melvyn Stokes and Stephen Conway, eds., The Market Revolution in America: Social, Political, and Religious Expressions, 1800-1880 (Charlottesville: University of Virginia Press, 1996):202-

To recapitulate, certain “whiteness studies,” in particular, have come in for criticism, some of it deservedly, for conspicuous omissions in investigations which minimize differences amongst whites. A foremost complaint is a tendency in these works to unduly slight important differences between the major political parties, including contentious conflict over divergent principles and interests. From this perspective, racist imperatives were not necessarily the leading priority for every party.<sup>51</sup>

Such propensities indubitably did appear in all parties but not in monolithic fashion or devoid of overt resistance, much less to the exclusion of all other considerations. Most scholars now tell us, of course, that racism manifested itself differently across varied localities, usually with the intention of demonstrating the artificiality of prejudicial attitudes. But many of the same writers, in the next breath, say the disparities are incidental, not fundamental. So, one can see, that rather than accepting a verdict that at the core of each party’s ideology lay deeply held racist convictions, perhaps the assumption itself needs to be tested with more vigor.<sup>52</sup>

A stumbling block to resolving scholarly controversy lies in the inability to survey public opinion from so long ago. When it comes to grassroots opinion, the most useful quantitative data available is drawn from referendum returns reported in various states in the mid-nineteenth century. These forums usually asked citizens to pass judgment on questions relating to African-American suffrage or, less frequently, a ban on future entry

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223; Silbey, “‘There are Other Questions Beside That of Slavery Merely’,” in Krout, ed., Crusaders and Compromisers (1983).

<sup>51</sup>Watson, “Conflict and Collaboration,” pp. 273-298; Kousser, “‘The Onward March of Right Principles’,” pp. 177-204. Also see Ershkowitz and Shade, “Consensus or Conflict?,” pp. 591-621.

<sup>52</sup>Litwack, North of Slavery and Ira Berlin, Slaves Without Masters: The Free Negro in the Antebellum South (New York: Oxford University Press, 1974) provide general surveys of free black life across the sectional divide. Few studies, however, make explicit comparisons.

into a state. The referendum returns, in short, supply valuable information about northern public opinion. At first blush the story which seems to unfold aligns rather neatly with the “whiteness studies” scenario.<sup>53</sup>

Between 1846 and 1869 twelve states sent voters to the polls and some three million people participated. By a three-to-one margin, in the aggregate, voters denied blacks the franchise. In terms of statewide outcomes, the racist position won almost across the board. Exceptions include Iowa, Minnesota, and Wisconsin. Only the last state, though, yielded such an outcome in antebellum times. Even then the outcome was invalidated due to low voter turnout. In Illinois and Indiana, voters instead approved an entry ban. In the latter state, racist voters prevailed nine-to-one. Clearly, it seems from this reading of the evidence, white racism permeated much of the North.<sup>54</sup>

Certain reservations nonetheless are in order. Not every state held a referendum. In the final tally, the lion’s share occurred in the Midwest, although New York and Connecticut kicked things off, and a few far western states later also took part. In general, referendum data informs primarily about public opinion in the Old Northwest. It is in this region alone that every state submitted such proposals to populist decision-making (although Ohio delayed partaking of this option until 1867 and then bundled racial initiatives with other things). Compared to results elsewhere, opponents of black suffrage were most pronounced in this region. Voting bases in the Upper Midwest, however, featured less sizeable racist contingents than witnessed in the Lower Ohio River

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<sup>53</sup>Tom L. McLaughlin, “Popular Reactions to the Idea of Negro Equality in Twelve Nonslaveholding States, 1846-1869: A Quantitative Analysis,” (Ph.d. dissertation, Washington State University, 1969).

<sup>54</sup>Ibid.



Valley. Many counties, in addition, failed to toe the racist line, while certain localities with a racist majority actually were quite divided in opinion.<sup>55</sup>

Another problem with referendum returns as a source is that most states, if holding such an event, did so once. At best, posterity gets only a still-shot of public behavior at a momentary slice in time. Of course, a few states did revisit the issue. In those cases, though, the intervening interlude of war and emancipation usually complicates analysis. Granted, referendum voters in the pre- and post-war eras each sustained racist policies almost everywhere. But, over the long haul in most places, the ranks of racist cohorts began to thin rather than proliferate.<sup>56</sup>

An additional constraint in using referendum returns is that these records inform us only about popular responses to one dimension of the “Negro Question.” The modern investigator learns almost nothing about collateral issues of importance essential to gauging the full range and extent of racist commitments. Finally, the possibility must be considered that voter absenteeism might have been sizeable. Indiana voters, however, cast more ballots in the 1851 referendum than in concurrent contests for election to statewide office. In this state, evidently, racial issues were of keen interest. But almost everywhere else a sizeable contingent of the white community, which regularly went to the polls, stayed home during the referendums. If one includes the stay-at-home crowd in computations, while regarding it as less than enthusiastic about racist agendas but not

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<sup>55</sup>Ibid.

<sup>56</sup>Ibid.

necessarily antagonistic, we now find only a bare majority of the entire electorate sought actively to sustain such a program.<sup>57</sup>

### III. State Legislatures: The “Great Desert” in Historiography

If sociological surveys of public opinion are not available and referendum returns are not entirely satisfactory as an alternative, there is another option which few scholars have utilized to maximum effect. In state legislatures, on a myriad of occasions, divisions were called for on a particular question regarding racist legislation and results recorded in official journals. Not everyone participated in floor debate but almost all state legislators registered an opinion on one or more of these votes.<sup>58</sup>

To investigate the play of racial politics in each state legislature throughout the land is not viable, as so little initial spadework has been done. A more reasonable point of entry for conducting productive inquiry is to begin at a less ambitious level and focus on a more restricted locality. Findings for a particular state, of course, present analogous problems as those encountered when trying to establish the representative nature of biographical subjects in society at-large—does either approach tell us anything about normative patterns amongst large groupings?<sup>59</sup>

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<sup>57</sup>Ibid.

<sup>58</sup>Most roll-call studies pertain to national legislatures, see Thomas B. Alexander, Sectional Stress and Party Strength: A Study of Roll-Call Voting Patterns in the United States House of Representatives, 1836-1860 (Nashville: Vanderbilt University Press, 1967); Thomas B. Alexander and Richard E. Beringer, The Anatomy of the Confederate Congress (Nashville, 1972); Allan G. Bogue, The Earnest Men: Republicans of the Civil War Senate (Ithaca: Cornell University Press, 198 ); Joel H. Silbey, The Shrine of Party: Congressional Voting Behavior 1841-1852 (Pittsburgh: Pittsburgh University Press, 1967); Gerald W. Wolff, “Party and Section: The Senate and the Kansas-Nebraska Bill,” in Robert P. Swierenga, ed., Beyond the Civil War Synthesis: Political Essays of the Civil War Era (Westport, Connecticut: Greenwood Press, 1975):165-183.

Second-hand comparisons based on studies of different states also prove cumbersome as each researcher usually construes key definitions idiosyncratically while at the same time pursuing a somewhat unique research strategy. A modern historian, for instance, has stated that white inhabitants of Massachusetts actually were quite racist. Meanwhile, in the Old Northwest, a region usually noted for intense white racism, according to another scholar, not all whites were so bigoted and, among those so inclined, the intensity of such feelings could diminish over time and apparently did, at least in places such as Iowa.<sup>60</sup>

The point is historians often differ in assumptions underlying their analysis, as well as the precise way in which they measure things which, in turn, hampers our ability to draw apt comparisons across state lines. In a sense, the historical profession needs to rebuild from the bottom up, employing more precise definitional and methodological controls, easily subject to replication elsewhere, in order to comprehend better the precise nature of geographic variation in racist attitudes and possible interactions with political factors.

In too many instances scholars argue past one another. Some demand solid abolitionist credentials and compelling evidence of racial egalitarian sentiment or historical actors are banished to the leagues of white racism. Others create a standard that stipulates that anything short of unrelenting antipathy towards African Americans is something less than ideological racism. Certain writers stress that even if racist comments were pervasive and analogous, prejudicial attitudes did not always produce the

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<sup>59</sup>Some initial roll-call investigations have been done for Ohio or Tennessee, see Atkins, Parties, Politics, and the Sectional Conflict in Tennessee, 1832-1861; Norman E. Tutorow, Texas Annexation and the Mexican War: A Political Study of the Old Northwest (Palo Alto, California: Chadwick House, 1978); Ershkowitz and Shade, "Consensus or Conflict?," pp. 591-621; Paul H. Bergeron, "The Nullification Controversy Revisited," Tennessee Historical Quarterly, 35 (Fall 1976):263-275; Leonard Erickson, "Politics and Repeal of Ohio's Black Laws, 1837-1849," Ohio History, 82 (Autumn 1973):154-175.

<sup>60</sup>Dykstra, Bright Radical Star; Melish, Disowning Slavery.

same behaviors or outcomes and, from this perspective, actions perhaps speak louder than words.<sup>61</sup>

In order to offer comparative assessments across state lines, this study examines the legislatures of Ohio and Tennessee. Both states are cradled in the older Middle West. Each participated in its grain-growing, agricultural economy. Ohioans and Tennesseans also shared a common pioneer heritage, entered the Union at nearly the same time, and prided themselves on their growing importance in national political counsels. The two states shared much in common, that condition allows one to measure other variables besides racial posturing and party politics.<sup>62</sup>

The older Middle West, the trans-Appalachian region wherein both states are set, was according to many historians a boiling cauldron of white racism. Nevertheless, it is important also to note that this tier of states (which also included Kentucky) was not altogether the same. More to the point, Tennessee was a slaveholding state. Ohio was not. Hence, comparison permits not only side-by-side examination of western communities roughly similar in many ways but permits more explicit scrutiny of how

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<sup>61</sup>A Whig editor in Ohio suggested it was safe to presume spokesmen across party lines generally spoke what they sincerely believed but also felt that each should be judged primarily from the company it kept. Ohio State Journal, March 3, 1841. Contemporary language also vacillated across state lines in the sense that Tennessee Whigs, regarded as proslavery men in the North, were often labeled abolitionists at home. Ohio Democrats, alternatively, might be called proslavery men in the Buckeye State but described as antislavery men in Tennessee. Finally, Western Reserve men, even if liberal on racial matters and antislavery in their posturing, often distanced themselves from the abolitionist tag. "Legislative Proceedings," in Ohio State Journal, January 18, 1839; Clement Vallandigham, "Speech at Dayton (1855)," in Speeches, Arguments, Addresses, and Letters of Clement L. Vallandigham (New York: J. Walter and Co., 1864):134; "Speech of Emerson Etheridge," Congressional Globe, 35<sup>th</sup> Congress, 1<sup>st</sup> Session (1855), appendix, p. 39.

<sup>62</sup>Whig Congressman Samuel Vinton of Ohio made the case that "the whole grain-growing and subsistence-producing district of the slaveholding States south of the Ohio River" were "indissolubly interwoven" with western Pennsylvania and free labor states to the west—slavery, he noted, was the only substantial difference. Congressional Globe, 28<sup>th</sup> Congress, 2<sup>nd</sup> Session (1845), appendix, pp. 331-333.

racist actions manifested themselves and played out in slaveholding society versus a non-slaveholding society.<sup>63</sup>

For quite some time comments sporadically have appeared in academic literature bemoaning the relative dearth of scholarly knowledge about what took place in state legislatures in the mid-nineteenth century. Subsequent researchers have done relatively little to rectify the lacuna. I endeavored in this study to fill in a bit of the gap. The study of state government also has intrinsic merit in regards to policy formation on all subjects. To their credit, more historians of late have recognized the importance of revisiting themes about what happens in the public forum and in government. This study adds to this endeavor.<sup>64</sup>

Lest it be forgotten, state government at this time was primarily responsible through its police function for establishing the precise contours and boundaries of racial policy across county lines. Even the Taney decision conceded each state retained the corporate right to award citizenship and bestow the suffrage on whatever class of inhabitants it chose. The state legislature was a key mechanism for translating prejudice of individuals into institutional forms of racism. To properly comprehend the legal setting and how it

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<sup>63</sup>Several studies have initiated examination of variation within the Old Northwest or Old Southwest, see Dykstra, Radical Bright Star; Formisano, "The Edge of Caste," pp. 19-41; Atkins, Parties, Politics, and the Sectional Conflict in Tennessee, 1832-1861; Ford, "Making the 'White Man's' Country White," pp. 713-738.

<sup>64</sup>Formisano, among others, noted the lack of research done on early nineteenth-century state legislatures, see "Deferential-Participant Politics," pp. 473-487. Bogue suggested opportunities were "very great" for roll-call analysis at the state level in "The New Political History in the 1970s," in Kammen, ed., The Past Before Us, p. 245. Shade in the mid-1980s wrote that "not many" studies of state legislatures had been undertaken, see "Parties and Politics in Jacksonian America," pp. 498-499.

came about, therefore, necessitates some understanding of legislative activity at the time and how competition between political parties impacted what happened.<sup>65</sup>

#### IV. Session Journals: A Neglected Source

Members of the general assembly are an attractive topic for historical inquiry as they left a rich record of words and actions. This evidence is susceptible to productive comparisons across individuals, factions, and parties, as well as longitudinal assessments with respect to change over time, at least in the sense that what was said and done took place within the same basic institutional context and set of procedural norms. Buried in the published documents is key information from which we learn in more detail what parties did in terms of reshaping the legal environment, as well as discern better which types of party initiatives fell still-born, whether the problem involved a lack of party discipline, and how actions, in general, stack up against what the other party was doing.<sup>66</sup>

To be more specific, session journals are a goldmine of data which tell us the identity and county represented by specific legislators who sponsored racial legislation, wrote committee reports with recommendations, or engaged in various parliamentary stratagems to facilitate passage or derailment of these measures. Of vital importance for

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<sup>65</sup>Paul Finkelman, Dred Scott v. Sandford: A Brief History with Documents (Boston: Bedford/St. Martin's, 1997). A pioneering work in local state political studies is J. Mills Thornton, III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge: Louisiana State University Press, 1978).

<sup>66</sup> I did examine several manuscript collections stored at the Cincinnati Historical Society, the Ohio Historical Society, the Tennessee State Library and Archives, and the Library of Congress as well as rare book collections at the University of Illinois and Harvard University. Much antebellum political correspondence, however, was reproduced in the Tennessee Historical Magazine or Quarterly Publications of the Historical and Philosophical Society of Ohio during the early twentieth century.

purposes of this study are the recorded roll-call divisions, especially the large number of them that identifies how individuals voted.<sup>67</sup>

Official accounts, regrettably, do not provide a full accounting of proceedings. For early statehood times, in particular, contents are thin. Over the years, though, the journals grew increasingly bulkier. But even late in the day coverage might evaporate momentarily or worse, for weeks at a time. Fortunately, in some cases, other sources are available which can help fill the hole. Newspapers are vital supplements in this regard.<sup>68</sup>

The centerpiece of this study is an analysis of voting behavior based on a large sampling of roll-calls extracted from session journals and press accounts. Historians, in general, have made only modest use of this data. Many, it seems, ignore it or report things second-hand. On occasion, a writer might cite a specific call of the roll and tell us about the outcome in terms of two-party alignments but go not much further. But even they are exceptions to the rule. Rarer still are studies which examine what happened throughout an entire session in terms of voting responses on a particular issue niche. Those historians that pay closer heed to concerns about continuity versus change often

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<sup>67</sup>The core data for this study comes from legislative session journals stored in Nashville or Columbus although the library at the University of Illinois at Champaign-Urbana holds bound printed copies, too. In addition, I extracted roll-call divisions from “Legislative Proceedings” reported in the party press and the official journals of state constitutional conventions. Also see William S. Jenkins, comp., A Guide to the Microfilm Collection of Early State Records (Washington, D. C.: The Library of Congress, 1950).

<sup>68</sup>In the late 1840s, to cite an example, a three week gap exists in coverage for the Ohio general assembly. Other sources used to fill the gap include Albert G. Riddle, “Recollections of the Forty-Seventh General Assembly of Ohio, 1847-1848,” Magazine of Western History, 6 (1887):341-351; Norton S. Townshend, “The Forty-Seventh General Assembly in Ohio—Comments on Mr. Riddle’s Paper,” Magazine of Western History, 6 (1887):623-628; Charles Reemelin, Life of Charles Reemelin, In German: Carl Gustav Rumelin, From 1814-1892, Written By Himself, in Cincinnati, Between 1890 and 1892 (Cincinnati: Weier and Daiker, 1892).

extend the longitudinal range of coverage but typically this means citing an anecdotal example of one session and comparing it to another from a much later time.<sup>69</sup>

Based on this approach we cannot really grasp the whole range of actions taken across various framings of racial issues, much less gain a handle on what happened in the interim. What is lacking is detailed analysis over long periods of time addressing the full array of roll-call evidence in specific localities and, thereby, the means to make systematic cross-state comparisons based on similar sampling techniques and methodological controls. At a minimum such an investigation allows for examination of an extremely large sample of public officials, freshly elected from the people, and subject to common issue concerns. The roll-call record, in short, identifies specific actions taken by identifiable individuals on concrete racial proposals with practical import and thereby becomes a useful tool for charting the course of party coalitions; this enables the researcher to make determinations about the nature of normative alignments or fluctuations therein.<sup>70</sup>

Based on patterns detected, it also becomes easier to identify variation across spatial distributions with more precision as well. At any rate, compared to anecdotal sampling of rhetoric, study of roll-call responses seems a preferable strategy, or at least an invaluable supplement. Based on this evidence, we learn about precise actions of a plethora of state lawmakers; importantly, men with self-ascribed party attachments, who were in the

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<sup>69</sup>Erickson did examine a decade in the Ohio legislature but focused narrowly on the black law issue only. Ershkowitz and Shade, "Consensus or Conflict?," pp. 591-621; Erickson, "Politics and Repeal of Ohio's Black Laws, 1837-1849," pp. 154-175. Certain older studies such as Frank U. Quillan, The Color Line in Ohio: A History of Race Prejudice in a Typical Northern State (Ann Arbor, Michigan: George Wahr, 1913) examined episodic roll calls in isolation.

<sup>70</sup>Groundwork for this approach was laid in Ershkowitz and Shade, "Consensus or Conflict?," pp. 591-621. This pioneering study examined partial samples across many states (including Ohio but not Tennessee).



somewhat unique position that they actually could do something about altering the legal setting in more or less racist ways. In short, the roll-call history allows us to gauge better individual and collective reactions to less vaguely defined attitudinal measurements along a common response spectrum, at least compared to the traditional practice of quoting anecdotal snippets.

## V. Roll-Call Analysis

When a roll call was taken, legislators answered a specific question put to them. Unless one abstained, a response was recorded as “yea” or “nay.” Just like a questionnaire, then, division lists itemize reactions of respondents to specific interrogatories. These men, moreover, are identifiable by name and, therefore, we can learn a lot more about them which, in turn, can prove indicative of whether the racist camp or its critics had any outstanding characteristics in common that overlapped with party preference or, alternatively, trumped it.

Many historians that dip into the roll-call data stop there simply lumping lawmakers into competing camps. What I have done is adopt the established practice, albeit not often implemented, of examining multiple roll calls both in isolation and in tandem. By this approach a wider angle of vision is made possible from which to ascertain a fuller spectrum of actions taken from one extreme to another, and thereby to differentiate men who were consistent from those who were not. As a result, we now begin to see varying degrees of posturing in support of or opposition to a broader issue niche and to note fluctuations therein; such observations, in turn, tell us more than absolutist categories of racist bigot or not.

Let me explain in more depth. As the precise content or wording of a bill changes through the amendment process, deviations from initial behavioral response patterns at times become apparent which, once ascertained, begin to tell us about what specific things mattered to a person. Armed with this knowledge, it now becomes possible to make more controlled, systematic comparisons not only of political leaders, but a broad cross-section of them.

In other words, we learn about how public men responded to identically-phrased proposals across various framings of the “Negro Question,” and whether patterns were durable over time. Nonetheless, a cautionary note is in order. Voting behavior, despite its usefulness, is an imperfect measure of attitudes, more suggestive than definitive. What we are talking about is racist actions taken in the public forum and not necessarily the prevalence of personal viewpoints which reflected some degree of prejudice directed against African Americans.

The sample of roll calls compiled for this study is quite substantial but, regrettably, not entirely comprehensive. Because of many omissions and errors in indices, I went page-by-page through session journals to extract every recorded division that could be identified. This baseline cohort was then supplemented with additional roll-calls recounted in official accounts of state constitutional conventions or press accounts. Undoubtedly, some reported cases eluded detection.<sup>71</sup>

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<sup>71</sup>See appendix on roll-call analysis; literature on methods includes Lee F. Anderson, Meredith W. Watts, and Allen R. Wilcox, Legislative Roll-Call Analysis (Evanston, Illinois: Northwestern University Press, 1966); Samuel A. Kirkpatrick, Quantitative Analysis of Political Data (Columbus: Charles E. Merrill, 1974); R. J. Mokken, A Theory and Procedure of Scale Analysis with Applications in Political Research (The Hague: Mouton, 1971); Stuart A. Rice, Quantitative Methods in Politics (New York, 1928); George M. Belknap, “A Method for Analyzing Legislative Behavior,” Midwest Journal of Political Science, 2 (1958):377-402; Charles D. Farris, “A Method of Determining Ideological Groupings in Congress,” Journal of Politics, 2 (1958):308-338; Duncan McRae, Jr., “A Method for Identifying Issues and Factions from

Titles of bills are vague at times, making it difficult to figure out the precise question raised. In some instances, the content of a measure changed, sometimes significantly, with little indication of any alteration. In particular, it is imperative to be alert as to how committee work or amendments reshaped a bill between the time of its introduction and the specific division coming under review. Some divisions were not recorded. Others sometimes relate simply the final tally of yeas and nays without listing legislators by name. Based on other sources, it also is clear session journals do not record every roll-call.<sup>72</sup>

Finally, roll calls do not address all framings of racial matters that came before legislators. Yet evidence showing certain types of proposals derailed, before any roll-call vote was taken, tell us something about what was deemed important or not. It seems reasonable to surmise that enough divisions were recorded from which to offer more reliable estimates on party alignments than heretofore. As an approximate figure, the sample constructed for this study included about 1,000 roll calls, which reflect about 45,000 individual responses to some type of racial issue.<sup>73</sup>

Based on the magnitude of this data base, common practice becomes more easily differentiated from what was aberrational across time or space and conjectural theories about two-party consensus or conflict can better be put to the test. Roll-call analysis highlights “cutting points” where behavior shifts within an issue niche depending upon

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Legislative Votes,” *American Political Science Review*, 59 (1965):909-926; Carmi Schooler, “A Note of Extreme Caution in the Use of Guttman Scales,” *American Journal of Sociology*, 73 (1968):296-301.

<sup>72</sup>An Ohio Democrat later explained how his voting record in the legislature had been misconstrued due to the changed content of a bill over time which nevertheless retained the same number. Clement L. Vallandigham, *Speech on the Ohio Black Laws in Reply to Mr. Gilmer in the House of Representatives*, Feb. 2, 1859 (Washington, D. C.: Congressional Globe, 1859).

<sup>73</sup>The roll-call sample on all racial and slavery topics between 1794 and 1861 contains 980 divisions. The total number of responses divides about two-to-one in favor of Ohio legislators.

the precise phraseology and content of a proposed measure. Hence, we learn whether legislators from one party or the other voted in routine fashion, both within and across sessions. By aggregating the findings, it now becomes possible to ascertain somewhat better if legislative parties acted in unison, split into factions, scattered, or diverged in lockstep from partisan adversaries.

Each roll-call, it bears reiterating, does not pose exactly the same question. For analytical purposes, this situation is a bit of a double-edged sword. It does allow for consideration of the impact of contingencies relating to episodic events. Knowledge about erratic or undeviating responses within sessions to different dimensions of the “Negro Question” also is helpful for comparative purposes. Among other things, for example, we learn African colonization measures produced somewhat different alignments than most other racial issues. In Tennessee, it seems, Whigs were a bit more sympathetic but the primary cleavage in the state was often along geographical lines. East Tennessee advocates of the A. C. S., moreover, favored lenient private manumission policies, whereas those in the central portion of the state did not.<sup>74</sup> In Ohio, Whig proponents of colonization plans opposed a ban on entry of blacks into the state and, in addition, many favored granting resident African Americans access to private or public education. Most Democrats that endorsed black emigration programs were not so generous on the school question. Even critics of colonization in their party, though, also favored a variety of other forms of discriminatory policies to dissuade blacks from coming into Ohio or staying if already there.<sup>75</sup>

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<sup>74</sup>Journal of the 20<sup>th</sup> Tennessee Senate (1833):138, 218, 226, 244, 253, 259, 261, 268, 279, 292, 295, 297, 301.

On the downside, scalograms featuring multiple roll calls taken during the same session do not lend themselves so well for making comparisons with findings discerned at other points in time. Not only does turnover mean we usually are talking about a somewhat different set of men but the precise range and distribution of content within issue subsets also is somewhat unique, all of which poses immense complications. Nevertheless, we still can learn something. At a minimum, behavior of incumbents can be compared. In addition, the scale of this investigation and its longitudinal dimension does lend itself to identifying general trends, central tendencies, and trajectories across decades from which we can gain valuable insights.

At this point, it also bears emphasizing that roll-call analysis tells us relatively little about racist convictions in absolute terms. The gauge is a relative one; namely, did a legislator favor more or less governmental regulation of African Americans in a discriminatory fashion. Behavior, in other words, is measured along a one dimensional racial continuum, set within a dichotomous set of choices ranging from a desire to eradicate this population completely (or subjugate it mercilessly in its entirety) to a position favorable to a pluralistic, multi-racial society. Few lawmakers, it should be stressed, fall out at either polar end of the spectrum, although the former predominated if the wide-ranging moderate middle is left out.

To find that a legislator cast a “racist” vote, moreover, does not necessarily mean he endorsed anything. Instead, he perhaps was merely registering his resistance to a particularly bold proposal, but otherwise was not so content to perpetuate discriminatory laws. In other words, what is measured in many cases is not so much what a man favored

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<sup>75</sup>Journal of the 26<sup>th</sup> Ohio House of Representatives (1827):173-175, 377-378, 389; Smith, Official Reports, pp. 1221, 1223, 1228.

but the intensity of his dislike. To acquiesce in perpetuating discriminatory laws and institutions, of course, is not exactly the full equivalent of trying to add new and vicious appendages but, at any rate, both types of responses do inform in some ways about general outlooks and persuasions. The study of roll calls in mass numbers, ultimately, provides examiners with a healthy reservoir of each category from which to pinpoint with greater specificity exactly where many lawmakers stood.<sup>76</sup>

A further caveat still is necessary. In Ohio, most racial proposals brought before the state legislature, at least after the mid-1830s, called for some kind of improvement in black legal status or ameliorative reform. Tennessee legislators, alternatively, more rarely encountered such proposals, especially a decade later, and, taken altogether, more ameliorative proposals account only for about 30 percent of all legislation relating to racial matters introduced into the general assembly throughout antebellum times.<sup>77</sup>

Given these disparities it is important to remember, when drawing comparisons, that state lawmakers across localities were not only asked different questions but the answers that were given do not necessarily indicate precisely the same kind of response. In other words, a “racist” legislator in Ohio most often was voting against a measure to repeal discriminatory laws. His Tennessee counterpart usually was endorsing a measure to further the use of racial classification as a way of ordering society or to make existing regulations harsher. In either case, though, in terms of their home ground, these men do stand out compared to many of their colleagues.

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<sup>76</sup>During the session of 1838, for example, Ohio legislators adopted a resolution deeming it inexpedient to repeal the black laws. On another division, however, the question involved supplementing the racist legal setting rather than simply maintaining it. This roll-call pertained to enacting a state fugitive slave rendition law. “Legislative Proceedings,” in Ohio State Journal, January 18, February 12, February 15, 1839.

<sup>77</sup>The combined sample of legislation introduced into either general assembly between 1827 and 1861 includes approximately 1,500 bills and resolutions.

Another problem involves classification of voting responses when the roll call involves a measure which does not lend itself well to clear-cut polarities of racist or not. As we have seen, the question of African colonization fits this bill. Although agents of the A. C. S. saw things quite differently, as did many state legislators, most African-American leaders (but not all of them) were vocal critics of what they perceived to be an organization built on white racial prejudice. Consequently, for purposes of this study, we will accept the elite black verdict and consider a vote for colonization schemes as racist. Of course, by studying the roll calls pertaining to colonization issues as a separate subset, we can distinguish legislators whom seemed to have simply favored deportation from those where a more likely motive was to improve and uplift local African Americans elsewhere away from white prejudice.<sup>78</sup>

Roll calls on the public school issue in Ohio pose analogous difficulties. On this question the “racist” position held blacks should get nothing. A more “liberal” perspective felt a segregated school system was appropriate, some going further to concede local whites might permit black entry into common schools if so desired. Amongst African-Americans there was no consensus. But the prevailing point-of-view held something was better than nothing, even if lobbying efforts to attain integrated facilities statewide were not abandoned. Some lawmakers also wanted universal

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<sup>78</sup>David Christy, African Colonization by the Free Colored People of the United States, an Indispensable Auxiliary to African Missions, a Lecture by David Christy (Cincinnati: J. A. and U. P. James, 1854); David Christy, Ethiopia: Her Gloom and Glory, as Illustrated in the History of the Slave Trade and Slavery, the Rise of the Republic of Liberia, and the Progress of African Missions (Cincinnati, 1857; Reprint, New York: Negro Universities Press, 1969). In the state “colored convention” of 1852 only two delegates voted in favor of the “wicked system” (A. C. S.), whereas the division on whether to recommend emigrating en masse to some point on the North American continent lost, 9 to 36. Report of the Proceedings of the Convention of Colored Freemen of Ohio, Held in Cincinnati, January 14, 15, 16, 17, and 19 (Cincinnati: Dumas and Lawyer, 1852):5. For evidence that some colonization support in the Upper South came from antislavery men with rather “liberal” racial views, see Jeffrey B. Allen, “Were Southern White Critics of Slavery Racists? Kentucky and the Upper South, 1791-1824,” Journal of Southern History, 44 (May 1978):169-190.

integration and, consequently, voted against “colored” schools. Based on school issue roll calls alone this group seemingly belongs in the racist camp. Only after actions and words suggesting otherwise are brought more forcibly to one’s attention does it become evident that reclassification is in order.<sup>79</sup>

## VI. Questions about Slavery

Finally there is the problem of how to integrate roll calls relating to the institution of slavery that blur the line between racial agendas and other things to such a degree that it is often too difficult to figure out what it all means as a measurement of white prejudice. Actually questions about transfer of slave property, compensation for slaves publicly executed, appealing slave convictions, collecting the slave tax, or slaveholder labor liabilities for performing public roadwork, probably inform us more about where legislators stood on the fine-tuning of existing institutional mechanisms of the slave system. Some slavery issues do lend better to our inquiry, such as measures relating to protecting bondsmen from abuse, permitting a right of jury trial, or banning importation for resale purposes. Yet, again, it is not entirely clear what seems “less racist” in these initiatives.<sup>80</sup>

Roll calls on a “free white basis” pose problems, too. In these cases, a racial criterion is at the heart of the proposed measurement. Divisions on such questions--which narrowly

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<sup>79</sup>Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):859; Journal of the 46<sup>th</sup> Ohio House of Representatives (1847):524, 542; Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):196-197, 251-252; “Legislative Proceedings,” in Ohio State Journal, February 3, 1849; Smith, Official Reports, p. 690.

<sup>80</sup>Roll calls pertaining to slave jury trials, for instance, are located in Journal of the 22<sup>nd</sup> Tennessee Senate (1837):121; Journal of the 22<sup>nd</sup> Tennessee House of Representatives (1837):445. Also see Journal of the 30<sup>th</sup> Tennessee Senate (1853):191, 199; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853): 261.



focused on apportionment procedures or a poll tax--do fit our bill. In many cases, however, voting alignments are distinctive from most other free black issues, more closely resembling roll calls dealing with property rights of slaveholders. If a specific proposal involved distribution of funds, for instance, we see one configuration, but if appropriating county revenues for statewide purposes, a different alignment presents itself. In either case, legislators from low slaveholding districts stood against colleagues who represented constituencies where bondsmen were more abundant.<sup>81</sup>

Because of varied constraints, a more restricted sample was culled from the overall database. These roll calls seem to address framings of sub-issues in terms susceptible to serving as a proxy for measuring white racism. This set of divisions, whose magnitude is sizeable, provides the primary basis for most of the analysis which follows in subsequent chapters, along with some additions soon to be noted. The scores reported hereafter represent the proportional tendency of some cohort of legislators, in the aggregate, to vote towards the racist end of the response spectrum.<sup>82</sup>

The roll calls selected primarily pertain to status and regulation of free blacks but range across a wide variety of narrowly-construed sub-topics. Amongst other things addressed are suffrage requirements, militia and jury duty, the right of petition, court testimony, bond requirements, and bans on entry into a state. In addition, certain votes focused on regulation of trade and employment, restraints on buying or selling liquor, access to education, treatment of convicts, interracial marriages, or kidnapping. In the

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<sup>81</sup>Examples of roll-calls pertaining to a “free white basis” are located in the Journal of the 19<sup>th</sup> Tennessee Senate (1831):260, 321-322, 329-331; Journal of the 22<sup>nd</sup> Tennessee Senate (1837):130; Journal of the 23<sup>rd</sup> Tennessee Senate (1839):136, 351; Journal of the 28<sup>th</sup> Tennessee Senate (1849):559; Journal of the 28<sup>th</sup> Tennessee House of Representatives (1849):838.

<sup>82</sup>Ambiguous roll-calls have been eliminated such as the division in the Ohio legislature on holding an inquiry into the “white” militia. Journal of the 33<sup>rd</sup> Ohio House of Representatives (1834):42.

case of Tennessee the restricted sample also features divisions relating to a white poll tax, patrol law instructions relating to free blacks, special grants to allow testimony to prove book accounts, various restraints on interactions with slaves, and various other things.<sup>83</sup>

My assumption is reactions to these type measures provides a more reliable indicator of underlying racial proclivities since the property rights aspect of slaves in things has been significantly diminished, even if some free blacks felt that being “slaves to the community” was not so dissimilar to the chattel condition. In the case of Tennessee, I did incorporate some roll calls which do relate directly to the slave code. In the late 1850s, for example, revisions in the law placed free blacks and slaves on the same footing in terms of part of the criminal code; obviously, hence roll calls pertaining to slave crime and punishment often involve free blacks, too. For the most part, divisions pertaining to slavery included in my presentation deal with statewide emancipation, private manumission (either statutes or private bills), or removal clauses mandating freed slaves leave the state unless granted an exemption.<sup>84</sup>

The logic here is that the grant of free status, and the manner in which it was bestowed, does provide more compelling evidence about racial outlooks among legislators than do reactions to issues so permeated with other considerations about property rights or slave discipline. Even the use of these roll calls, though, is problematic. One legislator, for example, defended lenient laws on manumission as a means to privilege a small band of faithful servants in order to secure complacent

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<sup>83</sup>The “restricted” sample of free black roll calls for Tennessee contains 164 divisions; the Ohio sample contains 228.

<sup>84</sup>“Convention of 1848,” in Howard H. Bell, ed., Minutes of the Proceedings of the National Negro Conventions, 1830-1864 (New York: Arno Press, 1969):18-20; Speech of H. Ford Douglass at Negro Emigration Convention (1854) in Aptheker, A Documentary History of the Negro People in the United States, pp. 366-368.

bondsmen in general. Whether his comments reflect private sentiments or were aimed at persuading others is not clear. Another colleague suggested at the heart of the matter was a legal right of masters to dispose of personal property as they saw fit.<sup>85</sup>

While one can easily make the case that both men harbored prejudicial notions, at least in terms of callous attitudes towards enslaved blacks, it is not so easy to tell where racist conviction, in any ideological sense of the word, precisely fits in. After all, the conservative-minded might feel that to preserve social order, a rigorous defense of property rights was needed, as well as some method to keep slaves rather passive, even if freeing a few of them served this end; his actions and words yield little understanding about his views on racial diversity.

In the aforementioned cases, the individuals did not challenge the slave system itself but rather advanced arguments which seemingly sound like attempts to perpetuate it, at least for the time being. Yet, at the same time, the intensity of racist proclivities was not so strong as to prompt either man to demand the denial of freedom to every African American, including those in bondage. Certainly we should consider the grander racists their counterparts who regularly voted to deny manumission to even the most worthy and trusted servants.

It, nonetheless, is inadmissible to simply put to one side all this evidence about political reactions to slavery issues. In terms of national debates on slavery extension, which intruded into discussions at state capitols, those alignments were quite different from what was apparent when the topic at hand involved free blacks or the domestic slave code. This theme will be revisited, with fuller analysis, in the chapter explaining

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<sup>85</sup>“Legislative Speeches,” in National Banner and Nashville Whig, October 5, 1833, November 21, 1833.

what happened in the 1850s. Before proceeding further, it is appropriate to alert the reader as to how the two Tennessee parties responded, respectively, on divisions about the slave code. These patterns than can be considered in juxtaposition to alignments described later on policies about free blacks or manumitting slaves.

This part of the analysis, in part, does replicate some of what is reported later, when divisions on general emancipation schemes and private manumission laws are assessed; still, it does not seem appropriate to omit them when evaluating questions about slave treatment and property rights of masters. Sorting roll calls into these categories, of course, is a hazardous undertaking because of the overlapping nature of so much of the content in the proposed legislation. Therefore, it needs to be understood that the property rights category refers to issues about slaveholder rights (or liabilities), whereas the slave discipline category includes issues concerning the treatment and condition of enslaved African Americans.<sup>86</sup>

The topic of runaway slaves in a very real sense was about the legal protection of property rights as well as regulation of bondsmen. Hence, a distinction is made between questions about what to do with the slave and those more geared to considerations about how it impacted the security of masters' rights. I also report the voting scores pertaining to the federal fugitive slave law of 1850 at the time to show how reactions generated a distinctive response compared to proposals about how to deal locally with absconding slaves (see Table 1). What roll-call data shows is a rather uneven pattern wherein both parties, until the late 1850s, generally scattered in response. Before the mid-1830s, this

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<sup>86</sup>Roll calls pertaining to compensating masters for slaves publicly executed, for example, fall into the "slave property rights" category whereas divisions relating to banning slave assembly are classed with the "slave discipline" category. For an example of the former, see Journal of the 27<sup>th</sup> Tennessee Senate (1847):526; an example of the latter is located in Journal of the 23<sup>rd</sup> Tennessee Senate (1839):351

Table 1 Tennessee Legislators: Voting Scores on Slave Code Roll Calls					
Issue/Period	Party		Region of State		
	Democrat	Whig	East	Middle	West
Emancipation					
1815-1834	54	45	25	62	69
Manumit/ Removal					
1815-1834	43	50	23	63	28
1835-1854	72	51	41	69	72
1855-1861	64	40	35	53	71
Slaveholder Property					
1815-1834	50	55	38	69	35
1835-1854	48	49	41	50	54
1855-1861	56	49	46	51	77
Slave Discipline					
1815-1834	52	51	36	58	78
1835-1854	46	44	37	48	48
1855-1861	67	46	51	65	67
Fugitive Law of 1850					
1850-1854	83	0	10	45	50
1855-1861	71	25	45	47	71

\*Each score indicates the estimated percentile of “proslavery” votes a cohort cast on the issue subset based on scalogram analysis. A “proslavery” response reflects negative votes on emancipation and manumission issues but favorable votes on removal clauses, securing slave titles with minimal disabilities on the master, stern regulations to restrain slave populations, or more strident demands to uphold the federal fugitive slave law. The number of roll calls per subset varies as follows: emancipation (10), manumission and removal (57), slaveholder property rights (50); slave discipline (51); federal fugitive slave law (4). Explanation of the technique used in this Table is given in Appendix A.

alignment is almost universal among parties, especially on slave discipline issues, although intra-state regional cleavages also are visible on all issue sub-sets. By a slender margin, as well, Democrats favored private manumission whereas Whigs, interestingly, tilted more in the direction of general emancipation as well as protection of slaveholder property rights. But the differentials, once again, are miniscule.<sup>87</sup>

Later, after debate on statewide emancipation receded, we see even less two-party disagreement and regional scores flatten out a bit, too. Posturing across the party aisle, regardless of whether the question involved property rights or slave discipline, was almost interchangeable in the sense that no group really tilted one way or another. The main exception involved divisions on private manumission. Whigs persisted in their old pattern, which meant hovering in the middle, whereas Democrats inverted their previous tendency now to clamp down on the practice to a greater extent.<sup>88</sup>

Party divergence grew more pronounced in the 1850s as Whigs became a bit softer in the face of harsher proposals about driving out free blacks entirely. On the slave discipline issue, the same basic polarization occurred. It also is present, to a much lesser degree, on the property rights divisions. Democrats still cast many votes against racist proposals but as a party they now clearly tilted this way consistently for the first time. Whigs, it seems, softened a bit over time but essentially kept voting erratically. The federal fugitive slave law divisions also show party divergence on the rise, but given the

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<sup>87</sup>Some roll-calls, for instance, pertain to preventing abuse in taking up of runaways whereas others relate to payment of bounties for rendition, see Journal of the 28<sup>th</sup> Tennessee House of Representatives (1849):163; Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):699.

<sup>88</sup>Examples of divided Whigs on manumission issues are located in Journal of the 22<sup>nd</sup> Tennessee Senate (1837):247, 397; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):997.

vast disparity in the magnitude of polarity, by refraction it shows the configuration on the local issue was much more bipartisan.<sup>89</sup>

Rice scores reflect internal cohesion rates within collective groupings of legislators. The application of this technique produced findings that also suggest the fruitfulness of considering both slavery and free black issues side-by-side. In this case we find the degree of unity within each legislative party normally grew somewhat over time, but was never all that pronounced on free black or manumission issues prior to the late 1840s and 1850s. Compared to the other categories, these divisions exhibit lower rates of cohesion until rather late in the day when the Whigs were the more tightly-knit party. Throughout its existence, Whig Party unity on free black roll calls was more common than on divisions relating to manumission.<sup>90</sup>

If solidarity is the measure of a party's commitment to an issue niche, then the "Negro Question," in virtually all its forms, had little to do with early party formations, at least in terms of coalitions in the state legislature. Only later did parties stand together more prominently and it was usually on matters relating to property rights or slave discipline. Both parties, for instance, voted in much disarray prior to the mid-1830s, except amongst Democrats on property rights issues, but the Rice Score is not impressively strong. Afterwards, Democrats increasingly acted erratically and rallied together most often on slave discipline matters. Whigs did so, too, but also coalesced on property rights issues. A deviation occurred in the late 1840s and early 1850s when both parties imploded on

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<sup>89</sup>An example of party polarity on "slave discipline" issues is a division on restricting punishment so as not to extent to life and limb, see Journal of the 31<sup>st</sup> Tennessee Senate (1855):295; a similar instance relating to "slave property rights" issues involves a division on payment for costs of prosecuting criminal slave cases, see Journal of the 32<sup>nd</sup> Tennessee Senate (1857):567.

<sup>90</sup>Rice, Quantitative Methods in Politics; see Appendix on Roll Call Analysis.

property rights divisions but continued to come together on slave discipline roll calls. Only now, free black issues generated as much cohesion within each party, at least for awhile, as did divisions on manumission policy amongst Democrats.

Up in Ohio, no domestic slave code presents analogous complications but there were still a few hurdles to overcome in constructing the roll-call sample for this state. It does matter whether an individual was an apologist or a critic on slavery and certainly Tennessee contained more of the former while Ohio was home to more of the latter. Whether one tolerates human bondage in one's own backyard, or keeps it at a distance, does seem relevant to an assessment of how legislators responded to racial issues. Still, if, for the most part, Ohio was antislavery and Tennessee was tolerant of proslavery apologetics, the differential between them should not be pushed too hard.<sup>91</sup>

In other words, many Ohioans protested allowing slavery in their midst but were rather indifferent to it continuing in the South. Even if a broader consensus was upset about what was going on elsewhere, much evidence has surfaced that even vocal antislavery critics perhaps acted in a racist manner otherwise. One issue that particularly unsettled them involved a variety of questions about rendition of runaway slaves. Roll calls on this topic are numerous and clearly involve racial considerations. But, again, we encounter problems of distinguishing the defense of property rights, constitutionalism, or state comity from racial considerations alone.<sup>92</sup>

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<sup>91</sup>On the debate about sectional distinctiveness, see James M. McPherson, "Antebellum Southern Exceptionalism: A New Look at an Old Question," *Civil War History*, 29 (September 1983):230-244; Edward Pessen, "How Different From Each Other Were the Antebellum North and South?" *American Historical Review*, 85 (1980):1119-1149.

<sup>92</sup>Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850-1860* (Chapel Hill: University of North Carolina Press, 1968); Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780-1861* (Chapel Hill: University of North Carolina Press, 1974).



Voting alignments on divisions pertaining to fugitive slaves resemble the basic trajectory shown on free black roll calls. This comes as no surprise as fugitive slave measures often are bundled with provisions on preventing kidnapping of free blacks. But the patterns are not interchangeable. Hence, because the volume of divisions on the federal law of 1850 is so immense and skews overall results too much, I removed them from the “restricted sample.” I did, however, retain those votes pertaining to kidnapping or state fugitive slave laws. Before pressing on, it is appropriate to relate the voting scores on the fugitive slave issues so as to compare them to what is related later about free black measures. What we will discover is party polarity, on average, was more pronounced on fugitive slave issues. Clearly these measures consolidated each party internally by the 1850s to an extremely high degree (see Table 2).<sup>93</sup>

Earlier divergence in Ohio was not so grand, especially near mid-century when the Democracy retrenched a bit and its tiny Western Reserve wing actually grew a tad. Whigs, moreover, were not so solid a unit in opposition as Republicans were later, although Free Soil men were already so. On average, Whigs cast votes in favor of fugitive slave rendition measures about a third of the time. By the mid-1840s, however, earlier divergence between northern and southern parts of the state had narrowed. Republicans later voted against fugitive rendition laws more than 90 percent of the time. What is noteworthy is how much the entire coalition so closely mirrored the Western

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<sup>93</sup>Divisions on the federal fugitive slave law are located in Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):55, 107, 163, 397, 744, 801, 828-834, 994-996; Journal of the 49<sup>th</sup> Ohio Senate (1850):320, 436, 762-766, 910-915.

Table 2 Ohio Legislators: Voting Scores on Fugitive Slave Issues				
Party/Period	Statewide Total	Region of State		
		Southern Ohio	Northern Ohio	Western Reserve
Democrat				
1836-1843	82	83	82	50
1844-1854	58	69	63	13
1855-1861	81	80	84	-
Whig				
1836-1843	34	48	27	10
1844-1854	30	31	26	29
Free Soil/ Republican				
1848-1854	2	-	-	2
1855-1861	8	14	5	2

\*Each score indicates the estimated percentile of votes a cohort cast which were favorable to facilitating rendition of fugitive slaves based on scalogram analysis. The sample includes 105 roll calls. Explanation of the technique used in this Table is given in Appendix A.

Reserve faction. As we shall see, however, things were not cut and dry when it comes to other racial issues.<sup>94</sup>

Two-party polarity on the federal fugitive slave law, in addition, is virtually identical in both states. Of course, this does not mean Ohio Republicans and Tennessee Whigs were likeminded, for each state party was encountering a different set of proposals. Among Democrats, too, Tennesseans were more adamant about securing efficient enforcement mechanisms. It thus seems the sectional divide was relevant to party posturing designed for both national and local consumption. But, then again, despite the fussing, even most Republicans agreed the law must be enforced until repealed in a constitutional manner. Thus, we see again, despite conflicting views on what precisely to think about slavery in the abstract, the two states remained similar in their outlook to a minimalist degree.<sup>95</sup>

Generally speaking, most Ohioans and Tennesseans, regardless of party, recognized the right of each state to regulate the domestic relation of master and slave for itself. What inflamed passions more dramatically, besides slave hunters plundering Ohio soil for human game, was the idea of slaveholders monopolizing the territories. As ample evidence shows, northern white antagonism directed at the “peculiar institution”

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<sup>94</sup>Roll calls pertaining to fugitive slave issues prior to mid-century are located in Journal of the 35<sup>th</sup> Ohio Senate (1836):595; “Legislative Proceedings,” in Ohio State Journal, February 12, February 15, February 26, 1839; March 13, March 20, 1841; December 14, December 21, 1842; March 8, March 15, December 13, 1845; February 9, 1848; February 24, March 17, 1849; Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):34; “Legislative Proceedings,” in Daily Ohio Statesman, February 3, 1849; Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):117, 129.

<sup>95</sup>Journal of the 28<sup>th</sup> Tennessee Senate (1849):765; Journal of the 31<sup>st</sup> Tennessee House of Representatives (1855):468; “Report of Standing Committee on Federal Relations,” Journal of the 54<sup>th</sup> Ohio House of Representatives (1859), appendix, pp. 143-144.

sometimes was due to an animus against slaveholders rather than outrage over treatment of African Americans. The same might be said of critical elements in Tennessee.<sup>96</sup>

It needs to be understood that Tennesseans were rather ambivalent about slavery until late in the antebellum period. For almost three decades the state maintained a prohibition on importing slaves for purposes of resale. At the start of this period, moreover, a campaign already had been initiated to dismantle slavery statewide, one of the earliest of its kind in the nation. The antislavery forces were never impressive in terms of overall numbers or political clout, but after the mid-1830s this tide or trickle receded to miniscule proportions.<sup>97</sup>

Historians long have noted the exodus of evangelical and Quaker reformers, who frequently relocated into the Old Northwest where they spread their message after disappointment at failing to secure a provision in the new Tennessee Constitution of 1835 for a plan of gradual emancipation. According to the roll-call patterns, however, another group, mostly from West Tennessee, also left the state at about the same time. Those men whom had served as state officials normally had voted against racist legislation. Yet

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<sup>96</sup>Thomas Ewing to Aaron F. Perry, April 25, 1854, Benjamin Wade to Oran Follett, March 27, 1854; Hamlin, "Selections from the Follett Papers," 13-2 (1918): 46-55; Majority Report of Standing Committee on Federal Relations, Journal of the 52<sup>nd</sup> Ohio Senate (1857), appendix, pp. 569-571; "Letter of Hon. Edward Archbold," in Ohio State Journal, August 24, 1860; Samuel Vinton to William Greene, December 21, 1860, Hamlin, "Selections from the William Greene Papers," 14-1 (1919):26; James B. Stewart, "Evangelicalism and the Radical Strain in Southern Antislavery Thought During the 1820s," Journal of Southern History, 39 (August 1973):379-396.

<sup>97</sup>On the antislavery movement in Tennessee, see Durwood Dunn, An Abolitionist in the Appalachian South: Ezekiel Birdseye on Slavery, Capitalism, and Separate Statehood in East Tennessee, 1841-1846 (Knoxville: University of Tennessee Press, 1997); Harold Stanley, The Abolitionists and the South, 1831-1861 (Lexington: University of Kentucky Press, 1995); William M. Boyd, "Southerners in the Antislavery Movement, 1800-1830," Phylon, 9 (Summer 1948):153-162; Merton L. Dillan, "Three Southern Antislavery Editors: The Myth of the Southern Antislavery Movement," East Tennessee Historical Society's Publications, 42 (1970):47-56; Lawrence B. Goodheart, "Tennessee's Antislavery Movement Reconsidered: The Example of Elihu Embree," Tennessee Historical Quarterly, 41 (Fall 1982):225-238; Asa E. Martin, "The Anti-Slavery Societies of Tennessee," Tennessee Historical Magazine, 1 (December 1915):261-281.

this cohort was bound for the Republic of Texas. Although Whigs are part of this band, a large number were natural rights Democrats. This type of Loco, rather common at the time, became a rarer commodity in the refurbished state party after mid-century.<sup>98</sup>

In the interim, slavery's profitability meant it continued to thrive, despite a temporary drag occasioned by the panic of 1837. Some dissenting voices still existed, especially in East Tennessee, but discussion mostly become muted and focused on ameliorating slaves rather than freeing them. Kentucky's decision in 1849 not to terminate its peculiar institution and instead allow slave importation also dimmed antislavery expectations among those few Tennesseans still entertaining such hopes and, ultimately resulted in revived slave imports into the Volunteer State.<sup>99</sup>

Yet, just a few years earlier, a Whig governor suggested slavery might pass away once the profit motive was no longer an allure. A decade later a Democratic successor determined it was time for Tennesseans "to abandon slavery or fortify it." Although he clearly preferred the latter option his comments suggest someone needed convincing. Tennesseans not only compared their community advantageously to the crime, vice, and wage slavery allegedly prevalent in the North, they also insisted their "modified" system

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<sup>98</sup>It should be noted West Tennesseans initially raised little fuss about the Nashoba Experiment, too; see Jane Pease and William Pease, "A New View of Nashoba," Tennessee Historical Quarterly, 19 (June 1960):99-109; Paul A. Matthews, "Frances Wright and the Nashoba Experiment: A Transitional Period in Antislavery Attitudes," East Tennessee Historical Society's Publications, 46 (1974):37-52; O. B. Emerson, "Frances Wright and Her Nashoba Experiment," Tennessee Historical Quarterly, 6 (December 1947):291-314; Edd W. Parks, "Dreamer's Vision: Frances Wright at Nashoba (1825-30)," Tennessee Historical Magazine (series II), 2 (January 1932):75-86. Also see Donald Smalley, ed., Francis Trollope's Domestic Manners of the Americans (Reprint, New York: Alfred A. Knopf, 1949).

<sup>99</sup>W. Freeman Galpin, ed., "Letters of an East Tennessee Abolitionist," East Tennessee Historical Society's Publications, 3 (1931):134-149; Frank F. Mathias, "The Turbulent Years of Kentucky Politics: 1820-1850," Register of Kentucky Historical Society, 72 (1974):309-318; Frank F. Mathias, "Kentucky's Third Constitution: A Restriction of Majority Rule," Register of the Kentucky Historical Society, 75 (1977):1-19.

of slavery was far superior to the barbaric chattel bondage in South Carolina and other parts of the Lower South.<sup>100</sup>

Finally, certain commentators, including foreign travelers, provide conflicting accounts of how the presence of slavery or its absence produced manifestations of virulent white racism. Many gave the nod to slave society, where white men, it was said, were nourished from birth to be petty tyrants. Others felt differently, although almost all disapproved of slavery, usually on grounds of political economy. Still, from the perspective of these witnesses, white racism often was more visible at the North. Others concluded both localities bred racists; but in the South, where whites knew they could crush blacks into the dust at a moment's notice, interactions across the "color line" were less overtly acerbic, whereas, in the North, where the situation was more fluid, anxious whites lashed out more energetically.<sup>101</sup>

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<sup>100</sup>White, ed., Message of the Governors of Tennessee, 4:265-267, 5:255-264; Memphis Daily Appeal, February 3, 1852; Gordon F. Hostetter, "The Brownlow-Pryne Debate, September, 1858," in J. Jeffrey Auer, ed., Antislavery and Disunion, 1858-1861: Studies in the Rhetoric of Compromise and Conflict (New York: Harper and Row, 1963):1-28.

<sup>101</sup>J. S. Buckingham, The Slave States of America (2 vols.; London: Fischer, Son, and Co., 1842); Sydney Jackman, ed., Frederick Marryat's A Diary in America with Remarks on Its Institutions (1839; Reprint, Westport, Connecticut: Greenwood Press, 1973); Harriet Martineau, Retrospect of Western Travels (2 vols.; London: Saunders and Otley, 1838); Harriet Martineau, Society in America (3 vols.; London: Saunders and Otley, 1837; Reprint, New York: A. M. S. Press, 1966); Charles Murray, Travels in North America during the Years 1834, 1835, and 1836 (2 vols.; London: Richard Bentley, 1839; Reprint, New York: Da Capo Press, 1974); Sarmiento, Travels in the United States in 1847, translated by Michael A. Rockland (Reprint, Princeton: Princeton University Press, 1970); Phillips Bradley, ed., Alexis de Tocqueville's Democracy in America (2 vols.; New York, 1951); Frederic Trautman, "Ohio Through a Traveler's Eyes: A Visit by Samuel Ludvigh, 1846," The Old Northwest, 9 (Spring 1983):59-76; M. Berger, "American Slavery as Seen by British Visitors, 1836-1860," Journal of Negro History, 30 (1945):181-202; Bertha R. Leaman, "Travel Notes of a Mid-Nineteenth Century Frenchman," Ohio Archaeological and Historical Quarterly, 51 (1942):101-118; Richard W. Resh, "Alexis de Tocqueville and the Negro: Democracy in America Reconsidered," Journal of Negro History, 48 (October 1963):251-259.

## VII. Conclusion

This research design is imperfect but does prove useful as a means to evaluate two-party politics and racial issues in terms of relative degrees of consensus and conflict as well as continuity or change. Based on these methods, the atypical exception is framed in more vivid contrast to the normative case; opinion leaders and followers more easily differentiated from mavericks or renegade elements. It becomes possible, moreover, to assess legislative production, not merely on the basis of which party held the balance-of-power but with a clearer comprehension of whether a majority party had its way or a coalition of minorities account for what transpired. A more definitive understanding of what the opposition party was doing and the degree to which dissent existed in dominant party ranks, in short, is essential to proper interpretation of what transpired.

The main focus of this study addresses the legislative process which preceded the enactment of legal statutes. Additional work remains to be done to sketch the contours of how successfully policies were implemented and maintained. Nonetheless, this approach can provide a more lucid understanding of what parties actually did, what measures were resisted or ignored, and how actions compared across party lines. When acting in the majority, for example, did party leaders sustain precedent, seek to modify predecessors' handiwork, or try and undo it altogether? Did parties sustain the same posture when in the minority and under divided government, or alter their stance? Better answers to these questions await more precise assessments of legislative party patterns over larger expanses of time and across a wider range of localities. But, at least we have a better idea of what was going on in Ohio and Tennessee.

Legal structures, along the way, must not be obscured. After all, what became law has more relevance in the long run than what was merely talked about as a possibility or a vocal stratagem designed to catch votes. Still, a thorough examination of two-party politics and the role white racism in it must rest not only upon what was put into the law but also refract its contents against the entirety of legislative proceedings, especially given the context of the incremental nature of so much legal reform. We need to know not only about what each party achieved, but its responses to failed initiatives and resistance to successful ones, too.

Based on the roll-call record, we can consider what did and did not happen across party lines while studying different parties in tandem and juxtaposed against each other. More narrowly, when parties enacted new laws, retained old ones, or merely signified a desire to do so, informs us about public images parties wanted to convey when in power, which also provides a useful backdrop against which to refract private opinions of lawmakers (an important consideration whose systematic investigation probably is best left until after behavioral patterns are ascertained more definitively).

In sum, before a precise model of two-party competition can be formulated, a clearer comprehension of the role of the politics of race in it is needed. Historians thereby can grasp better the precise posturing of each legislative party, its central tendencies, how unified were its followers, and the degree to which each coalition diverged from the other and, finally, whether all the computations remained constant or changed. Findings elaborated on in following chapters, I should note, are not conclusive but tentative. I manipulated data in all kinds of ways but different sorting certainly still is possible which might suggest alternative readings. Still, based upon the depth of research into a wide



variety of sources and voting patterns detected for such a large sample of lawmakers, I am confident my findings provide a conclusion that has a high probability of being correct. And, in short, this accounting suggests issues about race, while responsible for much political debate, and increasingly mainstreamed into the broader matrix of issues involved in two-party competition, was more often than not a “collateral issue of mere expediency” and not its primary fulcrum.<sup>102</sup>

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<sup>102</sup>Ohio State Journal, December 16, 1846, March 17, 1849.

## CHAPTER III

### PERSONAL BACKGROUNDS AND RACIAL VOTING

#### I. Introduction

This chapter examines various characteristics and traits of individual members of each legislature, how this information relates to broader party attachments, and seeks to detect connections between this data and voting behavior on racial issues. Of course, exigent historical records limit the scope of this undertaking as data about certain things is not readily accessible. Some discussion of how I constructed the collective biographical sample, therefore, is necessary to clarify what was available for compilation, methodological limitations, and how the research strategy was similar or unique in its application to each legislature.

The main focus is to find similarities and differences of state legislators across party lines. Such a baseline understanding is important as a means of establishing the relative voting strength of different occupational groups, age cohorts, and the like, so as not to exaggerate or misconstrue potential impacts on legislative outcomes. In the Tennessee general assembly near mid-century, for instance, legislators born in the Deep South voted more regularly as racists while northern-born men did not. Before making too much ado about sectional proclivities; however, it is important to appreciate that the former group were a mere two percent of assemblymen; the latter was even tinier. The more blatant

cleavage at the time was an intramural southern contest pitting most native-born Tennesseans from the central and western regions of the state, along with a large contingent of Virginians, against the majority of North Carolinians.<sup>103</sup>

In particular, I was interested in ascertaining how apparent associations between the biographical information and racial voting responses interacted with partisan imperatives. Efforts were made to establish, therefore, whether racist legislators with common life experiences or personal associations transcended party lines or not. For instance, around 1840, Virginians mostly voted as racists, whether Democrat or Whig, while North Carolinians did not. In this instance it seems something about differences in nativities spawned imperatives that at least for the moment trumped party attachments. Legislators born in East Tennessee, however, divided. Democrats more regularly cast racist votes. Whigs did the opposite. Here, it seems, something beyond birthplace was operative, perhaps party discipline itself.<sup>104</sup>

My findings suggest that certain past life experiences apparently had some connection to racial voting behavior which, on occasion, overcame party loyalty. Associations between roll-call response patterns and several variables indicate as much, although many anticipated findings were not borne out to the degree suggested by the secondary literature. For the most part, however, no surveyed cohort acted in absolute harmony;

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<sup>103</sup> Some work has been done on migration patterns amongst Tennesseans, see Thomas P. Abernethy, From Frontier to Plantation in Tennessee: A Study in Frontier Democracy (Chapel Hill: University of North Carolina Press, 1932); Tommy W. Rogers, "Origin and Destination of Tennessee Migrants, 1850-1860," Tennessee Historical Quarterly, 27 (Summer 1968):118-122; Thomas A. Scott, "The Impact of Tennessee's Migrating Sons," Tennessee Historical Quarterly, 27 (Summer 1968):123-141.

<sup>104</sup> Much recent literature, for instance, emphasizes intra-regional variation within East Tennessee; see David C. Hsiung, Two Worlds in the Tennessee Mountains: Exploring the Origins of Appalachian Stereotypes (Lexington: University of Kentucky Press, 1997); John Inscoe, Mountain Masters, Slavery, and the Sectional Crisis in Western North Carolina (Knoxville: University of Tennessee Press, 1989); James B. Murphy, "Slavery and Freedom in Appalachia: Kentucky as a Demographic Case Study," Register of the Kentucky Historical Society, 80 (Spring 1982):151-169; an older account is Carter G. Woodson, "Freedom and Slavery in Appalachian America," Journal of Negro History, 1 (1916):132-150.

most groups typically divided internally, tilting one way or the other rather than marching in unison toward a common goal. Usually, the most strident racist posturing came from groups that did not constitute a formidable voting bloc. In short, personal life experiences cannot be ignored as important factors in shaping choices legislators made, but there is much more to the story.<sup>105</sup>

## II. Problems with Sources

A preliminary task was to establish the personal identity of state legislators and their party allegiances. Locating names of these men was rather straightforward once access to legislative journals was obtained. On the first page, or immediately thereafter, the records list each one by name and county represented, although identifying belated arrivals requires a deeper read into the records. The journals, regrettably, never enumerate party labels, which undoubtedly is one reason why historians have traditionally not made full use of this source.<sup>106</sup>

At best, certain historians mined out these details for only a momentary slice in time. As a means to detect party persuasions, some scholars examined division lists on an issue that loomed large in national party platforms and dispense party tags based on reactions to it. A constraint with this approach is that mavericks on whatever issue becomes

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<sup>105</sup> Some collective biographical work has been done on Tennessee politicians, much of which emphasizes overall similarities in traits and backgrounds across party lines, despite subtle differences; see Mary R. Campbell, "Tennessee's Congressional Delegation in the Sectional Crisis of 1859-1860," Tennessee Historical Quarterly, 19 (December 1960):348-370; Milton Henry, "Summary of Tennessee Representation in Congress From 1845 to 1861," Tennessee Historical Quarterly, 10 (June 1951):140-148; Burton W. Folsom, "The Politics of Elites: Prominence and Party in Davidson County, Tennessee, 1835-1861," Journal of Southern History, 39 (August 1973):359-378; Carroll Van West, "The Democratic and Whig Political Activists of Middle Tennessee," Tennessee Historical Quarterly, 42 (Spring 1982):3-17; Wooster, Politicians, Planters, and Plainfolk; Ralph A. Wooster, The Secession Conventions of the South (Princeton: Princeton University Press, 1962).

<sup>106</sup> A helpful source for general information is B. H. Pershing, "Membership in the General Assembly of Ohio," Ohio Archaeological and Historical Quarterly, 40 (April 1931):222-283.

“privileged” as the proxy for party are erroneously lumped together with actual party foes (although, admittedly, the skewing effect is not severe). As an alternative method, already identified as useful, I scrutinized newspapers between 1820 and 1861 for election returns wherein party affiliations of candidates for legislative seats are enumerated, or at least presented to the public as indicative of their partisan inclination.<sup>107</sup>

Not every legislator receives mention; if identified, in a few cases, no party attachment follows. Labels in a few cases probably are wrong; at a minimum editors at times published corrections to initial listings. When newspapers erred or failed to report relevant information, I used voting behavior as a guide but based my estimate on cluster patterns across issue niches rather than responses to any solitary measure alone arbitrarily selected as a reliable indicator of party self-identification. Using this approach, I affixed party labels to almost 95 percent of the legislators.<sup>108</sup>

Prior to the mid-1820s much party classification has to be done retrospectively. But the enterprise still is useful as a means to discern whether pre-existing political alignments persisted after advent of two-party politics or shifted onto new configurations. Only about one-half of state legislators serving between 1815 and 1825 later showed evidence of party preference. Whether the residual amount did so, too, remains unclear.

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<sup>107</sup> Ershkowitz and Shade used the “prominent issue” method in their pioneering work, “Consensus or Conflict?,” pp. 591-612. The newspapers consulted are listed in the bibliography; candidates and election returns usually are reported in the fall. The Knoxville Register, for example, ran a “List of Members” on August 20, 1845. Lists of legislators at the beginnings of sessions are sometimes reported into December, too. Another source utilized was Robert M. McBride, ed., Biographical Directory of the Tennessee General Assembly (Nashville: Tennessee State Library and Archives and the Tennessee Historical Commission, 1975-1979), vol. 1 (hereinafter cited as Tennessee Biographical Directory).

<sup>108</sup> The Ohio State Journal Weekly on October 23 and 28, 1828 reported party affiliations of state legislators for the 27<sup>th</sup> House Session. Roll-call divisions indicate three individuals present not accounted for in these listings. Based on other sources one probably is a Democrat and another is a Whig. The third is unclear. Many entries in the Tennessee Biographical Directory, moreover, list no party identification and in some cases are wrong. Newspaper reports usually fill the gaps though.

In a few cases it seems anti-party posturing was a conscious choice. In Tennessee the alignment on a few roll-calls had future Democrats and Whigs allied in tandem against more racist legislators for whom no evidence is available one way or the other with regard to party identities. But this finding is most tentative due to the small number of roll calls and lawmakers involved.<sup>109</sup>

When it comes to learning other things about state legislators as individuals, an abundance of data is readily available on the Tennesseans; granted, we do not learn everything one wishes to know. In any case, newspapers published periodic “Sketches of Members of the Legislature.” In modern times a multi-volume compendium provides vignettes on Tennessee legislators throughout the past. Based on its contents I gathered for collective biographical purposes a compilation of men including nearly every individual that sat in the legislature in antebellum times.<sup>110</sup>

Despite omissions and occasional mistakes, these sources provide a wealth of information about generational cohorts, marital status, occupations, birthplaces, denominational affiliation, past political experience, military service, educational attainments, and a variety of other things. Of course, certain information is lacking or not

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<sup>109</sup> On second reading of a bill for the relief of a free black man, for example, 75 percent of future Whigs and Democrats voted favorably against 58 percent of the “unaligned” legislators. This roll call primarily reflects a divide between a coalition of East Tennesseans and legislators from along the Tennessee River in West Tennessee, on the one hand, and Middle Tennesseans, on the other hand; see Journal of the 14<sup>th</sup> Tennessee House of Representatives (1821):255-256. The Constitutional Convention of 1834 also poses complications. Party affiliations have been estimated for “unknown” cases (a minority of delegates) based on county-level voting returns. No good election suits this purpose prior to the conclave due to the overwhelming popularity of William Carroll and Andrew Jackson. Hence, I have utilized the election returns immediately thereafter instead; of course, reapportionment in the interim renders certain findings somewhat tenuous. Anne H. Hopkins and William Lyons, Tennessee Votes: 1799-1976 (Knoxville, 1978).

<sup>110</sup> Tennessee Biographical Directory; “Sketches of Members of the Legislature,” Knoxville Register, November 12, November 26, 1845. Also see David W. Bowen, Andrew Johnson and the Negro (Knoxville: University of Tennessee Press, 1989); Joseph H. Parks, John Bell of Tennessee (Baton Rouge: Louisiana State University Press, 1950); Ratner, Andrew Jackson and His Tennessee Lieutenants.

consistently reported. It would be helpful to know, for instance, about divisions within denominational groupings or what part of Virginia migrants came from.<sup>111</sup>

On occasion entries do tell us but in too many cases it is unclear whether a Presbyterian was Old School, New School, or some other variation; nor is it certain whether a person born in the Old Dominion traced his nativity to the Tidewater region or Shenandoah Valley. Most importantly, and regrettably, when it comes to enumerating slaveholding data, coverage is often erratic or vague. If slave holdings are addressed, it usually comes in the form of a general statement to the effect that an individual was a “large” slaveholder, held “many” or “few” slaves, compared to his neighbors, or, in other cases, was considered a “wealthy” magnate.<sup>112</sup>

To supplement these sources, I turned to compilations derived by another historian from manuscript census returns and compared it to research of my own. An obvious drawback is this evidence only is available on a decennial basis. One can identify better those legislators who held slaves at these ten year benchmarks but not for those who served in the intervening time period. These particular sessions do not always faithfully replicate the distributions in certain occupational groups, nativities, or generational cohorts across the decades in the general assembly as a whole. Consequently, it seems safe to assume the slaveholding data is susceptible to the same skewing. Still, deviations

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<sup>111</sup> Democrat John Eubank, for instance, served in the Tennessee House of Representatives continuously between 1839 and 1849 (again from 1861 to 1863). His birthplace in Mecklenburg County, Virginia is mentioned. So is his Presbyterian religious affiliation but nothing is said with regard to what schismatic branch. Representative Gabriel Fowlkes is listed as born in Virginia but not exactly where. He also is identified as a Whig who became a Democrat later without further elaboration. No religious persuasion is recorded. Tennessee Biographical Directory, pp. 237, 261-262.

<sup>112</sup> Democrat James Gray, for instance, is described as the “owner of a large number of slaves.” Fellow Democrat Thomas Love is listed as having “acquired much land in various places and many slaves.” Democrat Edward Ward is denoted as “a wealthy planter who owned much land and many slaves and who ‘lived in a style of sumptuous extravagance out of keeping with the homespun life around him’.” Tennessee Biographical Directory, pp. 305, 459, 760.

detected on other things usually are minor and broad central tendencies are rarely overturned; the same may apply for the slaveholding samples, too. The chronological dating of the slaveholding data is fortuitous, as it provides a touchstone for examining this variable in legislative politics at precise moments when crucial legal changes occurred.<sup>113</sup>

The manuscript census is not utterly reliable. Still, historians must utilize what has been left us while recognizing its limitations. Other records sometimes fill in gaps in cases of missing data, such as identifying members of the planter class. Importantly, moreover, census reports list an exact number of slave holdings (although possible error must be considered here, too). This data, once compared to voting patterns, clarifies more precisely when, and on what types of proposals, planters, slaveholders in general, and the slave-less agreed or not, and thereby gain insight into the nature of planter-yeoman political alignments.<sup>114</sup>

The problem of missing data, in the end, cannot be brushed easily aside. The census reports no information about slave ownership whatsoever for a full third of legislators. One school of thought posits in the absence of positive confirmation of an individual owning slaves the historian should count the man as a non-slaveholder, thus casting the legislature as more of a yeoman democracy. An alternative point-of-view deems it appropriate to lay aside unidentified cases to highlight only those instances wherein census reports have something to say. In this equation slaveholders dominate the

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<sup>113</sup> Jonathan Atkins generously shared his data culled from the decennial manuscript census on personal slaveholdings of each legislator serving in surrounding sessions to make this analysis possible. Henceforth source cited as Atkin's "Slaveholding Database").

<sup>114</sup> Atkin's "Slaveholding Database"; Tennessee Biographical Directory.



legislature. In contrast, less than ten percent of assemblymen clearly enumerate as holding no slaves whatsoever.<sup>115</sup>

The latter approach, it seems, is an improvement on the former design, as it demands empirical verification rather than rely quite so heavily on assumption. At the same time, the “missing” cases involve such a substantial subset of individuals that it seems perilous to ignore them entirely. As an attempt to bring some clarity to the situation, I cross-referenced occupational data with slaveholding information to distinguish which of the small group of acknowledged non-slaveholders were yeoman farmers or not. As it turns out, about one-half of them engaged in agricultural pursuits, while the remainder mostly practiced law, although several were artisans. Insofar as “unknown” cases of slaveholding are concerned, only a third of these men are listed as farmers and lawyers are more prevalent. Almost another third, collectively, were merchants, doctors, and artisans in descending order.<sup>116</sup>

In short, about two-fifths of assemblymen were slaveholders, mostly agriculturists but many practiced law; some pursued both occupations. Another fifth were lawyers, some devoid of slaveholdings, but most falling into the “unknown” category. A smaller group featured non-slaveholding farmers. The rest were merchants, doctors, and artisans, for whom their slaveholding status is unclear, although non-slaveholders constituted at least one-third of the artisans. These patterns, in addition, obtained across party lines, except Democrats tilted more towards slaveholding in general, and especially prevailed amongst

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<sup>115</sup> Wooster, Politicians, Planters, and Plainfolk; Atkins, Parties, Politics, and the Sectional Conflict in Tennessee, 1832-1861.

<sup>116</sup> Atkin’s “Slaveholding Database”; Tennessee Biographical Directory.

the small slaveholder class, while Whigs were more frequently lawyers--for whom no slaveholding information is available--and planters.<sup>117</sup>

To replicate this project for the Ohio scenario proved more problematic. Fortunately, legislative journals in the 1850s feature appendices listing age, birthplace, occupation, length of residency in-state, marital status, and current mailing addresses for each legislator but, regrettably, nothing else. This evidence, however meager, does provide a basis for productive comparisons across state and party lines. Before mid-century, though, even this limited pool of data is unavailable.<sup>118</sup>

Certain national compendiums do contain references to a scant few persons; biographers provide insights for a number of others, and newspaper accounts contain some relevant tidbits. The sample of legislators thus derived, however, is miniscule and representative of only the most famous of men. While a less than optimum approach, by necessity, I scaled back the enterprise to investigate systematically only the aforementioned subset of individuals, along with other state legislators who also served in Congress. A biographical encyclopedia does exist for the national legislature, allowing for a sample size of about 150 state lawmakers. While this source falls short of reporting as much information as the Tennessee compendium, it does supply the same basic data on age, occupation, and nativity.<sup>119</sup>

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<sup>117</sup> Ibid.

<sup>118</sup> Journals of the Ohio Senate (1854-1861), appendix; Journals of the Ohio House of Representatives (1854-1861), appendix (hereinafter cited as "Ohio Biographical Appendix").

<sup>119</sup> Biographical Directory of the American Congress, 1774-1961 (Washington, D. C.: Government Printing Office, 1961); The Biographical Annals of Ohio, 1902-1903. A Handbook of the Government and Its Institutions of the State of Ohio (75<sup>th</sup> Assembly); Allen Johnson, ed., Dictionary of American Biography (22 vols.; New York: Charles Scribner's Sons, 1946); Joseph E. Kallenbach and Jessamine S. Kallenbach, American State Governors, 1776-1976 (Dobbs Ferry, New York: Oceana Publications, Inc., 1977); Allan

Two qualifications are in order. First, session-by-session analysis, such as exists for the Tennessee legislature, is not possible prior to 1854. Second, politicians that used the legislature as a steppingstone into the national political arena probably are a somewhat unique set of individuals. At a minimum, an awful lot of congressmen were lawyers. Regardless of party affiliation about 40 percent of the congressional sample reflects this occupational niche, whereas less than half that figure enumerated as such in the session of 1854 for which a complete accounting of legislative membership exists.<sup>120</sup>

The possibility must be considered that lawyers simply were diminishing in numbers over time. But other sources suggest the opposite. A German traveler, for instance, was impressed at the prevalence of lawyers serving as delegates at the Ohio's constitutional convention at mid-century. Whether this assessment meant lawyers prevailed in absolute numbers is uncertain as no precise figures were provided. Even if lawyers dominated, it does not necessarily follow that constitutional reformers reflected the same occupational profile as state legislators (although one might reasonably surmise so, given that at least one-fourth of delegates also served in the legislature).<sup>121</sup>

Newspapers do help clarify things. Both Democrat and Whig editors, for instance, reported on the distribution of occupations among state legislators for the session of 1849 although in aggregate terms rather than by party affiliation. While minor discrepancies exist, the columns are useful in tandem as a means to cross-check patterns revealed in the congressional sample. According to these sources, about one-third of legislators were

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Peskin, Garfield: A Biography (Kent, Ohio: Kent State University Press, 1978); James B. Stewart, Joshua R. Giddings and the Tactics of Radical Politics (Cleveland: Case Western Reserve University Press, 1970); Hans L. Trefousse, Benjamin Franklin Wade: Radical Republican from Ohio (New York: Twayne, 1963).

<sup>120</sup> Biographical Directory of the American Congress; Journal of the 51<sup>st</sup> Ohio Senate (1854), appendix.

<sup>121</sup> Fredericka Bremer, The Homes of the New World: Impressions of America, translated by Mary Howitt (2 vols.; New York: Harper and Brothers, 1853), 2:102.

lawyers, whereas farmers, merchants, doctors, and artisans come in at the same rates as among future congressmen.<sup>122</sup>

Based on these sources, and heretofore described methods of compiling my samples, it became possible to gauge better whether racial issues generated conflict between old and young, farmer and lawyer, the southern-born and Puritan Yankee, and so on, and to do so with an understanding of which groups, numerically speaking, carried potential clout as a voting bloc. Hence, we begin to discern if legislators that acted similarly on racial matters shared certain traits or life experiences in common and if those associations over time transcended party lines or operated within one coalition only. All this information helps to clarify whether, and if so when, party loyalties, racial propensities, and personal histories dovetailed neatly into a broader package deal and to ascertain who were the dissenters when party discipline was incomplete.

### III. The Members of Legislative Parties

The characteristics surveyed for adherents of each legislative party indicate the two coalitions in many ways contained the same types of men. Most legislators had no prior experience serving at the state capitol. About three-fifths, on average, were attending their first session and the number of novices increased in the 1850s. The remaining men were split in terms of experience, although veterans with multiple sessions under their belt predominated prior to the mid-1830s. Later, their numbers dissipated.<sup>123</sup>

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<sup>122</sup> The Ohio Repository, February 7, 1849; Daily Ohio Statesman, February 7, 1849.

<sup>123</sup> Tennessee Biographical Directory; Biographical Directory of the American Congress; "Ohio Biographical Appendix."

Legislative parties were similar in other ways, too. Although analogous data is not readily available for Ohio, evidence indicates fully one-fourth or more of Tennesseans had family political connections, Democrat or Whig, based solely in terms of a close kinsmen previously serving in the legislature. About one-fifth of legislators in either legislature had prior service in the military, too, and their presence in Tennessee, prior to the 1830s, was about twice that amount.<sup>124</sup>

While missing data complicates the analysis, it seems most legislators attended common schools or academies. College graduates steadily grew in numbers over time, however, and account ultimately for one-fourth to a third of each party's membership. At any rate, in both states about two-thirds of legislators, regardless of party, were in their thirties or forties (although Tennesseans were slightly younger), and almost 90 percent married. Each legislative party also was comprised of men whom had been born, respectively, in the North or South. But within each state, nativity patterns were quite similar. Both parties drew heavily upon native-born sons, especially by the 1850s, although it would be helpful if exigent records did better at reporting regional origins of parents and grandparents.<sup>125</sup>

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<sup>124</sup> Ibid. Some examples include Whig "Bigbee" Nicholas Perkins of Williamson County who had two sons, a cousin, and at least three other kinsmen serve in the state legislature. Whig Mounce L. Gore of Jackson County and Democrat William Gore of Overton County were brothers. Democrat Barclay Martin was the nephew of a state legislator. His father-in-law and two brothers-in-law also served. The Gore brothers both voted as "liberals." Perkins voted as a racist. Martin did not always vote on racial issues. Tennessee Biographical Directory, pp. 299, 500-501, 579. Some indications suggest junior and general officers aligned with the Democrats in early years whereas field grade officers were more prone to become Whigs.

<sup>125</sup> Tennessee Biographical Directory, pp. 210, 351, 469. Whig Burchett Douglass, for example, attended "common schools," while Democrat John Head is described as self-taught. Democrat Abraham McClelland was educated locally at Washington College. Whig Lewis P. Williamson was a Yale graduate. Williamson voted as a racist. McClelland and Douglass initially were moderates but tilted increasingly in racist directions. Head voted as a "liberal."

The trend toward in-state birth was less pronounced in Ohio, most notably prior to mid-century when a plurality of legislators came from Pennsylvania or other Mid-Atlantic states. Southern and New England states each contributed another 10 to 15 percent of assemblymen. Early on, in the 1820s, the southern-born fielded almost double that figure. The foreign-born constituted only five percent of all legislators. In Tennessee, foreign immigrants come in at one percent. The Tennessee northern-born element was not much bigger. In this state the largest migrant groups, as in Ohio, came from nearby areas, only now host states were Virginia and North Carolina. These two places alone supplied almost half of legislators prior to the 1840s although the combined contribution eventually dropped later to less than 20 percent. Kentucky and the Lower South each supplied another five percent, although the latter group had almost doubled in size by the eve of the Civil War.<sup>126</sup>

Religious proclivities are less clear-cut. Too much missing data precludes the Ohio scenario from receiving meaningful statistical analysis. Based on a survey of anecdotal cases, it seems fair to say most common denominational choices were Methodism and, to a lesser degree, Presbyterianism. Baptists, Congregationalists, Lutherans, Catholics, “free thinkers,” and others, though, had a presence. The published compendiums on Tennessee legislators make some number crunching possible. About one-third showed some kind of denominational preference. Residual “unknown” cases perhaps contain others but they could simply be apathetic or outright irreligious. A few radical Democrats publicly declared their infidelity, while certain others instead avowed “world

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<sup>126</sup> Tennessee Biographical Directory.

religion.” A handful of legislators in each party, moreover, professed a belief in Christianity but rebuffed sectarianism.<sup>127</sup>

Whatever the proper classification of outlying cases in Tennessee, among individuals for whom information is available about half the church group can be identified as Presbyterian, split along party lines, leaning towards the Democrats in the late 1830s but then the Whigs twenty years later. While losing popular ground to Methodist insurgency, the old Calvinist denomination had been the popular faith of the pioneer generation and persisted disproportionately, evidently, amongst leadership circles much longer. Next in line were Methodists who grew from 10 percent of the church crowd around 1830 to almost a third of it over the next two decades, while conversion rates in the population at-large proved even more spectacular. In the late 1820s, when Methodist legislators were sparse, they tended to be Democrats. Later, Whigs held a slight edge among Methodist as legislators until the early 1850s.<sup>128</sup>

Baptists in Tennessee accounted for another one-fifth of the church affiliated legislators. They leaned towards the Whigs but notably declined in numbers by the 1850s, just when the Methodists were booming. A few other denominations also were present. Episcopalians were not so prevalent but, prior to the mid-1830s, they were a fifth of the church cohort. Afterwards they declined to less than ten percent. At the same

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<sup>127</sup> James Garfield, for instance, associated with the Disciples of Christ. Among Tennesseans, Whig Matthew Stephenson and Democrat Robert McNeilly were Presbyterians. Whig William Haskell and Democrat Abner Benton were Methodists. Democrat John T. Balch is described as “rough, wild, dissipated, cared neither for God or man.” McNeilly and Haskell cast mostly racist votes. Balch was a moderate. Stephenson voted as a “liberal.” Benton usually was absent. Peskin, Garfield, pp. 62-65; Tennessee Biographical Directory, pp. 25, 43, 343, 486, 698.

<sup>128</sup> Tennessee Biographical Directory. Some legislators shifted their apparent denominational preference over time, see Earl I. West, “Religion in the Life of James K. Polk,” Tennessee Historical Quarterly, 26 (Winter 1967):357-371.

time, a small band of mostly Democrats were affiliated with the Disciples of Christ. This group increased in numbers by the mid-1840s to ten percent of church men but never more. Finally, an occasional Lutheran, Catholic, or Congregationalist also popped up in the Tennessee legislature.<sup>129</sup>

Occupational backgrounds reflect a similar distribution across state lines although the Tennessee sample is complicated, even as it is enriched, by reporting of multiple pursuits for many lawmakers. Generally speaking, each party primarily contained farmers, usually about two-fifths or more of legislators were agriculturalists of some sort. Next in raw numbers came lawyers, about half as strong in Ohio but nipping at Tennessee farmers' heels by the 1850s. Another 15 to 20 percent were merchants. Finally, doctors, artisans, and editors, in the aggregate, numbered about the same size. A smattering of ministers also served. Of course, a crucial difference across state lines was the prevalence of so many slaveholders in the Tennessee general assembly, whereas in Ohio there were none. But, even then, Democrat and Whig legislators of the slaveholding class existed in roughly equivalent numbers.<sup>130</sup>

Subtle shades of difference did exist across party lines within each state. In Ohio, for example, Democrats drew more heavily on the more youthful men under thirty years of age and the most elderly who were at least fifty. Ohio Whigs disproportionately were in their thirties or forties. Ohio Democrats also were more likely to hail from the South or

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<sup>129</sup> An example of a member of the Church of Christ was Democrat Henry St. John. Whig John Fuson was a Missionary Baptist. Democrat James Gray was a Free Will Baptist minister. Episcopalians include Democrat George Peters and Whigs Ephraim H. Foster and Francis Fogg. Hervey Brown was a rare Roman Catholic; he was a Know Nothing and later a Republican in politics! St. John voted as a racist. Fusion and Fogg generally cast racist votes. Gray and Foster were moderates. Peters was mildly "liberal." Brown was frequently absent. Tennessee Biographical Directory, pp. 85, 254, 258, 269, 584, 647.

<sup>130</sup> Biographical Directory of the American Congress; "Ohio Biographical Appendix"; Tennessee Biographical Directory; Atkin's "Slaveholding Database."



Europe, although the combined total of the two groups constituted only one-fourth of the entire party. Ohio Whigs, by a slight margin, more often were native-born Buckeyes. New Englanders were disproportionately present, too, and by the 1850s constituted almost a fifth of the party. Finally, merchants more frequently identified in Ohio as Whigs or Republicans, while artisans tilted to the Democracy.<sup>131</sup>

In Tennessee certain differences also can be identified between Democrats and Whigs. Both parties did contain members with similar rates of legislative tenure but freshmen were more prominent among Whigs after the mid-1840s. By the late 1850s almost three-fourths were new faces. Prior to 1845, however, about half of Whig legislators had held some local township or county office. Not quite two-fifths of Democrats could make the same claim. Some differentials in age distributions, prior to mid-century, stand out, too. Around 1830, for example, youthful Democrats in their twenties outnumbered Whigs of the same cohort two-to-one. Amongst the most elderly legislators Whigs bested Democrats by the same ratio. By the late 1840s and early 1850s, however, a new pattern had things inverted only it manifested itself to a lesser degree before dissipating altogether.<sup>132</sup>

While both legislative parties in Tennessee ultimately were comprised heavily of native-born sons, Democrats disproportionately were born in the Middle and West grand divisions, whereas Whigs more often traced their birthplace to East Tennessee. Smaller contingents from the Lower South usually were Democrats; Kentuckians more often

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<sup>131</sup> Ibid.

<sup>132</sup> Ibid. Tennessee Whig Pleasant Wear, for example, was a county court clerk prior to his legislative service. Democrat Reece Hildreth was a circuit court clerk. Hildreth cast mostly racist votes. Wear voted as a "liberal." Tennessee Biographical Directory, pp. 364-365, 770-771.

Whigs. Finally, by ever so slight a margin, Virginians identified more with the Democracy. North Carolinians, for their part, were split.<sup>133</sup>

A more complex pattern in Tennessee emerges on occupational status. Prior to 1835, in Tennessee, Democrats were more likely lawyers and Whigs farmers. No pattern appears again until the late forties when farmers turned to the Democracy. Shortly thereafter, lawyers and doctors began to affiliate with the Whigs. Earlier, Tennessee merchants trended to the Whig Party but this association now faded. Artisans tilted to the Democrats in the late 1830s but were mostly Whigs a decade later, at least momentarily. Finally, while each party contained nearly equal numbers of slaveholders, Whigs held the edge in planters whereas Democrats did better amongst more numerous small-holders who owned less than five slaves. The median-sized slaveholders divided in party preference.<sup>134</sup>

#### IV. Characteristics of Racist Tennessee Legislators and Their Opponents

Although patterns fluctuate, often with regularity, and usually are not all that pronounced to begin with, certain recurrent trends in the data suggest personal background had something to do with reactions to racial issues. In the late 1850s, at a minimum, alignments clearly show in certain ways this was the case. In Tennessee, more seasoned lawmakers, along with most freshmen, marched in the racist vanguard, especially men with family political connections or military backgrounds. Another distinguishing trait is members of this group in the near future often served in the

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<sup>133</sup> Biographical Directory of the American Congress; “Ohio Biographical Appendix”; Tennessee Biographical Directory.

<sup>134</sup> *Ibid.*; Atkin’s “Slaveholding Database.”

Confederate government or its armed services. On average, these legislators were in their forties and usually had been born in Tennessee, just not the eastern grand division. A few did hail from Kentucky or the Lower South. What stands out, as well, is the large number of farmers associated with the racist faction, especially Whig planters and Democrat small slaveholders.<sup>135</sup>

At the same time the foremost critics of racist agendas in Tennessee show distinct traits of their own. Most college graduates fall into this camp as do men with limited experience at the state capitol (i.e. neither newcomer nor elder statesman). A disproportionate number remained loyal to the Union in the Civil War. The most youthful of legislators also were drawn to this camp; so were doctors, artisans, and editors. Methodists were common, too, but only amongst Whig ranks. On a larger scale, men born in East Tennessee predominated while North Carolinians had a presence, too.<sup>136</sup>

Prior to the 1850s, some things are foreshadowed but alignments, overall, are distinctive. Granted; freshman and veteran lawmakers had been following the same racist path since the late forties. Earlier, though, they had acted less deliberately. Actually, most new men in the legislature in the 1820s and early 1830s formed the core opposition to racist initiatives. Veterans, however, led the racist charge initially as party organizations were first forming. They then inverted that stance in the late 1830s for a decade or so before returning to it again in the 1850s. Those individuals that served as

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<sup>135</sup> Ibid.

<sup>136</sup> Biographical Directory of the American Congress; "Ohio Biographical Appendix"; Tennessee Biographical Directory.

Speaker in either branch, alternatively, and regardless of party loyalties, usually voted to the political center.<sup>137</sup>

Fluctuation is also apparent with regard to other things. Military men, for example, had not always been as racist as they became after mid-century. Earlier, when existing in much larger numbers (and more often Whigs), the voting tendency was more liberal or erratic. College grads shifted ground, too. Prior to inverting their stance in the 1850s, most had aligned with the racist faction. A more durable posture had legislators with family political connections firmly rooted in racist ranks throughout antebellum times.<sup>138</sup>

Generational configurations tended to be relatively constant. An exception is in the late 1820s and early 1830s, when youthful racists in their twenties squared off against colleagues just a few years older (i.e. in their thirties) or identified in records as “early settlers.” The prevailing pattern most of the time, pitted older racists against younger men. Naturally, peculiar dynamics fluctuated somewhat across time as generations matured and new ones arose. The longitudinal scope of the Tennessee data, fortunately, permits us to get a glimpse at how generational cohorts behaved across time as each grew older.<sup>139</sup>

Of course, high rates of turnover cannot be ignored. Legislators in their thirties, in other words, are rarely the same men from a decade before who had been in their twenties. Still, regardless of this discrepancy, lawmakers of similar generational cohorts, at least at some level, shared formative life experiences gained from coming of age in a

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<sup>137</sup> Ibid. Tennessee Whig Ephraim H. Foster, for example, was speaker in the House of Representatives in the early 1830s and again towards the end of the decade. He barely cast more racist votes than liberal ones. Democrat Landon C. Haynes was the speaker near mid-century. He cast racist votes.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

common era. Based on this analysis, the most racist individuals reached adulthood in early statehood but prior to the War of 1812. Later a new batch of future racists joined them who were born in the eighteen-twenties or early thirties and attained their majority in the late forties and fifties.<sup>140</sup>

The only substantial change in Tennessee legislators after mid-century, in terms of nativity, besides the growing prevalence of native sons, was that Virginians, a leading constituent element in the racist coalition heretofore, now faded in numbers. Not everything was constant regarding occupational status either. The farmer versus artisan dichotomy, though, did have deep roots going back to the 1820s. Doctors and editors were a more recent addition to opposition ranks since the mid-1840s. At that point, moreover, most farmers momentarily aligned with them for a few years. Previously, merchants, in addition, mostly voted against racist initiatives and briefly did so again in the early 1850s.<sup>141</sup>

The church crowd vacillated, too. Presbyterians mostly resisted racist initiatives prior to the mid-1830s, especially the Cumberland branch. Thereafter, they usually voted racist until the early fifties when they softened their stance. A tiny band of Episcopalians also tilted against the racist faction in the thirties before joining it in the next decade. Methodist dissent took shape in the early 1830s, as well, but did not abate much thereafter (at least among Whigs). The Disciples of Christ soon adopted a similar

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<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

posture. Amongst Baptists, early resistance to the racist faction faded by 1840 as adherents to this denomination increasingly dwindled in numbers.<sup>142</sup>

Factional alignments within parties sometimes differed from overall assembly patterns. Past legislative experience was not distinctive in this sense, except in the late 1830s and early 1840s when freshman Democrats acted more racist than party colleagues as a whole, whereas novitiate Whigs instead voted less racist for the moment than party associates. Democrats with family connections mirrored the pattern of assemblymen as a whole, regularly voting as racists. But Whigs with kinship ties broke this trend in the late 1830s and again in the 1850s.<sup>143</sup>

Tennessee military men, prior to mid-century, voted milder on racial issues than other members of their respective parties; only Democrats later drifted into the racist camp. Among future Confederates, it was not Locos but Whigs who took the racist lead. Yet their fellow party associates who stayed Unionists were often voting in the late 1840s against racist initiatives. Likeminded Democrats belatedly joined them in the next decade. The Masonic Brotherhood grew at a minimum from ten percent of assemblymen in 1830 to almost twice that size three decades later. Generally speaking, they voted against racist proposals, too. This pattern, however, did not manifest itself until the mid-1830s. It initially was more apparent among Democrats, at least until twenty years later when Whigs held the edge.<sup>144</sup>

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<sup>142</sup> Cumberland Presbyterians such as Democrat R. Farquharson or Whig M. McCorkle (Andrew Jackson's private physician) generally voted as "mild" liberals. Tennessee Biographical Directory, pp. 242, 472; Joseph H. Parks, ed., "Letter Describes Andrew Jackson's Last Hours," Tennessee Historical Quarterly, 6 (June 1947):176-178.

<sup>143</sup> Tennessee Biographical Directory.

<sup>144</sup> *Ibid.*

Generational cleavages across party lines in the late 1850s, it will be recalled, pitted racists, mostly in their forties, against younger men primarily in their thirties. Among Whigs, however, the youngest cohort of legislators in their twenties regularly voted the most racist. The most elderly scattered across party lines. In many ways, though, this overall configuration, at least for Democrats, was a new departure. Prior to 1845, the most racist Tennessee Democrats were younger men. The Whigs did not reflect the same pattern. Afterward, however, things inverted. Now, the most youthful Whigs began voting in a racist fashion. Overall, though, Whigs in their forties were the main body of leading racists in the party.<sup>145</sup>

Intra-party factions among Tennessee legislators are even more complex with regard to distribution of birthplaces. Around 1830 both parties featured racists primarily from North Carolina. In opposition were most Democrats or Whigs born in East Tennessee. Virginians if Democrats aligned with the former group; if Whigs, with the latter. After the mid-1830s, however, preeminent Democrat racists were Virginians, joined by a small clique from the Lower South. Locos born in East Tennessee acted similarly prior to the mid-1840s. By the late 1850s, they especially moderated their stance, as did Democrats born elsewhere in the state, North Carolinians, and a handful of northern transplants.<sup>146</sup>

A foremost division within the Tennessee Whig ranks reflected an intra-state split. Comparatively speaking, the eastern grand division produced the lesser racists. By the late 1850s Kentuckians augmented the numbers in the racist camp whereas East Tennesseans now scattered. North Carolinians and Virginians, while no longer sizeable

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<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

in numbers, took their place. In short, except for the “mild” stance of North Carolinians, party alignments inverted. Whereas racist migrants predominated in Democratic circles, the opposite was the case in the Whig Party. Within its ranks, the staunchest critics of racist agendas by the 1850s had been born outside the Volunteer State.<sup>147</sup>

Most Tennessee church men tilted against the racist camp although Presbyterians vacillated over time. No clear pattern stands out prior to the mid-1830s except that Presbyterians across party lines, Democrat Baptists, and Whig Episcopalians were the least racist. By 1840, Presbyterians in either party now regularly acted racist. So did Baptists. At the other end of the scale were Episcopalians and Democrat Methodists. By mid-century some notable changes had occurred. Granted, Presbyterians still predominated as among the more racist elements in the Whig Party. Among Democrats, Presbyterians were amongst the least racist. So were Disciples of Christ. Within Whig ranks it was the Methodists. In the Loco coalition, however, their fellow congregants became leading racists. Episcopalians across party lines moved in the same direction. Baptists went the other way but their numbers had dissipated dramatically.<sup>148</sup>

Occupational status also generated some unique cleavages within and across party lines. In 1834 certain Whig lawyers faced accusations from fellow party members of cavalier disregard for African-American rights. Voting patterns lent some credence to the allegation. Between 1825 and 1835, in other words, a leading racist faction in each party was comprised of lawyers. Whig farmers also allied with them. Most merchants and artisans went the other way. By the mid-1840s this configuration had not changed

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<sup>147</sup> Ibid.

<sup>148</sup> Ibid.



except doctors and editors joined with the latter. At the same time, Democrat lawyers abandoned their racist stance to fall back into the party rear with the merchants. At the forefront of racist Democracy emerged a new coalition featuring farmers in addition to doctors, artisans, and editors.<sup>149</sup>

Connections between Whigs' occupational background and racial voting blurred after the mid-1840s. The only group not scattering was doctors who sustained their earlier milder stance. A decade later, at least momentarily, racist lawyers squared off again against merchants. Although the bulk of the leading racists, in absolute numbers, were farmers and lawyers, each of these cohorts as a whole was divided. More demonstrably, merchants, doctors, artisans, and editors voted towards the bottom end of the racist scale. Except for merchants, the same held for Democrats. Doctors, artisans, and editors were the slackers on the racist front. Merchants instead scattered in the late forties and early fifties before shifting thereafter increasingly into the racist camp. Some flip-flopping otherwise also occurred. By the late 1850s farmers led the racist pack while lawyers followed in the rear. Prior to then, it was the other way around.<sup>150</sup>

On occasion, in Tennessee, intra-party variations reflected disparities in the scale of personal slaveholdings. Whig planters, regardless of occupation, consistently acted in a racist manner. Within their party, this durable commitment is unique. While not huge in size, this faction did exercise much clout. Non-slaveholding yeoman farmers and artisans stood against them as did slaveholding lawyers and doctors. Small slaveholding farmers

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<sup>149</sup> Ibid.

<sup>150</sup> Ibid.

acted similarly, as well, but later aligned with the planters in the 1850s. Merchants--if not planters--took their place.<sup>151</sup>

The Tennessee Democrat alignment was somewhat different. Slaveholders did provide the lion's share of racist votes. Amongst Locos, however, the main surge came from median-sized slaveholding farmers, along with a few doctors, lawyers and artisans. At the other end of the racist scale were most rural planters and small slaveholding lawyers. By the 1850s, however, this pattern was gone. Merchants and lawyers, usually planters or small slaveholders, now were the core racists, along with a few artisans. At the other end of the party spectrum are doctors and small slaveholding farmers.<sup>152</sup>

Cross-tabulation of religious denominational data and slaveholding information did little damage to earlier assessments of each variable treated in isolation. Planters, regardless of church affiliation, most often stand out as racists. Disciples of Christ affiliates proved a different animal. Mostly Democrats, this cohort was split between slaveholders and non-slaveholders. In either case, racist voting was less common than the statewide norm. Episcopalians were few in numbers, too, but almost equally divided along party lines. Almost four-fifths of them owned slaves, making this denomination the largest group of slave masters, proportionately speaking, in the legislature. Amongst Episcopalians, however, only Democratic planters regularly voted for racist measures.<sup>153</sup>

Next in size were Baptists, also divided between Democrats and Whigs. About two-thirds of the former owned slaves; only a third of latter did. Baptist planters voted a more

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<sup>151</sup> Tennessee Biographical Directory; Atkin's "Slaveholding Database."

<sup>152</sup> Ibid.

<sup>153</sup> Ibid.

advanced racist position. So did the “unknown” slaveholding category of Democrats. Most Whig Baptists were lesser racists. Methodists ultimately became more sizeable and increasingly trended to the Whigs. About two-thirds of Methodists, regardless of party affiliation, were slaveholders. Democrat Methodists, especially after the thirties, spearheaded the racist camp. Only Whig planters followed suit.<sup>154</sup>

Presbyterians, throughout the decades, remained the largest denominational cohort in the legislature although Methodists were closing the gap as time passed. Democrats and Whigs each split down the middle in terms of slaveholders versus non-slaveholders. Among Whigs, the leading racists were planters. For Democrats it was median-sized slaveholders (and associates that defy classification).<sup>155</sup>

In the final tally, planters acted the most racist, especially in Middle Tennessee, although Whigs from more western districts did so, too. Despite similarities, some disparities among planters across party lines also are evident. Whigs, for example, often were in their thirties, engaged in agricultural pursuits, or born in North Carolina. Democrats, alternatively, mostly were in their forties, practitioners of the law, or Virginians. The only planters to eschew the racist vanguard in their respective party were East Tennessee Whigs and West Tennessee Democrats.<sup>156</sup>

Much less racist, too, were median-sized slaveholders although, to be certain, Middle Tennessee Democrats are an exception. Generally speaking, men in this slaveholding cohort were in their forties or Virginians (although a few hailed from the Deep South).

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<sup>154</sup> Ibid.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid.

East Tennesseans, regardless of party, acted milder; so did small slaveholders and enumerated non-slaveholders, particularly if Whig. By the 1850s, however, such West Tennessee Democrats had shifted into the advanced racist camp. These men often were in their twenties, artisans, North Carolinians, or Methodists.<sup>157</sup>

## V. Characteristics of Ohio Racist Legislators and Their Opponents

The data available for Ohio, while far less encompassing also seemingly indicates personal experiences and associations at times related to racial voting. Veteran legislators, as well as former soldiers, for instance, generally acted racist compared to lawmakers newer to the state capitol or who had a college degree. For awhile, freshman legislators voted as leading racists in the 1830s. But, after mid-century, the Republican insurgency recast things the other way.<sup>158</sup>

Some generational conflict also is evident. Prior to 1856, for the most part, older lawmakers acted more racist than younger colleagues. The congressional sample reveals this pattern as does the more complete rendering of legislators for the session of 1854. Thereafter, the most youthful element aligned itself with the racist vanguard, although it is important to understand this group filled less than ten percent of legislative seats. With respect to occupational status, farmers, along with artisans, were the foremost racists.

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<sup>157</sup> Ibid.

<sup>158</sup> Examples of military men include Democrat Jonathan Taylor who was a brigadier general in the state militia and Whig Duncan McArthur who had been a brigadier general of volunteers in the War of 1812 as well as a militia major general. Taylor voted as a racist; McArthur did so most of the time. Democrat John Chaney had “limited” schooling whereas fellow party member James Faran was a college graduate. Both men voted as racists. Whig Joseph Ridgeway attended public schools. He voted as a moderate. Whig Francis Muhlenburg not only was a college graduate, he had been the private secretary to the governor of Pennsylvania. He voted mildly “liberal.” Biographical Directory of the American Congress, pp. 705, 928, 1357, 1451, 1609-1610, 1796; “Ohio Biographical Appendix.”

Merchants most consistently voted against them; prior to the late 1850s so did most lawyers and doctors.<sup>159</sup>

Southern nativity was a racist marker throughout the antebellum era for Ohio. Still, the presence of southern-born men dropped from 20 percent of assemblymen in the late 1840s to half that amount in the next decade (although many lawmakers still traced their remote ancestry to the South). Prior to mid-century, migrants from the Mid-Atlantic States regularly cast a lot of racist votes, also, and they constituted the largest contingent on the scene. New Englanders formed the most unified core opposition. Foreign immigrants stood alongside them, at least until the 1850s when they crossed over to the more racist side. Because most legislators had resided in Ohio for decades, new arrivals in the state after mid-century are extremely sparse in numbers, whether foreign immigrant or American migrant. Despite small numbers, however, newer residents also now joined the racist camp, while most old-time residents demurred.<sup>160</sup>

Factional alignments within each party often reflected these same configurations but discrepancies exist, too. Across party lines, for instance, military men acted more racist. Lawmakers with some limited legislative experience, along with college graduates, did not. The only real difference in terms of legislative experience was most freshmen

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<sup>159</sup> Democrat David Disney was a lawyer. Fellow party member William Lawrence of Guernsey County was a farmer. Both men most often cast racist votes. Whig Ephraim Eckley was a lawyer whereas William P. Cutler was a farmer. Both men voted as “liberals.” Democrat Robert T. Lytle was twenty-four years old when he entered the lower chamber in 1828. He voted as a racist. Republican Richard Harrison was the same age when he was elected to the legislature thirty years later. Harrison split his votes but more often voted the racist position. Biographical Directory of the American Congress, pp. 818, 864, 897, 1078, 1270-1271, 1320; “Ohio Biographical Appendix.”

<sup>160</sup> Democrat James Bell and Whig David Chambers both were born in Pennsylvania. Bell voted as a racist; Chambers was a moderate but tilted in the same direction. Democrat Joseph Burns was a Virginian; so was Whig Elias Florence. Both men voted as racists. Finally, Democrat James Kilbourne was from Connecticut. He most often cast racist votes. Erasmus Peck, a Republican, also hailed from Connecticut but he voted mildly “liberal.” Biographical Directory of the American Congress, pp. 576, 674-675, 952, 1013, 1232, 1469; “Ohio Biographical Appendix.”

Democrats began voting disproportionately racist in the late 1820s, while this same cohort amongst Whigs came as a more belated arrival, before the pattern within both parties dissipated in the early 1840s.<sup>161</sup>

Insofar as generational conflict is concerned, Ohio Whigs generally mirrored the norm in the assembly as a whole, featuring older racists pitted against younger critics. Later, Republicans adopted an inverted posture (although youthful racists account for only five percent of party seats). The Democrat pattern also changed in the 1850s but the earlier alignment was rather complex. To be sure, racists in their forties generally faced off against colleagues in their thirties. What made the Loco case different was that the young men in their twenties, who filled about ten percent of legislative seats, aligned with the racists. The most senior group, which accounted for double the number of seats, voted against them. In Ohio in the 1850s everything turned around.<sup>162</sup>

When it comes to connections between voting behavior and site of nativity, the basic trend within each party is almost identical. Prior to mid-century, legislators born in the Mid-Atlantic States or the South, regardless of party, usually voted in a racist manner, while New Englanders and foreign-born Democrats tilted the other way. By the 1850s, however, Democrat racists tended to be homegrown Buckeyes (and in the session of 1854 New Englanders acted so, too; they were mostly from Connecticut or New Hampshire). Foreign-born Democrats, while voting more racist than most Republicans, still trailed behind their own party colleagues on such matters. In addition, a southern racist connection endured the transition from Whig to Republican, as did the foreign-born

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<sup>161</sup> Biographical Directory of the American Congress; "Ohio Biographical Appendix."

<sup>162</sup> Ibid.

association (which provided only about two percent of the party membership). New Englanders continued to act the least racist.<sup>163</sup>

In early times residency patterns seem connected to voting behaviors. During the 1820s, amongst men in the state less than a decade, when this contingent supplied two-fifths of all legislators, Whigs were the beneficiaries by a margin of two-to-one. Regardless of party affiliation, however, the newcomers aligned with the more racist elements, respectively, in each coalition. Old-time Whig residents, while a minority, stood on the other side. After 1830, this alignment disappears and a new configuration emerges amongst Democrats. Now, the median class of residents, who had resided ten to thirty years in the state, donned the racist mantle against newer arrivals and old-timers. Finally, in the 1850s, the old pattern pitting newer arrivals against longtime residents resurfaced, only the former group account for less than ten percent of all legislators and had become mostly Democrats.<sup>164</sup>

A more pronounced shift in voting behavior involved occupational cohorts. In the aggregate farmers and artisans were the leading racists and stood against lawyers, merchants, doctors, and editors. Within the Ohio Democracy, some of these trends did have deeper roots. Prior to mid-century, for example, racist artisans already paired off against doctors and editors. Thereafter, Democrats mirrored the broader assembly pattern; racist farmers against lawyers. Prior to then, though, farmers had scattered. Artisans afterwards did the same thing. Early on, lawyers had been a leading fount of

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<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

racism before inverting this posture very late in the day. Merchants, finally, did not really show any pattern until the 1850s when they voted racist more aggressively.<sup>165</sup>

The pattern that Whigs exhibited more closely resembles the Ohio assembly as a whole. Farmers and artisans, prior to the 1850s, were leading racists. Lawyers, merchants, and doctors led the opposition. Later, after the Republican Party appeared, a new alignment emerged. Now the foremost racists (still a far cry less militant than most leading Democratic counterparts) were lawyers, merchants, and doctors—the very groups that historically trended the opposite as Whigs. Republican farmers, unlike numerous Democrat agriculturists, became more staunch opponents of the foremost racists in their party's ranks.<sup>166</sup>

## VI. Conclusion

Certain personal traits or life experiences of state legislators associate with racial voting behaviors. In Tennessee family political connection is a reliable indicator of racist proclivities whereas a Masonic connection is not. Whig Presbyterians and Democrat Methodists voted more regularly as racists compared to members of other denominations. By the 1850s, future Confederates did so, too; Union men often voted milder. Finally, amongst Whigs throughout the era, rural planters and slaveholding lawyers were leading racists. Within the Democracy, they were found among median-size slaveholders and, by the 1850s, small slaveholders, too.

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<sup>165</sup> Ibid.

<sup>166</sup> Ibid.



Other things lend themselves better to cross-state comparisons. For example, legislators with limited experience, regardless of party or state, were among the least enthusiastic about racist agendas. College graduates, by the 1850s, were, too. More erratic were senior statesmen, freshman legislators, local officeholders, and military men. A generation gap at times was salient, especially prior to the mid-1830s. In general, throughout antebellum times, such cleavages featured older racists, usually in their forties, against younger men, most often in their thirties.

Occupational niches seem an almost perennial factor but alignments are not constant. By the late 1850s most farmers voted as racists in both states. Prior to then, agriculturists vacillated whereas merchants and doctors trended to the milder end of the scale. Lawyers became less racist over time. Generally speaking, then, farmers, lawyers, and merchants—the three largest occupational groups—often shifted ground.

Cultural baggage brought from the land of one's birth also seemingly was at times important, especially prior to mid-century. In Tennessee, the normative alignment had racist legislators born in central or western Tennessee, along with Virginians, on one side against men born in East Tennessee and North Carolina on the other. In Ohio, the racist faction drew heavily on Pennsylvanians and southerners. New Englanders were on the "soft" side. New migrants at times--early and late--trended racist as well, but their numbers were rather insignificant by the 1830s.

This analysis suggests historians ignore at their peril possible effects of common life experiences, cultural upbringing, and private associations when evaluating collective responses to racial issues. It is far too simplistic to speak about racial behavior in terms of a monolithic northern or southern persuasion, Democrat or Whig inclination, for

dissenters existed in all these camps, despite different central tendencies across state and party lines. Certain common traits of legislators that voted the same way, for example, seemingly transcend party loyalties. Yet cautionary warnings are in order. The similarity in the composition of each party means historians must be careful about drawing inferences based on assumptions about absolute two-party disparities when the parties actually held internal divergences.

When we learn most youthful legislators—those men under thirty years old--voted regularly as racists, for instance, and members of this class were Democrats by a two-to-one margin, it seems logical to conclude young Democrats were leading negrophobics. While such surmise undoubtedly has merit, it is important to understand this contingent filled only eight percent of legislative seats; moreover, within the Democracy, this youthful element was the least racist in relative terms.

A similar example involves foreign-born legislators in 1850s Ohio. Overall, these immigrants voted as racists. By a three-to-one margin they also were Democrats. Yet, in overall numbers, they supplied only four percent of all assemblymen. Amongst Democrats, in addition, the foreign-born voted less racist than other Democrats, as they had done for decades. Actually, it was the foreign-born Republicans that voted more racist than party colleagues, although these men usually were Britishers, Canadians, or an occasional German, rather than Irish.

No cohort tested, if should be emphasized, acted without cleavages. Alignments in voting behavior thus reflect proportional tendencies rather than absolute polarities and, as such, require constant awareness of nuance. Usually, indeed, it requires multivariate analysis to tease out discernible patterns. At times, the characteristic measured overlaps

closely with party attachment, suggesting political outlooks dovetailed with this particular trait rather than was overshadowed by it. All of this is to say that personal backgrounds of state lawmakers are definitely a piece of the puzzle; additional biographical research is warranted. At the same time, it is clear the story is not complete.

Many state legislators, no doubt, acted on personal considerations when addressing racial issues, most especially, it seems, prior to the 1840s. As party apparatus became more durable and electioneering machinery more sophisticated, however, things began to change. With elevated rates of voter turnout and an increased electorate blanketed in “whiteness,” elected public officials became increasingly sensitive to concerns and interests of constituent circles. Henceforth, they more frequently cast votes which, allegedly, represented collective opinions back home, rather than the personal judgment of the lawmaker alone. Slowly but surely the institutional norms of the legislature took on the trappings of party mechanisms; now public men became increasingly subjected to pressures of party discipline. These developments, it seems, are essential considerations which warrant further investigation as a point of departure for beginning to round out the tale of the politics of race in these states during antebellum times.

## CHAPTER IV

### RACIST LAWMAKERS AND CONSTITUENT BASES

#### I. Introduction

This chapter examines possible relationships between racial voting at the state capitol and demographic characteristics of constituent bases. The initial task was to identify members of each county delegation and their party loyalties to determine whether a local trend was to consistently elect Democrats or Whigs; or if the constituency began in one mode but become another. Next, the racial voting record of each legislator was examined for the session(s) in which he served; aggregated results then became a basis for classifying racist tendencies of county populations.<sup>167</sup>

In addition, we learn about local variation in terms of the consistency with which different elected public officials from the same place cast racist votes compared to neighboring county delegations. It is possible to detect differentials in the electorate and thereby distinguish areas known for electing racist lawmakers from those which did not do so as frequently. Many of the alignments in each state, moreover, are reflected within both legislative parties, suggesting constituent-compliant concerns at times took

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<sup>167</sup> The county “voting score” is the average of the summed total for all members of the delegation. I also calculated a “party score” for each locality, too. The trend in electing members of one party or another was crosschecked against grassroots voting in statewide elections reported in the state press or in Hopkins and Lyons, Tennessee Votes, pp. 12-44.

precedence over voting a party line. Yet dichotomies are always messy and are found only in a few constituencies.<sup>168</sup>

Some state officials did act more independently, often citing purity of old republican credentials and confidence in their own judgments. As has been seen, some shared experiences also shaped racial behaviors. Other lawmakers turned for guidance to informed friends or took cues from “opinion makers.” We know from anecdotal cases that men that sat next to each other, or boarded together, sometimes voted alike. Personal correspondence shows certain lawmakers, in addition, clandestinely sought to manipulate others’ actions. Nor should the party “tin-pan” caucus be forgotten. Still, given qualification, it seems legislators paid some heed to opinions and peculiar interests of citizens in home districts, particularly as the “new political style” of democratization grew in power, even if not everybody touted the doctrine of instruction with the same enthusiasm as did some Democrats.<sup>169</sup>

At the risk of oversimplification, the findings of this inquiry can be summarized in rather straightforward fashion. Counties that elected leading racists, in general, were urban areas (with large foreign-born populations if in Ohio) and certain wealthier farm districts. The counties on the flip side of the coin were certain poorer, less-developed

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<sup>168</sup> In West Tennessee, for example, delegations from Haywood County regularly cast racist votes. This county moved from the Whig into the Democrat column in the late 1850s. Legislators from neighboring Gibson County, mostly Whigs and it remained so, voted mildly “liberal.” In northern Ohio, Richland County representatives mostly were in the racist camp. Legislators from right next door in Morrow County, however, voted as “liberals.” Both counties returned primarily Democrats until the 1850s when the Republican Party made inroads in each locality.

<sup>169</sup> Theodore C. Smith, The Life and Letters of James Abram Garfield (New Haven: Yale University Press, 1925):144; “Legislative Proceedings,” in Ohio State Journal, January 11, 1839; Salmon P. Chase, “The Diary and Correspondence of Salmon P. Chase,” Annual Report of the American Historical Association, vol. 2 (Washington, D. C.: Government Printing Office, 1902); Hamlin, “Selections from the William Greene Papers”; Hamlin, “Selections from the Follett Papers”; “Letters of James K. Polk to Andrew J. Donelson, 1843-1848,” Tennessee Historical Magazine, 3 (March 1917):51-73; “Letters of John Bell to William Campbell, 1839-1857,” Tennessee Historical Magazine, 3 (September 1917):201-227.

rural communities, at least in terms of farm values, crop mixes, and literacy rates. The pattern changed in the 1850s, although much continuity persisted and some crossover activity was important, too. In other words, the divide in Ohio had become a contest between “racist” counties with larger foreign-born populations and more liberal-minded places where native-born Americans more predominated. The Tennessee cleavage had “racist” literate counties with denser slaveholdings juxtaposed against poorer rural communities engaged in small-scale tobacco production with relatively few slaves.<sup>170</sup>

While not solving the entire puzzle, this investigation does indicate that the representative function of state legislators merits close examination. Granted, the evidence provides only a brief glimpse at configurations at an episodic interlude of time. We do not know for sure, for example, what was going on in earlier times. Finally, in the absence of interaction with party attachment or other variables, demographic characteristics still leave much unexplained.<sup>171</sup>

## II. Identifying the Voting History of County Delegations and Grassroots Orientations

This undertaking was mine-laden because of the many assumptions that had to be made in coding and tabulating the data. It seems a reasonable surmise, for example, that certain voters cast ballots without much reflection on racist proclivities of candidates or

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<sup>170</sup> J. D. B. DeBow, Seventh Census of the United States, 1850, Embracing a Statistical View of Each of the States and Territories (Washington, D. C.: Robert Armstrong, 1853); J. D. B. DeBow, Statistical View of the United States . . . Being a Compendium of the Seventh Census (Washington, D. C.: A. O. P. Nicholson, 1854); Joseph C. G. Kennedy, Preliminary Report on the Eighth Census, 1860 (Washington, D. C.: Government Printing Office, 1862); J. C. G. Kennedy, Population of the United States in 1860 (Washington, D. C.: Government Printing Office, 1862).

<sup>171</sup> Examples of legislators claiming constituent sentiments influenced political behaviors are located in “Legislative Proceedings,” in Ohio State Journal, February 10, 1847, January 20, 1849; Smith, Official Reports, p. 11; Nashville Republican, December 21, 1859, January 15, 1860.

alleged differences. Most citizens probably had little specific awareness of voting records at the state capitol either, although newspaper editors tried to rectify public ignorance. Still, it seems probable that constituents had some general impression about racial views of political leaders, even if detailed knowledge was lacking.<sup>172</sup>

It seems likely, moreover, that legislators secured election for reasons relating to other things than racial imperatives, even when such considerations were involved. Some assemblymen served only one session wherein they voted unlike predecessors or men who came later, although it is not always clear if racial actions played a role in their failure to return for a second term. To adjust for skewing effects of these cases, I examined a subset of legislators that served in multiple sessions. A rare few served twenty years or more; several came and went before resurfacing later. At a minimum, this cohort identifies counties which perpetuated men in the legislature whose views on racial issues should have been better known to the public. While voters perhaps returned them due to non-racial considerations, it is important that the electorate did not find the leaders' racial posturing to be so offensive as to oust them from office.<sup>173</sup>

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<sup>172</sup> The Whig Scioto Gazette on October 7, 1850, made it seem that the Democratic gubernatorial candidate's views on racial issues were uncertain due to his extended service on the state high bench. The article was entitled "Judge Wood the 'Nigger' Candidate." West Tennessee voters evidently were uncertain where Jimmy Jones stood on certain issues prior to his abandonment of the Whig Party and entry into Democratic ranks, see Ray G. Osborne, "Political Career of James Chamberlain Jones, 1840-1857," Tennessee Historical Quarterly, 7 (December 1948):322-334..

<sup>173</sup> Democrat James Shields from Butler County, Ohio served consecutively in the House of Representatives for more than twenty years. He most often cast racist votes. Whig David Chambers served sporadically in nine sessions of one or the other branch of the legislature between 1814 and 1844, before becoming a delegate to the constitutional convention at mid-century, too. He voted as a moderate but tilted toward the racist position. Tennessee Whig Christian Carriger served eighteen years in the state legislature between 1811 and 1839. He was a moderate, too, but leaned in a more "liberal" direction. Democrat Franklin Buchanan served between 1837 and 1843, as well as 1847 to 1849, although he bolted to the Whig Party in 1839. He most often cast racist votes. Biographical Directory of the American Congress, pp. 772, 1691; Tennessee Biographical Directory, pp. 93-94, 124-125.

This tool for comparison does not eliminate all problems. In particular, the overall strategy necessitated a plethora of assumptions about what to do about various things, such as absentee legislators--whether they were present and abstaining or simply not there. Certain roll-calls, after all, show some legislators at times abstained as a group; non-voting could be a tactical choice. In assessing continuity and change, there were additional problems arose on how to adjust for creation of new counties, division of old ones, or districts combining two or more together. Lest it be forgotten, each legislator, attending a different session, responded to a set of proposals that framed racial issues differently, which complicates bald comparisons.<sup>174</sup>

After charting the voting record of each county delegation I compared it with demographic information relating to each locality extracted from the printed version of the federal census. This undertaking also has its hazards. The census of 1830 does not contain much relevant information. By 1840 more is there but not much. Widely conceded errors, pertaining to racial classifications, however, puts this document's overall reliability at extreme risk. For the most part, I relied on compilations published in 1850 (and 1860). The mid-century census was essential as it provides valuable information before eclipse of the Whig Party. Appendices in Tennessee legislative journals, by the late 1830s, also began to include tabular reports listing county-level data on slave numbers and values, landed wealth, county wealth, and carriage ownership.<sup>175</sup>

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<sup>174</sup> In some cases, of course, members asked to be excused from voting such as when such a motion was made in the Ohio legislature in the mid-1850s on a resolution to expel a black reporter from the press gallery, see Journal of the Ohio Senate (1854):107; Randolph Downes, "The Evolution of Ohio County Boundaries," Ohio State Archaeological and Historical Society Publications, 36 (1927):340-477.

<sup>175</sup> "Demographic Appendices" to Journals of the Tennessee Senate and House of Representatives (1839-1853); Abstract of the Returns of the Fifth Census (Washington, D. C.: Duff Green, 1832); DeBow, Seventh Census of the United States, pp. 564-597, 810-879; Kennedy, Eighth Census of the United States, pp. 364-399, 456-471; Edward Jarvis, "Insanity Among the Colored Population of the Free States,"



How to classify and weight the data, and account for omissions, also involved much conjecture which, while defensible, is not the only way one could conceptualize things. In order to minimize misreading of evidence, it was scrutinized in a variety of ways. I manipulated the material, first one way and then another, while examining characteristics of each county in terms of prevailing conditions therein as well as how it compared to the normative case elsewhere in the state and local region. Nonetheless, my findings, if based on extensive number crunching, are essentially impressionistic and hardly incontrovertible.<sup>176</sup>

Straightforward correlations, in most cases, were not readily detected on a statewide basis. But in more restricted spatial applications, some coincidence seemingly appears for certain combinations of variables. Generally speaking, my method was to sort the county-level census data in terms of absolute numbers reported, then convert these entries to per capita averages, while comparing results in each case to the voting records of legislators. Sophisticated statistical modeling bore scant fruit in terms of simple dichotomous cleavages that might explain much overall variance. Yet, some connections are more evident when interactions amongst several things are examined, at least in terms of observed deviations from standard norms in localized parts of each state.<sup>177</sup>

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American Journal of Insanity, 8 (1852):268-282; Edward Jarvis, "Insanity Among the Colored Population of the Free States," American Journal of the Medical Sciences, 7 (1844):71-83; Edward Jarvis, "Statistics of Insanity in the United States," Boston Medical and Surgical Journal, 27 (1842):116-121, 281-282; Albert Deutsch, "The First U. S. Census of the Insane (1840) and Its Use as Pro-Slavery Propaganda," Bulletin of the History of Medicine, 15 (1944):469-482; also see "Speech of Jacob Brinkerhoff," in Congressional Globe, 28<sup>th</sup> Congress, 1<sup>st</sup> Session, appendix, p. 120; "Error in 1840 Insane Census," in Ohio State Journal, February 28, 1844..

<sup>176</sup> Most of my analysis is based on measuring standard deviations from normative trends within sub-regions of each state. For Tennessee, the three grand divisions were used as categories. In Ohio, it was the southern and northern parts of the state.

<sup>177</sup> Multiple regression analysis was based on examination of lawmaker voting scores, county returns in proximate gubernatorial elections, and per capita county data drawn from the printed federal census. For

For example, slaveholding data at mid-century for Tennessee counties, once measured alongside legislative voting patterns, indicates slave districts often elected racists. Communities with few slaves, in relative terms, returned more liberal-minded men. Expressed in different terms, however, what this exercise detected is the intramural contest between different grand divisions of the state. This cleavage featured racist legislators from central and western districts against men from the east. Yet polarity was not absolute. Before mid-century, the disparity in tendencies existed by a ratio of two-to-one. During the late 1850s, racist responses appear on three-fourths of votes legislators cast from central or western counties. Racist voting also increased in the east but not to the same degree. Overall, legislators in the eastern part of the state now scattered their votes.<sup>178</sup>

Obscured in this analysis is the possible importance of a local pecking order, especially given the existence of pockets of dissent within each region. In other words, it is helpful to know whether legislators from larger slaveholding counties in East Tennessee, even if miniscule compared to plantation areas elsewhere, were more or less

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Ohio, for example five analyses were conducted on scalograms relating to repeal of the black laws, a ban on black entry into the state, black suffrage, creation of black schools or their maintenance, and slavery extension. Twenty-three variables were extracted from census data to measure market orientation, religious denominational preference, and ethnic/racial demographics. The final stepwise regression included the variable in each area that showed the highest correlation with the scalograms. The results differed depending upon the sub-issue domain and, in addition, reflect intra-state variation. For example, the variance explained on the entry ban scalogram was .30 but only .16 on the slavery extension scalogram. In northeastern Ohio, however, the former rose to .65 and the latter to .55. Party was the predominant statewide variable but within sub-regions a slightly different mix emerged. The most racist voting record associated with districts where the production of household manufactures was common, the Universalist Church had less of a presence, and local blacks were more prevalent. In Tennessee, the most notable variables were cotton production, slave populations, and the Episcopal Church. Much of the analysis across sessions, therefore, is based on recurring patterns in the data wherein the same set of interactive variables, combined in more complex ways, repeatedly produced a widely divergent result across most issue niches within certain regions rather than statewide as a whole.

<sup>178</sup> Paul Bergeron, *Antebellum Politics in Tennessee* (Lexington: University of Kentucky Press, 1982); Chase C. Mooney, *Slavery in Tennessee* (Bloomington: Indiana University Press, 1957); Abernethy, *From Frontier to Plantation in Tennessee*; Walton, "The Second Party System in Tennessee," pp. 18-33; DeBow, *The Seventh Census*, pp. 573-574.

racist than colleagues from neighboring local places where slaves were comparatively rarer. With respect to Ohio, for example, it is important to grasp that men from southern counties voted more racist than did legislators from counties above the National Road, and especially on the Western Reserve. What would prove useful is to know about disparities within each place.<sup>179</sup>

Once county units were thus examined, what was somewhat surprising, given the complexity of classification schemes deployed, was how repetitively certain patterns emerged transcending party and sometimes state lines. In brief, certain demographic features of counties that elected racist legislators regularly differentiate these areas from communities that most often did not. At the same time, most perceived associations are subtle, involve relatively few cases, or require interaction of multiple variables. On its own, no single factor tells us much.

### III. "Tickling the Ears of Groundlings": Modifications in Political Behaviors<sup>180</sup>

Determining whether state legislators actually cast votes on racial roll calls based on constituent considerations is a tricky business. Some lawmakers explicitly made the connection; many more alluded to it. An Ohioan related he planned to vote in the current session according to what he suspected were the racist sentiments of folks back home but swore, if re-elected, no longer to do so. Whether we should take such statements at face

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<sup>179</sup> Historians also detect different local "pecking orders" in terms of the distribution of wealth across grand divisions, see Robert Tracy McKenzie, "Civil War and Socio-Economic Change in the Upper South: The Survival of Local Agricultural Elites in Tennessee, 1850-1870," Tennessee Historical Quarterly, 52 (Fall 1993):170-184. On the distinctiveness of the Western Reserve, see Albert G. Riddle, "Rise of Antislavery Sentiment on the Western Reserve," Magazine of Western History, 6 (June 1887):145-156.

<sup>180</sup> Ohio State Journal, January 28, 1846.

value is debatable. What his comments do show more patently is legislators sometimes related voting choices to concerns about constituents.<sup>181</sup>

We do know each party at times modified its posturing; in many cases, vote-catching was probably involved. At a minimum, not everyone was wedded to the same fixed stance. Although boom and bust cycles of the emerging market economy can be only roughly estimated, such an attempt indicates parties did not always act uniformly across the cycle of boom and bust. Tennessee Democrats behaved more racist, for example, during periods of economic distress. Democrats in Ohio did so, too, if the issue niche under review is banning black entry into the state. At the same time, Locos became less frenzied about restrictions on resident African Americans. In flush times, it was the opposite. During those interludes, Whigs pushed harder for public funding of black education and colonization plans.<sup>182</sup>

Voting behavior might change depending on whether a party held a majority of seats in a session or not. In terms of legislation introduced into the assembly, the relative distribution of racist and ameliorative bills and resolutions each party sponsored did not always hold constant across sessions wherein the party balance-of-power was different. In the early 1830s, for instance, Tennessee Whigs account—barely—for introduction of most racist proposals. This pattern then disappears. Democrats thereafter sponsored 80

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<sup>181</sup> “Legislative Proceedings,” Ohio State Journal, February 9, 1848.

<sup>182</sup> Boom and bust cycles are not easily charted as little work has been done in this area. Although the two states did not follow the same trajectory precisely, generally speaking, hard times fell in during the Biddle Recession, the Panic of 1837, and the Panic of 1857 (although Ohio was harder hit on the latter than Tennessee). Boom times in Ohio, for example, seem to correspond to the following dates: 1824-1832, January 1836 to May 1837, September 1838 to October 1839, 1846 to the summer of 1848, 1849 to 1853, 1855 to 1856, and June 1860 until 1861. The average Ohio Democratic voting score on fugitive slave issues was a “48” for the period 1828-1843 and a “66” in the period 1844-1861 during boom times. During hard times, those scores rose respectively to “90” and “83.” Average scores on free black roll calls, however, declined from “87” in boom times to “68” in hard times during the earlier time period and from “80” to “69” in later years.

percent of racist measures in either state. Alternatively, Whigs introduced an analogous amount of the more ameliorative proposals. As a party, moreover, Democrats introduced primarily racist bills. Ohio Whigs did the opposite. Tennessee Whigs, though, did not show a preponderant tendency one way or the other.<sup>183</sup>

Change over time is evident, too. Prior to the mid-1840s, almost half of the bills introduced into the Tennessee legislature held racist content. Afterward, three-fourths of proposals warrant such classification. In Ohio, three-fifths of bills prior to the mid-1830s did so, too. Afterwards, the analogous figure drops to one-third. Ohio Democrats introduced more racist legislation, proportionately speaking, when their party was out of power--perhaps as a disruptive strategy. Ameliorative proposals were rare but less so if Locos had control. Whigs near mid-century show a tendency to push racist agendas a little harder in Democratic sessions while Republicans later did the opposite. In Tennessee, Democrats overwhelmingly introduced racist bills regardless of session. Whigs, in or out of power, showed an early propensity to offer ameliorate measures but also made most racist proposals in sessions they controlled--until 1857, when the legislative party was left wandering in the wilderness.<sup>184</sup>

If compared to the electoral party strength in home districts, voting behavior also suggests a strong probability that legislators attuned actions to local constituent predilections and concerns. In general, representatives from counties that traditionally voted for the other party, legislated with more moderation than their party colleagues.

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<sup>183</sup> The Tennessee sample includes 384 bills and resolutions introduced in sessions prior to the mid-1840s; the Ohio sample includes 202 bills and resolutions.

<sup>184</sup> The Tennessee sample includes 226 bills and resolutions introduced in sessions between 1845 and 1861. The Ohio sample includes 411 bills and resolutions.

Although pertaining only to Ohio in the late forties, some evidence derived from state party convention delegate lists suggests a refined understanding. In this configuration, legislators from “safe” districts voted the normative statewide party pattern. Men returned somehow from “hostile” districts more closely mirrored the stance of their old foes. Democrats elected in traditionally Whig counties voted less racist; Whigs elected in traditionally Democratic districts did more so. Finally, in “competitive” districts, wherein neither party had an advantage, we find the most two-party polarity. Democrats acted extremely racist while Whig voting records are exceedingly “soft.”<sup>185</sup>

As a means to scrutinize racist tendencies from yet another angle, incumbency rates were evaluated in terms of whether a member of the same party filled a seat from the same county in the next session or not. Incumbent voting records were then juxtaposed against state party norms. Finally, I assessed whether patterns changed in the following session or not. Although definitive understandings remain elusive, this method does provide a means to detect if the most racist legislators—or their critics--were regularly re-elected or ousted from office.<sup>186</sup>

Tentative findings do suggest racist proclivities did not hurt re-election chances and, at times, may have helped. The pattern in northern Ohio, for example, is particularly pronounced. During the forties, members of both parties secured election more often if

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<sup>185</sup> “State Apportionment for Democratic State Convention,” in Cleveland Daily Plain Dealer, November 12, 1847. This analysis shows Democrats from “Whig” districts voting seven percentage points lower than the norm. Whigs from “competitive” districts did the same; fellow party members from “Democrat” counties, however, voted six percentage points higher.

<sup>186</sup> Anecdotal accounts of re-election success for racist spouting, of course, abound. Democrat William Sawyer of Ohio made such a claim for himself, see Congressional Globe, 28<sup>th</sup> Congress, 1<sup>st</sup> Session, appendix, pp. 727-729; Leonard U. Hill, “John Randolph’s Freed Slaves Settle in Western Ohio,” The Bulletin of the Historical and Philosophical Society of Ohio, 23 (July 1965):179-186; Frank F. Mathias, “John Randolph’s Freedmen: The Thwarting of a Will,” Journal of Southern History, 39 (May 1973):263-272.

during the previous session they or a party associate had acted in more racist ways. This trend continued among Democrats until the early 1850s when it became more visible among Whigs and then later among Republicans. The exception was the Western Reserve where racist posturing was more of a liability than an advantage.<sup>187</sup>

The only pattern detected in southern Ohio before 1848 was that a racist stance brought electoral benefits across party lines in counties along the National Road. For the next five years this coincidence disappears before resurfacing again. Party tendencies also diverged in southern Ohio near mid-century. Whigs more often won seats when earlier incumbents escalated racist posturing while Democrats benefited from acting less so. This response became normative for both parties by the 1850s. Although not universal, it appears an anti-racist stance seldom brought rewards outside the Western Reserve, except in southern Ohio around 1858. The prevailing pattern in the rest of state, in other words, has racists doing better at the polls than their critics.<sup>188</sup>

Findings for Tennessee are similar in that racist legislators generally did better at election time. An ameliorative voting record rarely brought benefits except among East Tennessee Democrats in the late thirties and early forties. Afterwards, no pattern is discernible until the mid-1850s. Then, racist posturing seemingly brought rewards to

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<sup>187</sup> The method used to analyze re-election trends is admittedly crude. I examined districts that returned members of the same party that previously held the seat and compared their legislative voting records on free black issues with those districts that failed to re-elect a member of the incumbent party. If the scale score of the former was appreciably higher than the statewide party average, I assumed it perhaps indicated a “racist” posturing brought re-election benefits, whereas a significantly lower score maybe indicated a “softer” stance was more helpful. It must be stressed that this method does not necessarily show “racist” Whigs were similar to “racist” Democrats. Each group is measured against the central tendency of their own organization. Nor does it more than suggest a possibility that citizens cast their votes primarily based on concerns about racial issues.

<sup>188</sup> James Garfield is an example of a Western Reserve Republican who faced criticism from Radicals within his own party as “a man whose prejudices are as much against the negro [sic] as Alexander Campbell.” Yet, in the legislature, Garfield voted overwhelmingly against racist proposals. Peskin, Garfield, pp. 62-65.

Democrats statewide. This result is apparent a decade or more sooner in Whig circles. In West Tennessee it continued unabated thereafter. Near mid-century, though, East Tennesseans dropped out of the equation for a while until resurfacing again in the mid-1850s. At that point, however, Whigs in central Tennessee no longer seem to have gained any perceptible advantage from racist stances, one way or the other. In sum, at one time or another, legislative parties, for some reason or another, stood a better chance of holding onto seats if the previous incumbent from its ranks voted more racist than otherwise. The alternative scenario was quite rare.<sup>189</sup>

#### IV. The Social Base of the Legislative Parties

Prior to examining features of “racist” counties and their protagonists, it will prove useful to sketch the range of materials examined as it relates to grassroots constituent bases. The aim is to lay groundwork for detecting later when distinguishing traits of “racist” counties overlap with characteristics of either party’s social base, compared to things operating more independently of partisan imperatives. Above all else, the party distribution of seats in each legislature and variations across geographical sub-divisions of each state, provides an essential backdrop against which grassroots persuasions are most productively examined at a localized level.<sup>190</sup>

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<sup>189</sup> In the late 1830s and early 1840s seventeen West Tennessee districts re-elected Whigs. The earlier voting scores on the issues of the annexation of Texas amongst legislators from these areas were twelve points higher, on average, than the statewide Whig norm, whereas in the three counties that bolted to the Democrats the former incumbent, on average, had a voting score thirty-eight points lower. In this case, a more “proslavery” stance amongst Whigs perhaps paid dividends at the polls. In the 1850s, however, nine East Tennessee districts re-elected Whig-Americans. Incumbent scores on domestic slavery and free black issues had averaged sixteen points below the statewide party norm whereas in the four districts that switched to the Democrats, the earlier scores average twenty-six points higher. In this case, it appears a “softer” stance benefited Whigs at election time.



In Ohio, for example, legislators divided almost equally between men from the southern part of the state and those from the north. Of special note, though, in this latter area, the eleven counties on the Western Reserve account alone for about a third of legislative seats. Both legislative parties reflect a similar configuration except less than five percent of Democrats statewide hailed from the Western Reserve. By comparison, almost one-fourth of Whigs called it home. By the 1850s, slight changes occurred but with important consequences. The proportional strength of northern Ohio delegations slowly had been escalating for some time but now the statewide balance-of-power tipped in its direction for the first time. Democrats from southern Ohio now swelled to three-fifths of the state party, while Reserve Locos fell to less than one percent. Republicans, conversely, unlike Whig predecessors, drew increased strength from northern Ohio and a decided majority of their party came from there.<sup>191</sup>

In Tennessee, the two-party balance-of-power across grand divisions also shows each coalition drew on a similar mass base but not in a uniform manner. The central region of the state provided one-half of all legislators, a facet that stayed constant over time. East Tennesseans filled a third of seats in the 1830s, whereas West Tennesseans held about

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<sup>190</sup> Western Reserve Democrats, for instance, vastly outnumbered by Whig counterparts, tended to vote less racist than their party colleagues, either as moderates or “mild” liberals (many flirted with the Free Democracy, too). A Cleveland free black man praised Democrats Franklin Backus and Rufus P. Spalding as legislators that aided the cause. Frederick Douglass, when he visited the Reserve in 1847, claimed he was “warmly welcomed” and “cordially received” at the homes of Liberty men, Whigs, and “sometimes” Democrats. Allan Peskin, ed., North into Freedom: The Autobiography of John Malvin, Free Negro, 1795-1888 (Cleveland: Leader Printing Co., 1879; Reprint, Cleveland: The Press of Western Reserve University, 1966):67, 80n; Carter G. Woodson, ed., The Mind of the Negro as Reflected in Letters Written During the Crisis, 1800-1860 (Washington, D. C., 1926):478-485.

<sup>191</sup> Findings for regression analysis of grassroots composition of Ohio parties over time, conducted by William Gienapp, are reported in an appendix in Maizlish, The Triumph of Sectionalism, pp. 244-251.

one-fifth. By the 1850s, however, each of the two regional contingents provided around a fourth of all legislators, although an edge in numbers still went to East Tennessee.<sup>192</sup>

Within each state party the regional distribution of seats was not precisely the same. Democrats from central districts, for instance, constituted more than three-fifths of the legislative party in the thirties; two decades later they had shrunk to a bare majority. East Tennesseans remained constant at about one-fourth, despite a momentary bump in proportional numbers in the 1840s. West Tennesseans grew from 13 percent to 24 percent of the party by the 1850s. Whigs drew heavily on Middle Tennessee, too. About two-fifths of them were from there in the 1830s, a figure which slightly increased later. West Tennesseans filled 20 percent of Whig seats, although proportional numbers rose briefly higher in the 1840s. East Tennesseans, in the 1830s, accounted for almost two-fifths of party members. They then declined to a fourth before resurging after mid-century to about a third. What was crucial to the statewide two-party balance-of-power, however, was the departure of West Tennessee from Whig ranks at the very moment its political clout at-large had become more noteworthy.<sup>193</sup>

An appreciation of the distinctive regional configuration within each party is important to a proper understanding of racial politics as it meant harmonizing requirements were somewhat different, especially given that legislators from Ohio's Western Reserve and East Tennessee voted differently from colleagues elsewhere. No region, of course, was unified on racial matters. Reserve counties come closest and

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<sup>192</sup> A statistical analysis of the grassroots composition of Tennessee parties over time is Frank M. Lowrey, III, "Tennessee Voters during the Second Party System, 1836-1860: A Study of Voter Constancy and in Socio-Economic and Demographic Distinctions" (Ph.d. dissertation, University of Alabama, 1973).

<sup>193</sup> On the reorientation of West Tennessee, see John E. Tricano, "Tennessee Politics, 1845-1861 (Ph.D. dissertation, Columbia University, 1965).

representatives there almost universally acted more liberal-minded. Elsewhere in northern Ohio things were more muddled. Nor were Tennesseans a unit within any grand division.<sup>194</sup>

In sum, each party faced a somewhat unique situation. Democrats in some ways had a simpler task. In Ohio, their party drew almost no strength whatsoever from the Western Reserve, although this does not mean leaders did not periodically try. After all, the close competitive nature of two-party politics led one commentator to suggest a straw could decide election outcomes. Yet, outside of erratic efforts to woo third party men, the Ohio Democracy mainly focused on popular concerns of voters elsewhere in the state, and increasingly they turned to the southern portion of the state, a region that filled almost 60 percent of legislative party seats after mid-century.<sup>195</sup>

Most Whigs, by a slight margin, also represented areas in southern Ohio, but the Western Reserve faction constituted a fourth of the party. Initially Western Reserve Whigs were among the most faithful to the party. Hence, Whigs had the difficult job of juggling disparate constituencies as the Free Soil bolt would ultimately attest. Later, among Republicans, legislators from southern Ohio still outnumbered Western Reserve

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<sup>194</sup> Walton, "The Second Party System in Tennessee," pp. 18-33, long ago made the observation that the electoral base of each party was spread throughout the state and not concentrated exclusively in any grand division in particular. Even fellow Ohio Whigs and Republicans often disparaged their colleagues on the Western Reserve as too extreme and radical, see Ohio State Journal, November 24, 1841, November 6, 1860; Smith, Official Reports, p.p. 983-984.

<sup>195</sup> On Democratic negative commentary about the Western Reserve, see "Minority Report" in Journal of the 43<sup>rd</sup> Ohio House of Representatives (1845), pp. 30-33; Clement Vallandigham, "Letter on the Invasion of Harper's Ferry (1859)," in Speeches, Arguments, Addresses, and Letters of Clement L. Vallandigham, pp. 202-205. For a Western Reserve lawmaker that spoke out against a ban on black entry into the state, claiming African Americans were "considered citizens in many states of the Union and treated as such, enjoy privileges and immunities of citizens in every other state," see Smith, Official Reports, p. 11. It was Cincinnati David Disney that wrote James Polk in 1844 that the "two great parties are so nicely balanced a straw may decide the fight . . . if the abolitionists stand firm . . . we shall carry the state—but everything now depends upon them." Quoted in Vernon L. Volpe, "The Liberty Party and Polk's Election, 1844," The Historian, 53 (Summer 1991):709; Maizlish, Triumph of Sectionalism, p. 34.

men but had shrunk to less than two-fifths of the party. Northern Ohio men now were in the ascendancy. Still, whereas Democratic strength was concentrated if dissipated, Republicans were more spread out.<sup>196</sup>

Subtle disparities also characterize the Tennessee scene. Here, Democrats from the central portion of the state constituted a majority of the state party although the proportional strength of this faction did decline some over time. Of course, cooperation from elsewhere in the state was needed; ultimately it was accretions from parts of East Tennessee and, especially, West Tennessee that put Locos in the driver's seat in the late 1850s. But, within party ranks, legislators from the middle grand division more easily had their way if united.<sup>197</sup>

Tennessee Whigs were more fragmented. In the 1830s the western grand division provided a fifth of party members and wielded a balance-of-power role between East and Middle contingents, often voting initially with the former but increasingly with the latter. By the 1840s, Middle Tennesseans had grown to almost half the Whig Party. Whigs from West Tennessee also became more numerous at the expense of East Tennessee. In the next decade this latter faction resurged a bit, though not quite to where it had been

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<sup>196</sup> Frederick J. Blue, The Free Soilers (Urbana: University of Illinois Press, 1973); John Mayfield, Rehearsal for Republicanism: Free Soil and the Politics of Antislavery (Port Washington, New York: Kennikat Press, 1980); Joseph G. Rayback, Free Soil: The Election of 1848 (Lexington: University of Kentucky Press, 1970); Theodore C. Smith, Liberty and Free Soil Parties in the Northwest (New York: Russell and Russell, 1897). For a debate between a Liberty Party leader and a Western Reserve Whig, see "Debate between Leicester King and Joshua Giddings," in Ashtabula Sentinel, August 21, 1844.

<sup>197</sup> The dominance of Middle Tennessee Democrats is reflected in the political correspondence of the time, see Joseph H. Parks, ed., "Letters from Aaron V. Brown to Alfred O. P. Nicholson, 1844-1850," Tennessee Historical Quarterly, 3 (June 1944):170-179; St. George L. Siousett, ed., "Selected Letters, 1846-1856, from the Donelson Papers," Tennessee Historical Magazine, 3 (December 1917):257-291; St. George L. Siousett, ed., "Papers of Major John P. Heiss of Nashville," Tennessee Historical Magazine, 2 (June 1916):137-149; 2 (September 1916):208-230. For a Middle Tennessean transplanted to West Tennessee, see Emma I. Williams, ed., "Letters of Adam Huntsman to James K. Polk," Tennessee Historical Quarterly, 6 (December 1947):337-369.

two decades before. Its relative strength compared to delegations from central Tennessee, moreover, was not so impressive. Nonetheless, in Whig conclaves, Middle Tennesseans did not have their way so easily, as seemingly was the case among Democrats, at least in terms of pluralities compared to majorities in relative voting strength.<sup>198</sup>

In order to dig deeper into local matters and detect divergence within regional settings, I also endeavored to determine what types of communities supported which parties. Inferences drawn about grassroots attachments do not differ much from what one might expect from surveying scholarly literature, although there are qualifying nuances and variations. Rather than using electoral data alone, however, I also estimated party preference based on affinities of state legislators that hailed from the same county. In many ways the constituent base was similar across party lines but, nonetheless, distinctive in subtle but important ways.<sup>199</sup>

The summary that follows lays a foundation for later analysis of racial voting patterns across county delegations and supposed linkages to constituency characteristics that were related to racial demographics, economic activity, religious persuasions, and so forth. This baseline account provides a gauge by which to determine whether associations

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<sup>198</sup> For the perspective of Tennessee Whigs across grand divisions, see George Washington Campbell Papers, Library of Congress, Washington, D. C.; "Letters of John Bell to William B. Campbell, 1839-1857," Tennessee Historical Magazine, 3 (September 1917):201-227; John Bell Collection, Tennessee State Library and Archives, Nashville, Tennessee; Chase C. Mooney, ed., "Some Letters from Dover, Tennessee, 1814-1855," Tennessee Historical Quarterly, 8 (June 1949):154-184; 8 (September 1949):252-283; 8 (December 1949):345-365; 9 (March 1950):64-83; 9 (June 1950):155-170.

<sup>199</sup> Earlier historians have noted that slave populations in Tennessee show little differentiation across county lines in terms of party proclivities of voters. Others have indicated that Ohio counties with disproportional numbers of Pennsylvanians and German immigrants tended to vote Democratic. In neither case, however, have such variables been tested against racial voting patterns of state legislators. Thomas A. Flinn, "Continuity and Change in Ohio Politics," Journal of Politics, 24 (1962):521-544; Bergeron, Antebellum Politics in Tennessee, ch. 2; Abernethy, From Frontier to Plantation in Tennessee, p. 304-305.

detected overlap with party identification or transcended it. This part of the analysis also uses census data reported in 1850, along with county-level voting returns in proximate gubernatorial elections. Of course, this approach does not necessarily give an accurate reading of what transpired in earlier times. Still, a basic understanding of the lay of the land, after the second party system had attained full maturity, is made possible.

Some explanation of terms and the construction of categories is probably needed at this point before proceeding further. We are talking about proportionality, in most cases, and not absolutes, unless otherwise noted. “Foreign-born” or “literate” does not necessarily mean most county inhabitants were either. Instead, it indicates these groups were disproportionately present. I examined differentials on a variety of things both in terms of statewide averages and normative trends in major geographic divisions of each state. When discussing literacy rates, moreover, native-born populations are juxtaposed against foreign immigrants, whereas if discussing nativities, local Buckeyes are differentiated from migrants born elsewhere in America.<sup>200</sup>

Classification of urban and rural also warrants some explanation. In Ohio, almost every county had at least a village; hence, measurements for this state often features proportional tendency compared to nearby places. In Tennessee, less than a third of counties had even a hamlet; the localities which did will be called urban centers. Clearly, most such places were primarily rural and it is not uncommon to find surrounding farming districts in the same county wealthier than most others elsewhere and engaged in commercial agriculture.<sup>201</sup>

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<sup>200</sup> DeBow, The Seventh Census, pp. 573-574, 582-583, 817-818, 859-860; DeBow, Statistical View of the United States (1854), pp. 284-285, 290-291; Kennedy, The Eighth Census, pp. 372-373, 396-397, 466-469,

Finally, we come to religious categories. These labels were attached based on the relative proportional mix of different denominations within a county, measured by available church seats. An exception was that among the top tier of fifteen Methodist counties in each state, racist legislators were quite common. At any rate, for purposes of the following discussion, a different set of criteria was employed. In this equation counties in which a certain denomination was the only game in town (read Methodist, most often) are isolated from those wherein one or more competitors existed, as well as areas where this denomination was large but a minority group. Finally, it bears repeating that the unit of measurement is county-level communities in their entirety and not internal cleavages within them.<sup>202</sup>

Despite potential drawbacks associated with this approach, it does have some utility. Certain things do seem more apparent based on such inquiry. In Ohio, for example, Democrat legislators at mid-century generally represented more rural portions of the state, especially wealthier farm districts in northern Ohio. Hamilton County (in which Cincinnati is located) also was an important constituent base. About one-fourth of counties otherwise qualify as urban. Among them, foreign-born areas predominate three-to-one whereas literacy rates are uneven.<sup>203</sup>

In part, due to Porkopolis, the annual value of animals slaughtered was abnormally high but this trend appeared in the countryside, too. About half the rural counties featured native-born, literate populations, often including numerous Presbyterians; this

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<sup>201</sup> DeBow, The Seventh Census, pp. 573-575, 817-851; Kennedy, The Eighth Census, pp. 372-396, 466-467.

<sup>202</sup> DeBow, The Seventh Census, pp. 573-574, 592-597, 817-818, 870-879.

<sup>203</sup> DeBow, The Seventh Census, pp. 817-851, 858-860, 862-879; DeBow, Statistical View of the United States (1854):284-295; Kennedy, Preliminary Report on the Eighth Census, pp. 275-277; Kennedy, The Eighth Census, pp. 372-397 (hereinafter cited collectively as "Ohio Census Data.")

denomination, for the record, accounted for about 16 percent of church seats statewide. The residual counties contained many “foreign-born” inhabitants; less literate communities held the edge by a two-to-one margin. Such places commonly contained a disproportionate number of Lutherans or Catholics. Each of these denominations accounts for six percent of all church seats statewide.<sup>204</sup>

Methodists were six times more numerous than Lutherans or Catholics; while Baptists roughly equaled their combined strength. Counties wherein either of these two denominations loomed large divided in party preferences. Whigs counted heavily on both Methodists and Baptists, particularly the former as regards mere numbers. Each party also represented certain wealthy farm districts as well as poor ones. Nor did Democrats have an absolute monopoly on wheat-growing districts or hog producing areas. Amongst Whig counties, religious orientation also was more pluralistic. The Western Reserve region, in particular, was unique. Methodists still led the field, but Presbyterians and Congregationalists, when combined, were more visible than elsewhere; Baptists also were more prevalent as was the tiny Episcopalian establishment, too.<sup>205</sup>

The counties that formed the Whig voting base featured mixed nativities. Migrants from Mid-Atlantic States were notable, some native-born Ohioans (many of whom had southern roots), too, and, on a smaller scale, New Englanders. Whigs did well in cities and towns (other than the Queen City), especially where foreign immigrants were rarer. In some literate foreign-born counties they prevailed. The state party also had its rural wing although it included a mere 20 percent of all counties aligned with the Whigs. Such

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<sup>204</sup> “Ohio Census Data.”

<sup>205</sup> Ibid.



places had low literacy rates, few foreign immigrants, and low farm wealth. Economic activity featured raising cattle or herding sheep.<sup>206</sup>

By the mid-1850s alignments became altered. The anti-Nebraska movement had made serious inroads in Democratic counties and things were momentarily topsy-turvy. Republicans won over eastern Ohio, above and below the National Road, as well as some counties in the northwest. Few localities escaped the initial whirlwind. Some Democrat areas did remain steadfast; others wavered then returned to the fold. Still others bolted for good. At the same time a few Whig counties had crossed over to the Democracy, but the comparative exchange was hardly equitable. Bolting Whig counties, in any case, featured urban populations in southwest Ohio and rural “foreign-born” counties to the north just above the National Road.<sup>207</sup>

For the most part Whig areas became strongholds of the Republicans later. The new party also permanently co-opted certain traditionally Democrat counties, especially certain rural localities with high literacy rates or ones engaged in household manufacturing. Lands in these places were cultivated intensively; wheat was a preferred crop. Cattle and sheep production was common, too. While Lutherans were quite prevalent the same can be said of Baptists, Methodists, and Presbyterians.<sup>208</sup>

As a result of the reshuffling of counties the Ohio Democracy of the late 1850s had taken on a somewhat new set of features. The legislative party had lost much of its rural flavor and now reflected a more urban manufacturing orientation. At the same time,

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<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Ibid.

“foreign-born” areas, regardless of literacy levels, stand out, too, especially where Catholics were common. Rural counties also featured foreign immigrants and manufacturing. In the northwest, whether or not foreign-born elements were present, some counties with much unimproved land made extensive use of farm machinery and tended to elect Democrats. Thus, if Republicans had an important urban base, in a relative sense, their organization had become the party of the rural countryside, at least its literate, native-born element. In other words, a significant minority of Republican counties used to vote for Democrats.<sup>209</sup>

Change also occurred in Tennessee. Both parties, of course, drew heavily on the countryside. Whigs, however, clearly did better in larger towns that had higher rates of literacy and some manufacturing. The same was the case for wealthier farm districts engaged in crop and livestock production. A distinct wing of the party instead included poorer farm districts which herded a few cattle and raised tobacco or poor man’s crops.<sup>210</sup>

At the same time each legislative party also tapped into certain common social bases. Counties featuring Methodists and Baptists, for instance, split along party lines. Presbyterian areas trended to Democrats but only outside East Tennessee. No party had a monopoly on counties containing less than 1,000 slaves; a majority of counties aligned with either party actually come in under the 2,000 mark.<sup>211</sup>

Counties with denser slave populations divided in party preference, too, except those with more than 10,000 bondsmen which were overwhelmingly Whig. Yet, such localities

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<sup>209</sup> Ibid.

<sup>210</sup> DeBow, The Seventh Census, p p. 573-575, 581-597; Kennedy, Preliminary Report on the Eighth Census, pp. 280-282; Kennedy, The Eighth Census, pp. 466-469 (hereinafter cited collectively as “Tennessee Census Data.”)

<sup>211</sup> “Tennessee Census Data.”

are few and some bolted in the 1850s. Districts wherein cotton growing predominated mostly are confined to central and western districts bordering Alabama or Mississippi. No party had a decisive advantage. Nor do large plantations characterize the normative pattern in the state. Most Tennessee farmers grew wheat, oats, and Indian corn along with cotton or in lieu of it.<sup>212</sup>

No party predominated in less developed areas either where subsistence farming and livestock herding prevailed. While sometimes featuring small hamlets, these counties were mainly rural, less literate, and raised hogs or sheep. Household manufacturing was uncommon. Certain rural communities, nonetheless, did prove devotees of Democracy. In these counties, whites heavily outnumbered slaves, farm value was low, flax was produced more commonly than cereal or staple crops, and household manufacturing was common. But not all poorer yeoman districts elected Democrats. In addition, Locos were regularly returned in counties with higher literacy rates. Besides Columbia in Maury County, though, Democrats could boast of few towns as their own.<sup>213</sup>

The realignment of the 1850s, while not nearly so dramatic as in Ohio, brought momentous changes in Tennessee. In this case, however, it was the Democracy that ultimately benefited. Due to new infusions and Whig crossovers the state party soon was in the ascendant. As a result the grassroots base of each party altered somewhat, which also eroded certain similarities across state lines within different wings of the same national coalitions. A few Whig counties waffled then returned to the fold. In addition, the core of the state party still rested after mid-century on the urban connection.

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<sup>212</sup> Ibid.

<sup>213</sup> Ibid.

Nashville and Knoxville remained Whig enclaves (the former city did elect a Democrat mayor). The urban Whig base, though, was more restricted now, featuring only those counties with high literacy rates, Presbyterians, or extensive household manufacturing. In central districts, cotton growing districts were centers of Whig activity but often featured a local town, too.<sup>214</sup>

The drain on the Whigs came in different waves. The initial bolt in the early fifties involved backcountry districts in East Tennessee near or along the Kentucky border. These counties featured few slaves, unimproved lands, and poorer farms. Economic activity included production of livestock, tobacco, or honey and flax. Soon thereafter another set of counties along the lower Tennessee River in West Tennessee bolted, too. These counties resemble the East Tennesseans only minus the tobacco growing.<sup>215</sup>

A different coterie of West Tennessee counties also deserted the Whigs. Shelby County (where Memphis is located), for one thing, began electing Democrats late in the decade. So did many nearby counties with large white populations or dense slave concentrations wherein lands were intensively cultivated and farm machinery valuable. Literacy was common in rural areas as well. Cotton growing was rife but not more so than in neighboring durable Whig counties, albeit they were few. Despite differences relating to economic pursuits, what poor yeomen in the east and wealthier slaveholders in the west had in common was a Baptist predilection.<sup>216</sup>

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<sup>214</sup> Ibid.

<sup>215</sup> Ibid.

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The possibility must be considered that party configurations were maybe different in earlier decades. Other sources, for instance, tell us some changes in relative party strength occurred in different parts of the state. In terms of slave concentrations during these years both parties drew upon a similar base except two-fifths of Whig counties in 1839 had moderately low numbers of slaves whereas, almost fifteen years later, the same percentage of counties now had dense slave populations.<sup>217</sup>

Counties with median-sized slave populations initially trended to the Whigs. Democrats did better in those that contained either high percentages or slaves or low percentages. By 1847 the parties are almost mirror images in slaveholdings except Democrat counties by a wee margin featured more slaves. Half-a-decade later the pattern remained durable although counties with few slaves had diminished across party lines. At this point, Democrats more often represented places with few slaves whereas barely half of Whigs did.<sup>218</sup>

Data on slave values tells a similar story. Democrats regularly came from counties with median levels of slave wealth. Whigs consistently represented areas in the top cohort. Those counties relatively devoid of slave wealth elected Democrats, early and late, while in the interim such counties favored Whigs. Insofar as county wealth in per capita terms is concerned, Democrats drew from the median-ranged cohort; Whigs more so from the wealthiest and poorest counties. In an absolute sense, however, both parties by 1840 featured mostly counties from the lower half of the scale. A decade or so later

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<sup>217</sup> "Tennessee Demographic Data," in Journals of the Tennessee Senate and House of Representatives (1839-1840), appendices.

<sup>218</sup> "Tennessee Demographic Data," in Journals of the Tennessee Senate and House of Representatives (1847-1853), appendices.

economic prosperity had reduced the bottom category to less than five percent of counties affiliated with either party. Whigs still represented the wealthiest counties while Democrats came from the middling set, (which, in effect, now became, in comparative terms, the bulk of the poorer counties, too).<sup>219</sup>

## V. The Presence of African-American Populations

It seems appropriate to begin the analysis of demographic data by engaging the obvious question, did it make any difference in voting behavior whether a legislator's home district held large numbers of blacks. The answer in Ohio, at first blush, is a resounding no. African Americans accounted for only about two percent of the statewide population. Yet, after 1820, blacks were growing at a faster proportional rate than whites despite legal discouragements. Prospective fear about a voluminous influx of freed slaves perhaps explains to a greater extent lawmaker decisions, overall.<sup>220</sup>

Nevertheless, comparison of voting patterns to the average number of blacks in constituent bases does indicate the physical presence of African Americans at times could be important. I should note for purposes of the forthcoming discussion that I excluded Hamilton County from computations due to skewing effects of Cincinnati's black community. In the late 1850s, at any rate, on certain divisions, differentials in the size of the black population, compared to white neighbors, clearly associate with voting responses.

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<sup>219</sup> "Tennessee Demographic Data," in Journals of the Tennessee Senate and House of Representatives (1839-1853), appendices.

<sup>220</sup> Abstract of the Returns of the Fifth Census (1832), pp. 30-31, 46; "Ohio Census Data"; Francis J. Walker, The Statistics of the Population of the United States (Washington, D. C.: Government Printing Office, 1872):55-56; Wilbur Zelinsky, "The Population Geography of the Free Negro in Antebellum America," Population Studies, 3 (1949-1950):386-401.

In the session of 1859, for instance, legislators from “black” counties resisted calls to repeal the federal fugitive law; the most sustained opposition to the statute came from men representing “white” areas. In the next session the same pattern reappears on the issue of racial intermarriage. Throughout the late fifties, though, this alignment did not always hold. Another related factor also rose to the fore. Racist legislators, by a slender margin, represented counties where mulattoes had a disproportional presence amongst local blacks. This alignment makes sense, given the hubbub at the time about visible admixture laws and an earlier state court ruling bestowing citizenship and voting rights on certain mulattoes with a preponderance of white ancestry. Democrats, in particular, were upset about the decision; some openly expressed an alleged preference for full-blooded racial stock. While Republicans often argued otherwise, the same differential appeared in their ranks, too, only not quite so pronounced.<sup>221</sup>

It is not clear if this factor was operative in earlier times as the requisite information is lacking. Insofar as the size of the whole black community goes, it seemingly was related at times to racial voting choices. At the constitutional convention at mid-century, for instance, delegates excluded blacks from the state militia. Delegates from “black” counties, on average, Democrat or Whig, voted for the ban; resistance came from men representing “whiter” areas.<sup>222</sup>

On a motion to strike the word “white” in the proposed suffrage article, proponents were limited to the Western Reserve. As a result, we might expect to see the same racial

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<sup>221</sup> Kennedy, The Eighth Census, pp. 372-373; Journal of the 51<sup>st</sup> Ohio Senate (1854):102; Journal of the 53<sup>rd</sup> Ohio Senate (1859):246-247, 280; Journal of the 53<sup>rd</sup> Ohio House of Representatives (1859):271.

<sup>222</sup> “Ohio Census Data”; Smith, Official Reports, p. 1228; Quillan, The Color Line in Ohio, pp. 60-65, 69-87.

demographic pattern. Instead, across party lines, some legislators from counties with the highest black concentrations abstained. Men from median-sized counties scattered. Due to the response in northern Ohio, off the Western Reserve, the most racist legislators came from counties with few African Americans. Still, such areas contained about double the number of blacks as did counties which elected more liberal-minded men. This same pattern surfaced on divisions relating to public education and amongst state legislators on the federal fugitive slave law.<sup>223</sup>

The constitutional convention also considered colonization schemes. Some delegates favored expatriation but desired a ban on black entry into the state as a hedge against colonization aid from serving as an incentive for African-American migrants to make Ohio a rendezvous. Others wanted one or the other measure to stand alone. Democrats more often pushed the entry ban whereas Whigs usually preferred colonization. Still others, across party lines, were not thrilled with either plan.<sup>224</sup>

Voting on the two questions was also different in terms of associations with black population data. Among Democrats statewide, leading opponents of the entry ban came from “black” counties; the main proponents represented places with median-sized numbers. Delegates from “white” areas scattered. Whigs, as a rule, opposed an entry ban, especially if representing a southern county with relatively few African-Americans. Delegates from nearby places with denser black populations disagreed about the

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<sup>223</sup> “Ohio Census Data”; Smith, Official Reports, pp. 690, 1182; Journal of the 49<sup>th</sup> Ohio Senate (1850):320, 436, 762-766, 910-915; Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):55, 107, 163, 397, 744, 801, 828-834, 994-996.

<sup>224</sup> Smith, Official Reports, pp. 1221, 1223, 1228.



proposal. This pattern inverted in northern Ohio, however, although the overall numbers of black persons involved, of course, is dramatically lower.<sup>225</sup>

The alignment on colonization issues shows lawmakers abstaining who represented communities with sizeable black populations. On average these Democrat counties contained 477 black inhabitants. Critics came from localities with about two hundred fewer. Among Democrats that praised colonization but opposed appropriating public moneys, the analogous figure is about half that number. Finally, the small coterie of Democrats that approved mandated funding represented counties wherein, on average, resided less than fifty African Americans.<sup>226</sup>

In short, Democrats from counties with denser black concentrations, if not abstaining, were not enthusiastic about either proposal. Colonization proponents came from places with fewer blacks, while at the same time scattering on the entry ban issue. Advocates of shutting down black immigration, alternatively, were elected from localities with median-sized black populations. This group applauded the colonization idea, too, but rejected an organic law provision for government funding.<sup>227</sup>

Whig delegates who saw things the same way came from places with denser black concentrations. Critics of both proposals represented “white” areas. Advocates of a colonization tax, however, hailed from southern counties almost completely devoid of African Americans. In general, however, Whigs from “black” counties in this part of the state disagreed on the entry ban and were mildly supportive of colonization. The main

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<sup>225</sup> Ibid.; DeBow, The Seventh Census, pp. 817-818.

<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

support for funding was amongst men from the “whitest” areas, although, as a rule, Whigs elected in places with few blacks resisted both proposals. In northern Ohio delegates representing “white” counties were more favorably disposed to each measure, including the funding proviso. In other words, patterns in north and south in a way are inverted.<sup>228</sup>

The absolute number of African Americans seemingly had only a slight impact on racial voting. Members of both major parties from counties with more than 1,000 mostly voted the racist line but these places were rare. Most Democrats across all cohorts voted nearly the same way. Whigs, moreover, dominated areas with the most blacks (Cincinnati, of course, was the notable exception). As for the fifteen counties containing 500 or more African Americans, Whigs represented twelve. Actually, Whigs were more prevalent everywhere if local blacks numbered fifty or more. Those from counties with fewer than a hundred also were the least racist. The remainder Whigs, i.e. men representing counties with between 100 and 1,000 blacks, voted erratically.<sup>229</sup>

During the 1850s Republicans picked up many Democrat “white” counties while a few old-line Whig “black” areas now aligned with the Locos. When the smoke cleared, most Democrats still acted racist irregardless of black ratios. The realigning sequence produced a configuration within Republican ranks, however, which differed from what existed earlier among Whigs. In short, certain old-line Whig “black” counties began electing Democrats but the basic trend of electing racist leaders already was there. Democrat-Republican counties seldom featured many blacks but, in the past, these areas

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<sup>228</sup> Ibid.

<sup>229</sup> DeBow, The Seventh Census, pp. 817-818.

elected racists, too, although not so much as the Democracy as a whole. As Republicans, many of these places now elected more moderate men. Leading resisters of racist agendas came from Whig-Republican counties wherein more than 250 blacks resided but less than 1,000.<sup>230</sup>

Free blacks in Tennessee were less visible and overshadowed to a large degree by the vastly more numerous slaves. As certain lawmakers periodically pointed out, this group, due to its small numbers, hardly posed a threat to social order. In 1830 the state held less than 5,000 free blacks and the number had only grown by fifty percent three decades later. Said another way free blacks constituted less than one percent of the statewide population and only three percent of all African Americans. While proportional increases were slightly higher than among local whites, the disparity was narrow by 1830, then disappeared in the forties; it finally resurfaced in the next decade. After 1830, in addition, the rate of increase among slaves invariably was faster.<sup>231</sup>

In the late 1850s legislators debated plans to expel free blacks. On some roll calls on this issue the relative number of free blacks in a home district did differentiate respondents on either side of the question. An exception involved an amendment to benefit the white school fund by augmenting it with revenues collected from fines imposed on violators of the proposed law. But, legislators across party lines from counties with few free blacks voted disproportionately to adjust age requirements in harsher ways or move up the timetable on expulsion.<sup>232</sup>

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<sup>230</sup> Ibid., Kennedy, The Eighth Census, pp. 372-373.

<sup>231</sup> Walker, The Statistics of the Population of the United States, pp. 61-63.

<sup>232</sup> Kennedy, The Eighth Census, pp. 466-467; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):327.

On these divisions more liberal-minded men represented “free black” counties. These legislators also resisted attempts to gut the practice of private manumission. Nor, if Democrats, were they favorably disposed to permitting joint ownership of slave property. Whigs alternatively rejected proposals to ban the education of free blacks or slaves. In other words, legislators from “free black” counties, regardless of party, cast many racist votes but not always on the same agendas. Whigs, for instance, also favored prohibiting African-American ex-felons from going at-large. Democrats did not. This alignment inverted, though, on a bill to permit freed slaves to re-enter slavery if a master failed to provide funds for transportation to Africa.<sup>233</sup>

Prior to mid-century an association between voting behavior and free black demographics is even rarer. Democrats, in these times, represented only six counties with more than 100 free blacks. Whig counties were double in number. By a slender margin Democrats held an edge in localities with the fewest. In the end, Democrats all voted about the same. Whigs, if from areas with median-sized free black numbers--meaning somewhere between 100 and 300 people--were the least racist. Colleagues from counties with more or less acted with more prejudice. In addition, more prosperous black communities were in counties wherein white neighbors elected more liberal men to the legislature. But such cases are few. Racist legislators, moreover, often represented areas with more sizeable numbers of free blacks, which were increasing and poverty-stricken.<sup>234</sup>

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<sup>233</sup> Kennedy, *The Eighth Census*, pp. 466-467; *Journal of the 32<sup>nd</sup> Tennessee Senate* (1857):375, 588, 669; *Journal of the 32<sup>nd</sup> Tennessee House of Representatives* (1857):389, 882; *Journal of the 33<sup>rd</sup> Tennessee Senate* (1859):522, 699, 709; *Journal of the 33<sup>rd</sup> Tennessee House of Representatives* (1859):809, 814, 904, 997, 1174.

What possibly had a greater impact on lawmaker actions was proximity of free blacks to slave populations. In 1830 almost 150,000 bondsmen lived in the state and accounted for a fifth of the statewide population. Thirty years later slaves had increased by another 100,000; bondsmen, in total, now constituted about one-fourth of Tennesseans. Over time, as well, slaves grew relatively faster than did whites. Ergo, lawmakers expressed more worries about insurrectionary potential. It was as potential provocateurs, then, that the fate of free blacks was often considered foremost.<sup>235</sup>

The largest free black communities were in Nashville and Memphis. Both cities also contained many slaves. Elsewhere, in counties with two hundred or more free blacks, the slave mix was uneven. About half of these places had slave populations in excess of 5,000 persons, and often more than twice that amount, whereas the remainder contained less than 2,000. Median-sized free black counties, if represented by a Whig, generally featured few slaves.<sup>236</sup>

Meanwhile, counties with 50 to 100 free blacks had varied slave concentrations nearby. Places with fewer usually had less than two thousand slaves, often considerably less. One thing is clear. Legislators from counties with 5,000 or more slaves voted regularly as racists, regardless of free blacks. Those representing districts with few slaves generally aligned, before mid-century, on the less racist side, whether free blacks were many or few. Afterwards, the same pattern persisted except men from areas with less than fifty free blacks increasingly voted as racists.<sup>237</sup>

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<sup>234</sup> DeBow, The Seventh Census, pp. 573-574. For the argument that racists came from areas with more prosperous free black communities, see Berlin, Slaves Without Masters.

<sup>235</sup> Walker, The Statistics of the Population of the United States, pp. 61-63.

<sup>236</sup> DeBow, The Seventh Census, pp. 573-574.

A more productive approach was to examine slave populations rather than free black concentrations. Although not always a clear dividing line between racists and their critics, it does seem operative at certain times and on certain issues. In the session of 1832, legislators voted, for example, on whether to repeal a law requiring freed slaves to leave the state. Lawmakers from “slave” counties overwhelmingly responded “no.” Colleagues representing counties with the fewest slaves favored the measure.<sup>238</sup>

Voting at the constitutional convention in 1834 indicates this pattern persisted. In this case, however, we can ascertain better how issues relating to free blacks and slaves intertwined. During proceedings delegates voted on various slavery measures including a committee report asserting slavery, while not a blessing, ought to be continued a while longer; emancipation was premature. The delegates also voted on a set of resolutions pertaining to private manumission, a slave import ban, slave discipline, requirements for good treatment, and other things. With respect to free blacks, the precise issues varied. In general, these measures addressed proposals on suffrage, militia service, poll taxes, and a recently-enacted ban on entry into the state. In addition, delegates voted on whether to strike part of the report on slavery referring to free blacks as “strangers” in the land of their nativity, a motion decidedly rebuffed.<sup>239</sup>

By cross-tabulating individuals’ roll-call responses on both questions, relative voting strength of different groups is clarified. A tenth of delegates failed to record enough votes to be included in the analysis. Racist proslavery men, in this equation, constituted

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<sup>237</sup> Ibid.

<sup>238</sup> Abstract of the Returns of the Fifth Census (1832):28-29; Journal of the 19<sup>th</sup> Tennessee House of Representatives (1832):69, 108-109.

<sup>239</sup> Journal of the Convention of the State of Tennessee Convened for the Purpose of Revising and Amending the Constitution Thereof, Held in Nashville (Nashville: Laughlin and Henderson, 1834):31, 57, 99-101, 201, 222-223, 270-273, 389.

about half of all delegates and usually clustered in central or western districts and represented “slave” counties. Legislators that voted erratically fit the same profile but account for a mere ten percent of assemblymen. The antislavery faction split between racists and their critics, although the latter group predominated by a three-to-one margin. Members of either group most often were from counties with few slaves. This pattern prevailed across party lines except Whigs so dominated East Tennessee it skews results given that slaves had so much less a presence in the region.<sup>240</sup>

This alignment had faded away by decade’s end. In the session of 1839, for example, House members voted on whether to prohibit slaves from acting as if they were free blacks. This initiative designed to curb masters from neglecting to post bond prior to setting slaves free and thereby evade removal requirements, too. Among Whigs, and all types of West Tennesseans, the old pattern persisted. But, overall, racist legislators came from every kind of county. Most critics, regardless of party, still represented counties with fewer slaves.<sup>241</sup>

A similar cleavage pitted racists from wealthier counties against more moderate men from poorer areas. The same results obtain if examining land values or ownership of carriages. It appeared in the next session, too, on a roll-call relating to a defense of property rights on two fronts. This measure aimed to restrict gambling with slaves; an additional rider also sought to prevent cutting and hauling wood off land owned by others. Yet, in the session of 1847, when asked to reconsider repeal of the ban on slave imports, this alignment disintegrated. The only pattern evident is among East Tennessee

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<sup>240</sup> Ibid.; Abstract of the Returns of the Fifth Census (1832):28-29.

<sup>241</sup> “Tennessee Demographic Data” (1839); Journal of the 23<sup>rd</sup> Tennessee Senate (1839):182; Journal of the 23<sup>rd</sup> Tennessee House of Representatives (1839):350.

Democrats who supported the initiative; in general, they represented poorer counties with few slaves.<sup>242</sup>

But the change was episodic as in the session of 1853 the old pattern returned, at least in terms of legislators from “slave” counties acting more racist. Whigs from wealthier counties did, too. The specific proposal being addressed involved removing manumitted slaves to Africa. Later, in the session of 1859, the pressing issue was whether to expel free blacks altogether. No discernible connection to slave demographics is evident except Democrats from “slave” counties favored harsh-sounding amendments. Whigs voting similarly represented counties with few slaves.<sup>243</sup>

No association stands out on votes relating to bills on private manumission or voluntary re-enslavement. Whigs from “slave” counties, however, did favor proposals for joint ownership of slaves. Democrats from slaveholding regions supported bills instead to prevent free blacks or slaves from preaching or receiving an education. These Locos also favored a ban on black ex-felons going at-large (although Democrats from “free black” counties saw things differently). Whigs from “slave” counties disapproved (although, in this case, party members from “free black” counties voted favorably).<sup>244</sup>

Viewed in longitudinal fashion, the magnitude of slave populations, both in raw size and relative numbers, often seems connected in some fashion to legislator reactions to

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<sup>242</sup> Ibid.; “Tennessee Demographic Data” (1840-1847); Journal of the 24<sup>th</sup> Tennessee House of Representatives (1841):777; Journal of the 27<sup>th</sup> Tennessee House of Representatives (1847):699.

<sup>243</sup> “Tennessee Demographic Data” (1853); Kennedy, The Eighth Census, pp. 466-467; Journal of the 30<sup>th</sup> Tennessee Senate (1853):629; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):709; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):458-459, 467, 522-523; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):327.

<sup>244</sup> Kennedy, The Eighth Census, pp. 466-467; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):357, 588, 669; Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):389, 882; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):522, 709; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):809, 814, 904, 997.



free black issues. The pattern, though, is not constant. Prior to mid-century, legislators from counties with more than 5,000 slaves cast racist votes, on average, 70 percent of the time. Men from counties with fewer slaves, but more than 1,000, scattered. Colleagues representing areas with the fewest slaves, however, voted towards the milder end of the scale more than three-fifths of the time.<sup>245</sup>

While this pattern existed within both parties, Whigs reflect it more demonstrably. After mid-century the gap across counties with regard to relative slave concentrations closed as legislators across the board voted the racist line more often (but it did not disappear). Amongst legislators elected from the half-dozen “white” counties which bolted the Whig Party to join the Democracy, however, heightened racist posturing was the norm. Men from these counties, prior to the mid-1850s, voted in a more ameliorative way three-fifths of the time. Afterwards, legislators from the same counties voted as racists on about three-fourths of occasions.<sup>246</sup>

In other words, “slave” counties produced racist legislators more often than did other places. Before ending analysis there, it is incumbent to note this association was not universal or always even evident. In addition, enough legislators from “white” areas acted racist, too, to negate any simple dichotomy pitting slaveholding communities against yeoman enclaves. Nor does proximity to larger slave concentrations adequately explain the scenario in Ohio, although an argument can be made that divergent voting responses in southern Ohio and on the Western Reserve is somewhat analogous. But, even then, the existence of so many racist legislators in northern Ohio complicates things.

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<sup>245</sup> DeBow, The Seventh Census, pp. 573-574; “Tennessee Demographic Data” (1837-1847).

<sup>246</sup> DeBow, The Seventh Census, pp. 573-574; Kennedy, The Eighth Census, pp. 466-467.

## VI. Racist Communities and Their Rivals

Demographic data on racial distributions does not yield a complete answer to racist voting; other things need investigating. Intra-state regional divisions, for example, should not be neglected and not just because of disparities in distribution of racial population cohorts. Within each area, voting patterns are rarely monolithic. In Ohio, legislators from Democratic counties overwhelmingly voted as racists, except in the northwest where the tendency is less pronounced (see Table 3). The wreckage that Republican insurgency inflicted, moreover, was not uniform across the state. As a result, the types of counties which, in the end, affiliated with the Democracy, or at least their relative presence, changed. Most new Loco additions from Whig ranks, it should be noted, previously had been electing many racist legislators already for some time.<sup>247</sup>

Whig counties are a more varied bunch. Particularly striking is the moderate actions of so many Whigs from counties below the National Road. Changes in the 1850s, in addition, particularly in the southwest, now had legislators from Whig-Republican counties casting votes against racist agendas more than three-fourths of the time. This modified posturing, in part, reflects a combination of two things. First, some urban Whig areas known traditionally to elect racists crossed over to the Democrats. Second,

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<sup>247</sup> Holmes County in northern Ohio continued to send racist Democrats to the legislature. Neighboring Coshocton County did likewise until the 1850s when it moved into the Republican camp but continued to elect rather prejudiced men. Shelby County in western Ohio had elected racist Whigs previously; it ultimately began electing more Democrats but voting tendencies did not change much. On an old-line Democrat, see Helen P. Dorn, "Samuel Medary—Journalist and Politician, 1801-1864," Ohio State Archaeological and Historical Society Publications, 53 (January 1944):14-38.

Table 3 Regional Voting in Ohio				
Sub-Region	1830-1854		1855-1861	
	Democrat	Whig	Democrat	Republican
Southern Ohio				
Ohio River	(4) 80	(2) 70	(3) 76	(3) 70
Southwest	(1) 90	(10) 55	(3) 76	(8) 27
Zane's Road	(5) 90	(2) 80	(4) 75	(3) 70
Southeast	(4) 85	(8) 57	-	(12) 58
Northern Ohio				
Northeast	(9) 78	(4) 22	(2) 80	(11) 50
Northwest	(14) 68	(2) 30	(7) 72	(9) 43
Mid-West	(4) 55	(8) 62	(4) 75	(8) 30
W. Reserve	-	(11) 5	-	(11) 13

\*The party identifier indicates the majority element in each county delegation whereas the voting score illustrates the racist voting tendency amongst all of its members, regardless of party affiliation, in order to get a better read on constituent patterns. Of course, some county delegations were larger or smaller than others; this presentation of the data flattens out those differentials. Explanation of the technique used in this Table is given in Appendix A.

Republican legislators from former Whig counties voted a more liberal stance than had their predecessors.<sup>248</sup>

In southeast Ohio, Republicans almost eviscerated local Democracy. The voting of legislators from this region, overall, though, remained virtually unchanged as many Democratic counties switching parties continued to elect racist men. Finally, posturing of each party rarely mirrored the other. An exception was counties along the Ohio River bordering Kentucky and those flanking the old transportation route known as Zane's Trace, that is, until it hit Zanesville in Muskingum County. These half-dozen or so counties, evidently, served as the node of bipartisan racism in the state.<sup>249</sup>

In northern Ohio no such instance is found. Democrats from western counties did vote racist less regularly than party colleague elsewhere prior to the 1850s, after which Republicans visited severe damage to this party base. Where Democrats had been weakest, i.e. the Mid-West, is where the least harm was done due to a newly-forged alliance with a few Whig racist counties. Residual Whig areas in northern Ohio did not, of course, always produce like-minded delegations. The Western Reserve almost perennially elected men opposed to most racist proposals. Even so, outside the Mid-West, legislators from elsewhere, while not many, lagged not very far behind.<sup>250</sup>

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<sup>248</sup> Warren County, for instance, elected moderate Whigs and mildly "liberal" Republicans. Montgomery County returned a bit more racist Whigs but later began electing Democrats that voted similarly. On an old-line Whig from southwest Ohio, see Norman A. Graebner, "Thomas Corwin and the Election of 1848: A Study in Conservative Politics," Journal of Southern History, 17 (Summer 1951):162-179.

<sup>249</sup> Democrat counties which had elected racist legislators continued to do so as Republicans. On an old-line Whig from southeast Ohio, see Madelene V. Dahlgren, "Samuel Finley Vinton," Ohio State Archaeological and Historical Society Publications, 4 (1895):231-262.

<sup>250</sup> While some racist Whig counties in the Mid-West did crossover to the Democrats, the residual Whig counties, which had elected moderate men, mostly returned "liberal" Republicans later. Marion and Morrow Counties returned mildly "liberal" Democrats before electing similarly inclined Republicans. Auglaize County, amongst others, remained in the Democrat camp and elected men, such as William

Later, in the 1850s, the Western Reserve still remained firmly in the liberal camp. Now Republicans in the Mid-West tilted the same way and not simply because of an exchange of few racist Whig counties for moderate Democratic ones. Republican counties elsewhere in northern Ohio did elect numerous racists although most pale in comparison to Democrats. Yet, much of the change, in the end, reflects acquisition of so many old Democratic counties that historically elected racist legislators.<sup>251</sup>

In Tennessee, the contest usually pitted central districts against the eastern grand division. Western counties wavered for awhile before ultimately taking common ground with their nearest neighbors. East Tennessee Whigs voted basically alike, which was milder than party members elsewhere, albeit the gap narrowed in the late 1850s (see Table 4). Local Democrats essentially clustered in two districts at either end of the valley. Those from the southwest paralleled the stance of Whigs. Colleagues in the northeast (and northwest) more often cast racist votes but not as a normative exercise.<sup>252</sup>

By the 1850s Locos in both areas were increasingly voting a more racist line, especially if from the Old Washington District in the northeast. But the party also picked up seats in the northwest after several Whig counties--which heretofore had produced some of most liberal-minded legislators--crossed party lines. The men now elected voted

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Sawyer who once proclaimed himself "a better friend of the colored man" as he "did not wish to see him driven out of the State by club law" that "would inevitably result from an attempt to confer political importance upon him." Smith, Official Reports, pp. 1258-1259.

<sup>251</sup> Democrat counties such as Richland, Ashland, and Stark began tilting to the Republicans in the 1850s but continued to elect mostly racist legislators. Knox County, however, shifted towards returning mildly "liberal" Republicans. On a Democrat-Republican, see W. C. Weaver, "David Kellogg Cartter," The Historian, 3 (1941):165-180.

<sup>252</sup> The counties of Greene and McMinn seem to have been the nuclei of each Democratic base. On a local Democrat leader, see David Bowen, "Andrew Johnson and the Negro," East Tennessee Historical Society's Publications, 40 (1968):28-49; Hans L. Trefousee, Andrew Johnson: A Biography (New York: W. W. Norton and Co., 1989).

Table 4 Regional Voting in Tennessee				
Sub-Region	1830-1854		1855-1861	
	Democrat	Whig	Democrat	American
East				
Northeast	(4) 40	(2) 30	(5) 70	(2) 50
Northwest	(1) 50	(3) 26	(4) 45	(1) 50
Valley	-	(7) 30	-	(7) 58
Southwest	(6) 30	(3) 36	(6) 56	(3) 56
Central				
Northeast	(3) 63	(3) 56	(3) 43	(4) 45
North Central	(1) 90	(4) 65	(1) 70	(4) 70
Northwest	(4) 50	-	(4) 70	-
Southwest	(3) 56	(1) 30	(4) 75	(1) 50
South Central	(3) 70	(3) 63	(3) 80	(3) 63
Southeast	(5) 54	-	(6) 76	-
West				
Northern	(4) 50	-	(4) 65	-
Interior	-	(4) 45	-	(4) 45
Lower River	-	(4) 55	(3) 76	(1) 70
Southwest	(2) 60	(4) 75	(3) 74	(1) 50

\*The party identifier indicates the majority element in each county delegation whereas the voting score illustrates the racist voting tendency amongst all its members, regardless of party affiliation, in order to get a better read on constituent patterns. Of course, some county delegations were larger or smaller than others; this presentation of the data flattens out those differentials. Explanation of the technique used in this Table is given in Appendix A.

racist almost half of the time. It seems racist appeals alone, however, were not primarily responsible for political realignment in this part of the state.<sup>253</sup>

Democrat counties in central Tennessee are a more varied lot. Almost none produced delegations which consistently opposed the racist camp. Most everywhere moderates gained preferment prior to mid-century. Exceptions include the south central region, among cotton-producing counties with numerous slaves, and Sumner County in the north whose slave population was sizeable but not quite so large and where tobacco was the preferred crop. These two areas, with a few conspicuous exceptions, produced the most racist members in the state party. By the 1850s Democrats throughout the region, however, cast racist votes at least two-thirds of the time. The only deviants were in the northeast where Loco racism retrenched a little bit.<sup>254</sup>

Whig counties in central Tennessee clustered in certain specific spots and, almost universally, elected racist legislators. Williamson and Wilson counties are good examples. Only Wayne County, in the southwest, regularly elected more liberal men. In the 1850s, this pattern persisted except Whigs from the northeast and Wayne County now voted erratically. Bipartisanship thus was present but only in the a few centrally-located districts. Even then, these legislators did not cast racist votes almost a third of the time.

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<sup>253</sup> Andrew Johnson's proposed "free white basis" for congressional apportionment procedures was an issue. A Whig editor, for instance, mocked Johnson's alleged appeal to East Tennesseans to know "how they like to have their fair and beautiful daughters classified with the big, black greasy wenches of Middle and West Tennessee." Knoxville Register, June 28, 1855. On an East Tennessee Whig, see Thomas B. Alexander, "Thomas A. R. Nelson as an Example of Whig Conservatism in Tennessee," Tennessee Historical Quarterly, 15 (March 1952):17-29.

<sup>254</sup> The core Democrat racist counties generally laid to the south or southeast of the party stronghold at Columbia in Maury County. On Democrat leaders, see St. George L. Siousset, ed., "Laughlin Diaries, 1840, 1843," Tennessee Historical Magazine, 2 (March 1916):43-85; St. George L. Siousset, ed., "Letters of James K. Polk to Cave Johnson, 1833-1848," Tennessee Historical Magazine, 1 (September 1915):209-256; John S. Bassett, ed., Correspondence of Andrew Jackson (7 vols.; Washington, D. C., 1826-1935); Herbert Weaver, et. al., Correspondence of James K. Polk (5 vols.; Nashville, 1969).

A consensus of sorts ultimately did exist in the northeast, too, only it was inclined towards increasing moderation. The Whig Party elsewhere simply was not viable.<sup>255</sup>

West Tennessee counties mostly returned moderate legislators. An exception was Memphis and its environs where Whig voters returned the most racist cohort in the state party. In the 1850s political realignment brought changes. Democrats voted now as racists more often, especially in the southwest. In this area many old Whig counties had crossed the party aisle while continuing to elect racist legislators. Only now so did places along the lower Tennessee River whom had not done so before. Granted; in the interim, most of these places had bolted to the Democrats.<sup>256</sup>

The interior band of counties towards the north was Whig turf. Nor did erratic voting of legislators from here alter much over time. Among the Whig contingent from the southwest, by the late 1850s, moderates now began to supplant earlier racist leaders. Some local bipartisanship, overall, existed in western districts but it was not pronounced before mid-century. More notable is how few durable Whig areas bred extremists.<sup>257</sup>

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<sup>255</sup> A Whig editor commented on his fellow party member that represented Wayne County in the legislature in the mid-1840s, declaring it a “very unaccountable circumstance how he ever came to be sent to the Assembly as a Representative.” According to this account, Jonathan Morris’ forte was calling for the ayes and noes, whereupon he usually favored his colleagues “with a miserable application of a quotation from Scripture, or with some disjointed, nonsensical remarks.” Morris was a lawyer and storeowner from Kentucky, about thirty years old at the time. He affiliated with the Methodist Church and was a member of the Masonic Lodge. Morris served in the legislature from 1843-1847, 1851-1855, 1859-1861, and again in 1869-1871. “Sketches of Members of the Legislature,” Knoxville Register, November 12, November 26, 1845.

<sup>256</sup> The only counties in the southwest that staid firmly in the Whig camp were the counties of Madison and Henderson. Madison County returned legislators that often cast racist votes but retrenched in the 1850s. Henderson County initially elected moderates but increasingly sent more racist men to the legislature. On a West Tennessee Whig convert to the Democracy, see Osborne, “Political Career of James Chamberlain Jones,” pp. 322-334.

<sup>257</sup> These counties include Gibson, Carroll, Dyer, and Lauderdale. Inhabitants of Carroll County did return Whig Valentine Sevier between 1839 and 1847. He voted as a moderate but tilted in racist directions more often. Sevier was a lawyer and landowner. He was a member of a temperance society and described as a “gentleman of leisure,” as well as a “wit humorist and practical joker of no mean order.” His father had



Afterwards, Democrats from the northern tier of counties tilted more towards racist responses while Whigs leaned the other way. Along the lower Tennessee River, however, everybody voted racist most often. Democrats, to be sure, now dominated this sub-region (even if it filled relatively few seats). In the southwest legislators did the same except Whigs acted with more circumspection. Then again, Democratic counties in this district, by this point, outnumbered Whig rivals five-to-one.<sup>258</sup>

While it is accurate to say East Tennesseans, as a rule, were less racist than legislators elsewhere in the state, or that southern Ohioans were more so compared to colleagues elsewhere in that state, it would be remiss to end analysis on that note. As we have seen, internal variation, as well as fluctuations therein, characterized each regional pattern. Hence, we need to look more minutely within these restricted geographical communities, too.

Maybe it made a difference, for example, whether a legislator hailed from an urban or rural constituency. It is possible rural provincialism spawned parochial prejudice. Still, one study suggests urban Whigs were leading racists in their party. Cincinnati Democrats often acted so. Perhaps, instead, some sort of economic activity is part of the answer. Or, could it be, the racist vanguard was comprised foremost of southern cotton producers and northern hog producers? Yet, alternatively, the key possibly lies in ethno-religious configurations, such as Irish Catholic immigrants versus evangelical Baptists.<sup>259</sup>

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served in the legislature, too. His grand-uncle, moreover, was Governor John Sevier. Tennessee Biographical Directory, p. 662.

<sup>258</sup> Whigs James W. Dougherty of Perry County and Nicholas H. Darnell of nearby Henderson County both served as legislators in the late 1830s. Neither man voted often on racial issues but when they did, the former more often cast racist votes; the latter usually voted as a “liberal.” *Ibid.*, 185-186, 209.

<sup>259</sup> Holt, Rise and Fall of the American Whig Party, p. 118.

To explore these intriguing propositions, and others, I broadened the scope of investigation to examine a variety of non-racial demographic factors. Additionally, if findings of the biographical analysis are interlaced with those relating to county delegations and constituency characteristics, we also learn a number of valuable things. For example, cross-referencing occupational data and manuscript census reports identifies members with large slaveholdings who engaged in agricultural pursuits. This listing was compared to county-level census information to establish if these legislators represented rural localities with wealthy farm values or not. By this method, one can determine, in the first place, whether poorer rural constituencies elected local elites and, if so, whether those leaders behaved similarly or differently than other planters from wealthier rural communities.<sup>260</sup>

Findings indicate voters in poorer counties disproportionately elected small slaveholders or men who owned no slaves (so far as is known). But some less developed localities did return a local planter, perhaps simply because he could “dress the part” better, as some said, or by masquerading as a humble Christian and plying his neighbors with whiskey, as others had it. It could have been none of these things. Among legislators of this class no normative voting pattern emerges among Democrats or West Tennessee Whigs. In the rest of the state, rural Whig planters from poorer counties voted decidedly less racist.<sup>261</sup>

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<sup>260</sup> DeBow, The Seventh Census, pp. 584-585; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>261</sup> *Ibid.*; Stewart, “Evangelicalism and the Radical Strain in Southern Antislavery Thought During the 1820s,” pp. 379-396; Fred A. Bailey, “Class Contrasts in Old South Tennessee: An Analysis of the Non-Combatant Responses to Civil War Veterans’ Questionnaires,” Tennessee Historical Quarterly, 45 (Winter 1986):273-286; Fred A. Bailey, “Class and Tennessee’s Confederate Generation,” Journal of Southern History, 51 (February 1985):31-60; Fred A. Bailey, “The Poor, Plain Folk, and Planters: A Social Analysis

What follows are brief sketches of basic demographic characteristics of counties that elected racist legislators or their critics. In Tennessee, for example, “core” racist counties reflect certain distinct characteristics. These areas elected older men, members of the planter class, or legislators born in central or western Tennessee. Constituents often exhibited higher literacy rates, especially in urban areas. Rural counties featured household manufacturing, cotton production, and livestock operations in places with high farm values. To a slight degree, Presbyterians were disproportionately present, too.<sup>262</sup>

Aligned with the “core” racist faction was a more ephemeral group. These legislators, as a rule, were more elderly men, often Presbyterians, and usually from Virginia. The counties they represented differ from the “core” racist places. If urban, these areas produced few household manufactures. Rural constituencies featured livestock operations where farm values were low, usually involving sheep herding or raising hogs. Another set of counties almost exclusively worked cattle. Crop mix, across the board, usually included a combination of wheat, oats, and Indian corn. By the 1850s, as this group faded, another arose in its place comprised mostly of farmers or men in their forties. They came from more literate, rural “slave” counties which featured Methodists (with a few Episcopalians), expensive farm machinery, and much improved acreage.<sup>263</sup>

The core liberal “opposition” consisted of men born in East Tennessee or North Carolina. It also had more than its share of doctors, artisans, and non-slaveholders in general. Their constituent base rested in rural counties, often not very prosperous

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of the Middle Tennessee Respondents to the Civil War Veterans’ Questionnaires,” West Tennessee Historical Society Papers, 36 (October 1982):3-24; for a critique of Bailey, see Jennifer K. Boone, “‘Mingling Freely’: Tennessee Society on the Eve of the Civil War,” Tennessee Historical Quarterly, 51 (Fall 1992):137-146.

<sup>262</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>263</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

although farm values were not always low. Illiteracy was common; household manufacturing was not. Wheat was grown usually with Indian corn. Flax production also was widespread. Among counties with low farm values, the annual value of animals slaughtered was higher than the regional average, too. Although the small number of counties involved makes drawing firm conclusions hazardous, it is worth mentioning the Union Church, Quakers, and certain minor sects also had a presence.<sup>264</sup>

The rest of the more liberal cohort, at least before mid-century, came from a diverse range of counties. These legislators often were in their thirties, small slaveholders, merchants by trade, or Baptists. Their constituent bases were rural but not too much else is known. These areas engaged in sparse household manufacturing. Hog production was noteworthy but only in conjunction with raising dairy cattle. Finally, these counties, relatively speaking, tended to grow more rye.<sup>265</sup>

In the 1850s a new element entered the mix. What is unique was how many of its members were under thirty years old. If urban, the constituent base of this faction produced few household manufactures. Rural counties featured Baptists, illiteracy, and economic activity involving tobacco, potatoes, or flax. Some places grew virtually no cereal crops at all. Finally, wealthy farm counties reported high values in terms of animals slaughtered annually. Poorer counties owned valuable livestock.<sup>266</sup>

These patterns are not always replicated within one or the other party. Democrat “core” racist counties, to be sure, elected a lot of Virginians. Some of these areas

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<sup>264</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>265</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>266</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

cultivated a lot of cotton, too, although such places filled less than a fifth of legislative party seats. More universally, they held 2,000 slaves, often many more. The more transient racist faction had less of a rural bent. It featured large slaveholders (but not planters). Lawyers, doctors, and artisans were disproportionately prevalent, too; if a slaveholder, though, the person was probably a farmer. These Democrats were born in East Tennessee or North Carolina. They usually were less than forty years old, often Presbyterians or Methodists.<sup>267</sup>

Presbyterianism also was common amongst constituents. As a rule, the grassroots support for this faction came from urban areas with literate populations; household manufacturing too, but these places were few. Crops mix featured wheat but usually along with oats or Indian corn. New additions to the racist camp in the 1850s included men past forty years old. They usually were farmers, merchants, or small slaveholding lawyers. Their rural voting base featured much improved land and literate inhabitants. Oats and corn were principal cereal crops. Methodism was prominent, too (with some pockets of Episcopalians and Lutherans).<sup>268</sup>

The soft Democrat “core” came from less developed communities. These men usually were native-born sons (yet outside the eastern grand division) or North Carolinians. The counties which primarily returned them had three distinct traits: few slaves, honey and flax production, and the Baptist Church. Allies prior to mid-century were merchants or farmers, past forty years old, and often Baptists. Their voting base was rural counties with few slaves which show low levels of household manufacturing

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<sup>267</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>268</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

and sparse production of cotton or tobacco. Trace evidence exists of Episcopalians, Quakers, and the Union Church.<sup>269</sup>

The new arrivals to the “liberal” camp in the 1850s also had a rural base. These legislators, often Methodists or Presbyterians, usually were under forty years of age, or born in East Tennessee. Many were small-slaveholders but not necessarily farmers. Constituencies reflected low rates of literacy. Some grew tobacco. No connection to religiosity surfaced except some places featured minor sects or few church seat accommodations at all.<sup>270</sup>

The “core” racist Whig faction resembled its Democrat counterpart in a significant way. It represented “slave” counties. Yet these men were born mostly in central or western Tennessee rather than outside the state. Planters were prominent; many engaged both in agricultural pursuits and practice of the law. This group also embraced Presbyterianism which is something shared in common with constituents, among whom much valuable farm machinery also was owned. In relative terms, however, the primary node of support was literate urban areas.<sup>271</sup>

Early collaborators prior to the 1850s included men both in their thirties and past fifty. They mostly were farmers and lawyers, usually born in Virginia or North Carolina. Baptists were common, too. Grassroots support was centered in rural counties inclined to Methodism with large white populations. While household manufacturing was sparse, lands were intensively cultivated, Indian corn was a common crop, and sheep herding

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<sup>269</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>270</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>271</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

was evident, too. Replacements in the 1850s came from areas not so different. These legislators most often were in their forties although many were quite youthful. Several were small slaveholding farmers. The counties that put them in office are not notable for household manufacturing. Many counties, moreover, reported few cattle. Much land was improved; wheat and oats were the preferred crop mix. Finally, small pockets of Lutherans existed in these areas.<sup>272</sup>

The liberal “core” amongst Whigs came from less developed rural areas, too, especially where literacy rates were low. This faction contained merchants, doctors, and artisans, usually non-slaveholders. Its constituent base featured counties with fewer than 1,000 slaves. Somewhat surprisingly, household manufacturing was uncommon yet production of honey and flax does stand out. Much land remained unimproved. The Baptist Church also was popular.<sup>273</sup>

The other wing of the “soft” camp, at least initially, was more urban-centered. This group featured small slaveholders, usually farmers and some lawyers. Most were in their forties, born in East Tennessee, or perhaps Kentucky. Episcopalians, if not numerous, nor were they so rare. In terms of economic activity, the voting base of this faction shows little evidence of anything very distinctive. Many counties grew relatively little nothing at all and livestock production was limited, too. These areas also contained Quakers, the Union Church, and various minor sects. Some had few church seat

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<sup>272</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>273</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

accommodations at all. The most distinguishing characteristic, overall, was low rates of literacy especially in urban areas.<sup>274</sup>

Whigs who ultimately aligned with the “core” opposition to racist measures by the 1850s were an urban bunch, too. They were often large slaveholders, below the planter class, mostly merchants or doctors. Some were non-slaveholding farmers, too. These men, as a whole, typically were not yet forty years old. Methodists and Baptists were common, Virginians and North Carolinians as well. The primary voting base of this faction featured counties with few slaves and low farm values in addition to urban counties engaged in household manufacturing.<sup>275</sup>

Differentials also are detectable in the Ohio data. Amongst counties electing racist legislators most often, some distinctive characteristics do stand out. The “core” racist faction included farmers, and artisans, many of whom had southern roots. Its constituent base, overall, reflects an immigrant cast with Lutheran or Catholic propensities. In urban areas, support came primarily where literacy rates were high and substantial foreign-born elements resided. If rural, illiterate foreign-born counties fit the bill.<sup>276</sup>

Prior to mid-century, the other faction in the racist camp also came from a mixture of urban and rural localities. These men were mostly Pennsylvanians and disproportionately past fifty years old. Their constituent base, in general, reflected a heavy presence of native-born Americans. If urban, counties also had higher literacy rates. In rural counties manufacturing was common, much acreage was improved and, in some places,

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<sup>274</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>275</sup> “Tennessee Census Data”; Tennessee Biographical Directory; Atkin’s “Slaveholding Database.”

<sup>276</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”



tobacco was grown. Hog production was a staple in wealthier farm districts. Finally, such places trended towards Methodism.<sup>277</sup>

As this faction faded near mid-century, another cohort that voted racist was arising that was almost entirely different. These legislators were younger, often in their twenties, and also more likely to be foreign-born or relatively recent migrants into the state. As previously noted, their home counties held a disproportionate number of African Americans of mixed ancestry. Otherwise, what made these areas distinctive was larger numbers of foreign-born immigrants in urban areas with low levels of literacy.<sup>278</sup>

The “core” liberal opposition was more a nativist concern. These men typically were in their forties, often born in New England, or had resided in the state for decades but were not exactly old-timers. Their voting base featured migrants born elsewhere in America. Low literacy rates amongst non-foreign born inhabitants especially catch the eye, whether a county was urban or rural. Urban centers also engaged in household manufacturing. Rural localities raised cattle and sheep where farm values were low. Baptists and Congregationalists also had a firm foothold. Although involving only a sparse number of cases, the Union Church, Universalism, and various minor sects also are present. Finally, these counties often had a long association with the Ohio Anti-Slavery Society in the sense that a local auxiliary society had been in existence since the 1830s.<sup>279</sup>

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<sup>277</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>278</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>279</sup> *Ibid.*; Robert Price, “The Ohio Anti-Slavery Convention of 1836,” Ohio State Archaeological and Historical Society Publications, 45 (April 1936):173-188.

Their colleagues, before the 1850s, came from a different sort of home district. This cohort was comprised of lawyers, often younger men in their twenties and thirties. Two different types of constituencies provided the bulk of the voting base; urban manufacturing districts and rural areas engaged in household manufacturing. Several localities also grew oats or Indian corn. Generally speaking, Presbyterianism was a preferred religious affiliation. The group supplanting them after mid-century primarily included native-born Ohioans, long-time residents, or merchants. The counties that elected these men were both rural and urban. In either case literacy rates were high. In the countryside, much land was improved, some tobacco grown, and livestock values were impressive in wealthier farming areas.<sup>280</sup>

The pattern within the Ohio Democracy is much the same as the assembly as a whole. Legislators in the “core” racist faction were usually born in Pennsylvania, New York, or if in Ohio, they traced family origins back to Mid-Atlantic States. Most were farmers. The elderly contingent, past fifty years old, also stands out. Among their constituents, Presbyterianism was popular; so was Lutheranism. The most consistent grassroots support came in more illiterate urban areas with foreign immigrants. In total, though, such counties are few.<sup>281</sup>

Democrat racists that aligned with them prior to mid-century usually were lawyers or artisans, often southern-born. Many had not resided in the state very long. Most were in their forties although quite a few were not past thirty. Almost universally manufacturing districts elected them in urban or rural settings. If a rural county, moreover, use of farm

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<sup>280</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>281</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

machinery was extensive and wheat the principal crop. For the most part, these communities favored Methodism (although pockets of Episcopalians existed, too). Amongst the new racist contingent of Democrats in the 1850s the only thing really to relate is that many merchants and doctors were in it. What made their voting base exceptional, besides many mixed-blood African Americans, was the disproportional presence of literate foreign immigrants.<sup>282</sup>

The “core” group of “soft” Democrats was a small contingent featuring old-time residents and foreign immigrants. It bears reminding comparisons are with other Locos and not Whigs or Republicans. Nor did either of these cohorts dominate this faction; each merely stands out as unique. The voting base of these Democrats included “illiterate” counties featuring migrants from elsewhere in America or native Ohioans, although literate urban counties, while not many, fit the bill, too. These places, overall, report little distinctive in terms of economic activity. To a degree, certain minor sects, though, and especially Universalism, had put down some roots.<sup>283</sup>

The residual “liberal” Democrats prior to mid-century were men in their thirties, merchants or doctors, occasionally artisans, and often born in New England. These legislators came mainly from rural counties that grew much hay and engaged in livestock operations involving cattle or sheep. Catholics are relatively numerous but Congregationalists even more so. Quakers and the Union Church are present, too. The new faces in the ranks by the 1850s also represented rural districts. Most were in their forties although quite a few were still in their twenties. In proportional terms, more of

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<sup>282</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>283</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

them had resided in Ohio less than a decade. In general, lawyers predominated. The counties which elected them, as a rule, had high literacy rates, featured the Baptist Church, and contained relatively few foreign immigrants.<sup>284</sup>

Amongst “core” Whig racists, southern-born men stand out and this trend persisted into the Republican era. The voting base of this faction featured “foreign-born” counties with low literacy rates. Urban areas outnumbered rural localities almost two-to-one. Finally, Lutherans were sprinkled about. The more transient racist Whigs came from Mid-Atlantic States or were longtime residents of Ohio. Most were past forty years old. By occupation, farmers and artisans prevail. This faction represented urban manufacturing districts or rural wheat counties. Methodism was popular (although the Disciples of Christ had a presence, too). In addition, few mixed-blood African Americans resided in these localities.<sup>285</sup>

Republican additions to the racist camp came from areas where mulattos were more common. These men, compared to party colleagues, were youthful; many still in their twenties. As a rule, they were lawyers, merchants, and doctors. Most were born in Ohio although a few were foreign-born and/or newer arrivals in the state. Their main voting base was in rural manufacturing areas but, even if urban, literate foreign immigrants were common, especially Catholics.<sup>286</sup>

The “core” faction of “liberal” Whigs featured men in their thirties who had resided in the state for several decades. Its voting base featured native Ohioans and migrants from

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<sup>284</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>285</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

<sup>286</sup> “Ohio Census Data”; Biographical Directory of the American Congress; “Ohio Biographical Appendix.”

elsewhere in America. Literacy rates were low especially in a few urban areas. Most counties, however, were rural. In these places lands were intensely cultivated, oats or potatoes were favored crops, and a primary economic activity was raising cattle or sheep. In terms of church preference, Congregationalism stands out. Some minor sects were present, too, as were pockets of Universalism.<sup>287</sup>

The residual Whig liberals included mostly lawyers, merchants, and doctors. Youthful men in their twenties are disproportionately represented. A small number, moreover, were foreign immigrants or recent arrivals in the state. Their constituent base was rural, engaged in household manufactures, and some rye was grown, too. Presbyterianism was a preferred religious denomination. The Union Church had a small presence, too.<sup>288</sup>

New liberal additions appearing in Republican ranks during the late 1850s included farmers and to a lesser degree long-time state residents. Their voting base prominently featured Baptists along with smaller enclaves of Episcopalians and Quakers. Urban areas engaged in manufacturing and usually featured literate non-foreign born populations. The rural counties, however, prevailed by a margin of two-to-one. In such localities much acreage was improved upon which wheat was grown. In addition, rural constituents were mostly native-born Americans with low rates of literacy.<sup>289</sup>

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<sup>287</sup> "Ohio Census Data"; Biographical Directory of the American Congress; "Ohio Biographical Appendix."

<sup>288</sup> "Ohio Census Data"; Biographical Directory of the American Congress; "Ohio Biographical Appendix."

<sup>289</sup> "Ohio Census Data"; Biographical Directory of the American Congress; "Ohio Biographical Appendix."

## VII. Conclusion

By the late 1850s voting behavior on racial issues seemingly is linked in some fashion to varied constituencies across a range of demographic characteristics. Racist counties in Ohio held a disproportionate share of mixed-blood African Americans. A more pronounced division had constituent bases featuring larger foreign-born populations pitted against those containing migrants from elsewhere in the United States or, to a lesser degree, native-born Ohioans. Lutherans and Catholics, in particular, warrant special mention. Everything else pales in comparison except within Democratic ranks, a much-reduced rural constituency by the 1850s produced the least racist men in the party.

In Tennessee, most racist legislators came from larger slaveholding districts. The biggest urban centers were an important supplier, as well; leading cotton-growing counties, too. Rural areas supporting racist legislators often engaged in household manufacturing, grew a mixture of wheat, oats, and Indian corn, and, if a wealthier farming district, raised a lot of livestock. What stands out as especially important, though, is that most such places, whether rural or urban, had high literacy rates. It seems, in addition, they also featured Methodism (if Democratic) and, to a lesser extent, Presbyterianism.

The voting base of more “liberal” legislators typically was a different kind of county. These areas were rural, had fewer slaves, and low rates of literacy. Tobacco was grown, so were potatoes. Many localities had low farm values but not enough to make it a rule of thumb. Within poorer counties, however, livestock production was common. Finally, these places contained a disproportionate number of Baptists.

But this alignment, while building in some ways on the past, was somewhat novel to the period after mid-century. In Tennessee, for instance, the earlier configuration was not so stark. The slave variable was operative but more so in Whig counties and not nearly to the degree it later became. Literacy rates were important but only in urban-oriented counties. The bulkier rural addition came later. Counties engaged in livestock production were a more unified coalition in earlier times, too, before areas with lower farm values shifted to the other side.

While the connection is subtle, it was more often Whig Methodist communities prior to mid-century that elected racist legislators. Afterwards pride of place went to Democratic counties of this persuasion although realignment activity accounts for part of the change. Finally, Baptist counties were late comers to the “liberal” camp. Previously, the only religious groups on the radar are isolated pockets of the Union Church and various minor sects. The same can be said for the other less developed places where church seats were minimal compared to the overall white population.

The Ohio scenario in the 1850s in some ways was also a new departure. The basic notion still is valid, as was so in earlier times, racist legislators came from constituencies with larger numbers of foreign-born immigrants, especially Lutherans and Catholics. Their main critics included men from areas containing migrants from other states, native-born sons, and certain less prominent religious denominations. What was different, however, was that only certain portions of each type of county had been anticipating the broader pattern that came later.

In other words, in the pre-1850s configuration, it was merely the most illiterate constituencies with larger foreign-born contingents that fed the racist faction. Its chief

opponents were men from areas featuring illiterate native-born Americans. It is important to mention, in addition, that the departure of so many literate, native-born, rural, and often Methodist counties from the Democracy in the 1850s meant in the new alignment the racist faction no longer drew so uniformly on rural manufacturing districts, wheat-belt counties, or hog-producing areas. The mulatto connection also was missing.

It seems likely, based on this chapter's findings, that legislators were constituent-compliant to some degree; something about the makeup of a home district informed voting behavior on racial matters. In addition, analysis indicates different county delegation typologies are discernible suggesting, overall, that grassroots opinion varied across localities. In any case, some counties, which shared certain characteristics, elected the same kinds of political leaders in terms of their racial behavior in public life.

Importantly, associations are not straightforward; fluctuations and changes complicate things. Even when connections seem apparent the cases involved often are few. Nor do we learn much about earlier times. The need to extrapolate so much from the data by manipulating it in so wide a variety of ways suggests, in addition, caution is in order before concluding legislators voted in knee-jerk reaction to constituent pressures, or that divergence detected across county lines means racial attitudes polarized. In other words, there is more to the story. Let us turn now to questions about party discipline.<sup>290</sup>

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<sup>290</sup> Caution especially is warranted with regard to small religious denominations. Minor Sects (and often Quakers), for example, correlate in both states to more "liberal" voting records at the statehouse. In neither case, however, are more than a handful of counties involved. Universalism in Ohio also shows a similar association but the size of these groups was tiny everywhere. DeBow, The Seventh Census, pp. 593-594, 596-597, 872-873, 878-879.



## CHAPTER V

### THE SECOND PARTY SYSTEM IN TENNESSEE

#### I. Introduction

This chapter narrows its focus on the second party system in Tennessee. Evidence will show no organization is off the racist hook; at a minimum, nobody stepped forth to champion African-American rights vigorously, and bipartisan discriminatory acts were not uncommon. Even so, many lawmakers felt at least some blacks deserved freedom. A larger amount favored some type of relief to alleviate the plight of free blacks or the enslaved. What historians have not described with exactitude is just how many such men served in the assembly, what were their party affiliations, and whether numbers, overall, vacillated, in what direction, and at what rate.<sup>291</sup>

When a party obtained majority status, none passed up opportunities to put another racist law or two onto the books. The overall record, though, is more of a mixed bag. Voting behavior of the two parties was somewhat dissimilar, too. In a general sense, bipartisanship was a common response on racial issues but on increasing occasions Democrats tended more toward racist extremes. Whigs trailed evermore at a distance,

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<sup>291</sup> Studies that have begun the examination into the composition of the Tennessee legislature include Atkins, Parties, Politics, and the Sectional Conflict in Tennessee, 1832-1861; Wooster, Politicians, Planters, and Plainfolk; Paul H. Bergeron, "The Nullification Controversy Revisited," Tennessee Historical Quarterly, 35 (Fall 1976):263-275; Paul H. Bergeron, "Tennessee's Response to the Nullification Crisis," Journal of Southern History, 39 (February 1973):23-44. Also see William G. McBride, "Blacks and the Race Issue in Tennessee Politics, 1865-1876," (Ph.d. dissertation, Vanderbilt University, 1989).

sometimes surging forward but at other times backtracking. But, then again, both parties until rather late in the day often simply scattered on racial issues.<sup>292</sup>

For a good while, most framings of the “Negro Question” functioned in a cross-cutting manner, even when a slight majority of each party coalesced on a particular proposal. Polarity across party lines was rare; nonetheless, the gap between parties did ultimately grow bigger. An essential context for evaluating these trends is the change in the backdrop occurring in the mid-1830s when a new state constitution was enacted. Free black policy, henceforth, reoriented in dramatically new directions.<sup>293</sup>

The revised organic law significantly eroded free black rights. Nevertheless, it does not appear a white racial consensus produced these results. The outcome was salient for the future. Before Democrats or Whigs had time to perfect party apparatus, groundwork was already laid for fostering a more conducive setting to promote white solidarity. At a minimum, nobody subsequently ever tried to retrace those steps. The parties did continue to squabble about a lot of other subjects relating to free blacks. Which side prevailed carried serious implications for their present and future circumstances, as well as for the enslaved. But, in the final analysis, despite commonalities and notable discrepancies, scant evidence exists of a stable, durable relationship between party attachments and voting on racial issues prior to the mid-1850s.<sup>294</sup>

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<sup>292</sup> Various studies suggest Democrats were becoming more stridently proslavery by mid-century, see Tricano, “Tennessee Politics, 1845-1861.”

<sup>293</sup> Chase C. Mooney, “The Question of Slavery and the Free Negro in the Tennessee Constitutional Convention of 1834,” *Journal of Southern History*, 12 (1946):487-509.

<sup>294</sup> Some scholars stress continuity in Whig outlook over time, see Cooper, *The South and the Politics of Slavery, 1828-1856*.

Before developing this line-of-argument some comments about methods and sources are in order. In the last chapter each legislator's voting history was refracted against the normative stance of party associates as a whole within a particular region of a state. In that chapter intra-party dissension stands out in bolder relief. Voting histories of each person, once clarified, were next compared to personal life histories and constituency characteristics. Now we shift gears. The measurement employed hereafter compares the composite pattern for each party directly against the other.<sup>295</sup>

The basic research strategy is rather straightforward. First, I determined which party held the majority in what sessions and the content of new racial laws enacted at the time. Next, statutes were categorized as more or less racist in orientation, compared to what previously existed, and assessed as to whether it made any difference if Democrats or Whigs were ascendant. Session journals were revisited then to determine which legislators from what parties accounted for bringing racial measures before the general assembly in the first place. This exercise not only helps provide perspective on distributions across party sponsors but also on what kinds of things fell through the cracks.<sup>296</sup>

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<sup>295</sup> See Appendix on Roll Call Analysis.

<sup>296</sup> Although I did examine the state legal code at the Tennessee State Library and Archives (Nashville), gaps in my sampling were filled from Lester C. Lamon, Blacks in Tennessee, 1791-1970 (Knoxville: University of Tennessee Press, 1981); Chase C. Mooney, Slavery in Tennessee (Bloomington: Indiana University Press, 1957); C. P. Patterson, The Negro in Tennessee (University of Texas Bulletin, 1927); Alruthus A. Taylor, The Negro in Tennessee, 1865-1880 (Washington, D. C.: Associated Publishers, 1941); J. Merton England, "The Free Negro in Ante-Bellum Tennessee," Journal of Southern History, 9 (February 1943):37-58; H. M. Henry, "The Slave Laws of Tennessee," Tennessee Historical Magazine, 2 (1916):175-203; William L. Imes, "The Legal Status of Free Negroes and Slaves in Tennessee," Journal of Negro History, 4 (1919):254-272; James W. Patton, "Progress of Emancipation in Tennessee," Journal of Negro History, 17 (1932):67-102; Charles C. Trabue, "The Voluntary Emancipation of Slaves in Tennessee as Reflected in the State's Legislation and Judicial Decisions," Tennessee Historical Magazine, 4 (March 1918):50-68; Roy Van Dyke, "The Free Negro in Tennessee, 1790-1860," (Ph.d. dissertation, Florida State University, 1972).

How the fate of proposed legislation came about also seemed relevant. Each piece of legislation, therefore, was charted throughout the course of legislative proceedings, as best it could. Roll-call divisions, as well as committee reports, provided the means to determine which elements in each party seemed likeminded or not. Afterwards, I examined those roll calls again to determine whether the majority party should be credited with the passage of a successful initiative or if its passage was due to a coalition of minorities, and in the latter case who comprised the coalition.<sup>297</sup>

Among several constraints hindering implementation of this design, an important one, upon which historians cannot agree, is how to bracket the second party system in chronological terms. The range of suggested benchmark dates for its origins is audacious, ranging from 1819 to 1843, depending on criterion used. In the case of Tennessee, Andrew Jackson additionally complicates things. Many historians, for example, conclude a “friends and neighbors” political style, based on cult of personality, predominated longer in the state than in most other places.<sup>298</sup>

By the mid-1830s, it seems safe to say that Democrats and Whigs had arrived. Some evidence indicates proto-party competition, however, already was going on. Later,

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<sup>297</sup> I examined 105 committee recommendations made between 1815 and 1861 in the Ohio legislature and 70 for the Tennessee general assembly. For a list of roll calls per session, see Appendix B.

<sup>298</sup> McCormick dates the key transitional stage in Tennessee to the years between 1834 and the early 1840s but has Ohio beginning the process earlier and moving faster thereafter towards institutionalized two-party competition. Bergeron notes that a regular state convention system was not really in place in Tennessee until the mid-1840s. Abernethy instead stresses the Panic of 1819 as an important catalyst in Tennessee. Cayton concurs for Ohio. Ratcliffe, however, finds the election of 1824 a benchmark event. Shade, moreover, reminds us that in some areas the emergence of a full-blown “modern” two-party system did not occur until near mid-century. McCormick, *The Second Party System*, pp. 222-223; Bergeron, *Antebellum Politics in Tennessee*, pp. 62-76; Abernethy, *From Frontier to Plantation in Tennessee*, p. 225; Andrew R. L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780-1825* (Kent, Ohio: Kent State University Press, 1986):150; Donald J. Ratcliffe, “The Role of Voters and Issues in Party Formation: Ohio, 1824,” *Journal of American History*, 59 (March 1973):847-870; William G. Shade, “Political Pluralism and Party Development: The Creation of a Modern Party System, 1815-1852,” in Paul Kleppner, et. al., *The Evolution of American Electoral Systems* (Westport, Connecticut, 1981):77-111.

parties sank deeper roots and, in the process, mutated into somewhat new animals. Contests for legislative seats, at a minimum, increasingly featured candidates nominated by party conventions. What I am saying is that my analysis will hold party constant which, to be candid, is artificial.<sup>299</sup>

Chronological framing poses problems, too. I begin with legislative proceedings in 1815 in order to detect when factional alignments, resembling future party attachments, first appeared and whether handling of racial issues changed later. The terminal date is set in 1854, not because Whigs were eclipsed, but because of the dalliance with Know-Nothingism and other contextual changes. For purposes of making longitudinal assessments across multiple sessions, the general period is subdivided, as well, into three stages whereby different scenarios historians have offered can be evaluated separately without omitting alternative options, based on different bracketing, from the evaluation.<sup>300</sup>

What will be referred to as the “early” formative stage of party development covers the years 1815-1834. An “intermediate” stage of two-party maturation includes sessions thereafter until 1848, just prior to the uproar about holding the Nashville Convention. The “final” stage of complex party dynamics takes it from there until Whigs lost their northern wing with the rise of the Republicans. I am cognizant the Tennessee crowd was

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<sup>299</sup> A Tennessee Whig in 1833 still thought it improper to thrust oneself forward as an aspirant for public office. Another member of the party made a similar claim a decade later. Shortly thereafter, however, an editor complained that in one district five Whigs had entered the field against a lone Democrat. Overall, though, in both states during the 1830s contests for legislative seats became to regularly feature two candidates—one from each party—and, moreover, increasingly nominees of local conventions Nashville National Banner and Daily Whig Advertiser, August 24, 1833; Knoxville Register, March 15, July 19, 1843; July 16, 1845.

<sup>300</sup> W. Darrell Overdyke, The Know-Nothing Party in the South (Baton Rouge: Louisiana State University Press, 1950); LeRoy P. Graf, ed., “Parson’ Brownlow’s Fears: A Letter About the Dangerous Desperate Democrats,” East Tennessee Historical Society’s Publications, 25 (1953):111-114.

not entirely moribund at this point, but chose this ending date, among other reasons, for purposes of cross-state comparisons later.<sup>301</sup>

The point of this digression is to note that determinations about when parties arose or fell can make all the difference as to which model of two-party competition seemingly makes more sense. By omitting the “early” stage as not really representative of a “modern” two-party system, statistical compilations for the period 1835-1854, in the aggregate, present a different picture than what is revealed if the early sessions are lumped in, too. To sidestep these complications each stage of party development is analyzed in a vacuum, as well as compared to the others, before attempting to put it all together.

## II. The Legal Inheritance of Jeffersonian Times

To comprehend properly the varied encounters of legislative parties with racial issues during the second party system, it is essential to understand what transpired in earlier times. At a minimum, one needs to appreciate the basic features of the legal setting which pioneer generations established as a point of origin for what came later. After all, much change accomplished during the age of Jackson was incremental in nature and modified, rather than radically altered, earlier precedent. By this means it becomes possible to factor into the equation how much institutional racism in the 1830s and 1840s was a product of the past, rather than active volition to bring about change on the part of Democrats or Whigs.

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<sup>301</sup> Thelma Jennings, The Nashville Convention: Southern Movement for Unity, 1848-1851 (Memphis, 1980); Thelma Jennings, “Tennessee and the Nashville Conventions of 1850,” Tennessee Historical Quarterly, 30 (Spring 1971):70-82; St. George L. Sioussat, “Tennessee, the Compromise of 1850, and the Nashville Convention,” Tennessee Historical Magazine, 4 (December 1918):215-247.

Which statutes and policies remained standing, therefore, is a vital part of this inquiry. An understanding of the law also has utility in establishing relative intentions behind proposed legislation. In other words, an initiative might appear racist on the surface but turn out to have been an attempt to replace a “harsh” racist law with a “softer” one. Finally, examination of Jeffersonian-era legal precedent permits us to measure the long-term pattern and trajectory of change to evaluate whether it was moving in one direction or the other, and at what pace.<sup>302</sup>

It is pertinent to begin discussion with the history of the slave code because free black regulations and its modifications cannot be comprehended properly without an appreciation of this underlying context. Since questions about manumitting slaves also loom large in this study, it also seems appropriate to make some brief remarks about the subject of the law and slavery. The essential point is that early legal sanction for the master-slave relation meant regulation of free blacks began back then, too. Hence, by the time Democrats and Whigs came along this practice already was longstanding.<sup>303</sup>

Briefly stated, the future state of Tennessee had several thousand slaves in its borders by the mid-1790s when founding fathers drafted a constitution and approached Congress about admission to the Union. The precise number is elusive but census reports show more than three thousand slaves in the region by 1790; a decade later the slave population had grown more than fourfold in size. By 1810 almost 45,000 slaves were in the state.

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<sup>302</sup> Legislators, for instance, passed a bill in the early 1830s which exempted certain manumitted slaves from removal clauses while retaining the extradition feature overall. Journal of the 20<sup>th</sup> Tennessee Senate (1833):261.

<sup>303</sup> One study finds it “probable” that the first slave brought into Tennessee came in 1766. Patterson, The Negro in Tennessee, p. 11.

The rate of increase now diminished but in absolute terms slave numbers kept almost doubling for the next few decades.<sup>304</sup>

A slave code was operative since pre-statehood days, too. As a frontier district of North Carolina, that state's laws regulated the peculiar institution and continued indirectly to do so thereafter unless explicitly altered. When Tarheels ceded western lands to the federal government in 1790, moreover, a clause attached to the transaction which also strengthened confidence in the security of slave property. Congress, under this covenant, was not allowed to abolish slavery without the consent of local citizens.<sup>305</sup>

Under the Southwest Territory Code, no legal impediments discouraged introducing more slaves. At statehood, the Constitution of 1796, while not openly condoning the chattel principle, gave indirect sanction by perpetuating territorial taxes on slave property. State courts later made rulings based on such reading of the organic law. Legislators acted similarly, too, enacting statutes to create special slave courts, regulate slave behavior, and provide for governmental oversight of the hire, sale, or transfer of slave property. Supplemental laws, in addition, provided for fines or incarceration of persons who harbored or otherwise facilitated runaway slaves.<sup>306</sup>

Not every action early lawmakers took, though, was entirely supportive of black bondage. The stance taken on the African slave trade, for example, illustrates this point.

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<sup>304</sup> Walker, The Statistics of the Population of the United States (1872):61-63.

<sup>305</sup> On the North Carolina Code and Cession Act of 1790, see Patterson, The Negro in Tennessee, pp. 12-21, 23, 153.

<sup>306</sup> Helen T. Catterall, ed., Judicial Cases Concerning American Slavery and the Negro (Washington, D. C.: Carnegie Institution of Washington, 1937), vol. 2; Samuel C. Williams, "The Admission of Tennessee into the Union," Tennessee Historical Quarterly, 4 (December 1945):291-319; John D. Barnhart, "The Tennessee Constitution of 1796: A Product of the Old West," Journal of Southern History, 9 (1943):532-548.



Not only did legislators officially urge Congress to terminate on schedule the abominable trafficking, they also passed resolutions requesting an adjustment of the date to a year earlier. Certain evidence, as well, suggests some of these men were not dissuaded that gradual emancipation at home was such a bad idea, either, especially if coupled with colonization. At a minimum, some constituents prompted them to consider the matter.<sup>307</sup>

Although a few Quaker antislavery societies dotted the landscape as early as the 1790s, it was not until the War of 1812 was winding down that a formal state organization began petitioning the legislature. In 1815, the Tennessee Manumission Society, a small but determined band, began sending up petitions regularly, which lawmakers perennially declined to act upon, other than to draft committee reports explaining this decision. The memorials, usually laced with scriptural references, requested the general assembly to begin dismantling slavery, although the means proposed were not all so radical and often involved colonizing freed slaves elsewhere.<sup>308</sup>

The official response was that dictates of expediency and sanctity of private property rights tied lawmakers' hands. Yet, on occasion, more favorable recommendations were forthcoming about collateral proposals to curb brutal treatment of slaves, provide them education and religious instruction, or to keep families intact. By the early 1820s, in addition, a state colonization society also began to petition the legislature, often insinuating siphoning off blacks to Liberia would encourage masters to free more slaves.

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<sup>307</sup> Journal of the 6<sup>th</sup> Tennessee House of Representatives (1805); Journal of the 12<sup>th</sup> Tennessee House of Representatives (1817):102, 104, 114, 145; White, ed., Messages of the Governors of Tennessee, 1:207-208.

<sup>308</sup> Martin, "The Anti-Slavery Societies of Tennessee," pp. 261-281.

While more favorably received than prayers of the T. M. S., legislators disagreed too much among themselves to vote aid to this plan either.<sup>309</sup>

It is wrong-headed, however, to extrapolate from reactions to T. M. S. proposals that Jeffersonian-era public officials were militantly proslavery men. As late as 1833, a legislator declared his pleasure to witness that no one present defended the master-slave relation in the abstract although his comments imply perhaps someone had in the past. Yet much evidence from earlier decades suggests most lawmakers were reluctant to call slavery a good thing. More often they winced and then apologized for its continuance based on historical contingency, wealth-generating capacity, constitutional requirements, and, given a rising tide of slaves, pleas of imperious necessity to sustain social order.<sup>310</sup>

Certain laws, in addition, might be interpreted as mild antislavery measures aimed ultimately at phasing slavery slowly out of existence. The Tennessee high court in the late 1790s, for example, followed North Carolina precedent in cases involving private manumission. Under that mandate, petitions to free a slave were rejected unless meritorious service and conduct was involved. In 1801, however, the legislature enacted a statute on the subject with more lenient requirements. This act permitted county court judges almost plenary powers to grant any petition for freedom, with the exception that

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<sup>309</sup> Journal of the 12<sup>th</sup> Tennessee Senate (1817):210-211; Journal of the 12<sup>th</sup> Tennessee House of Representatives (1817):217-218.

<sup>310</sup> Andrew Cowan represented Blount and Monroe counties in East Tennessee between 1821 and 1825. He was an early settler and farmer, veteran of the war of 1812, and elder in the Cumberland Presbyterian Church. He also was a delegate to a local antislavery convention in 1822. In the legislature, he voted “liberal” on free black issues. “Oration before Hawkins County Colonization Society (1830),” in Van Dyke, “The Free Negro in Tennessee, 1790-1860,” p. 100; “Speech of Felix Grundy (1829),” in Nashville Union and American, August 26, 1835; “Speech of James W. Wylly” and “Speech of Jacob F. Foute,” in National Banner and Nashville Whig, October 5, November 21, 1833; Tennessee Biographical Directory, pp. 167-168.

the bestowal of liberty must not violate state policy. Another option was for legislators to enact a private bill.<sup>311</sup>

Later statutes authorized sheriffs to take slaves with impending freedom suits into custody to prevent masters removing them outside jurisdiction of court venues. Judges often required security of some kind. Tennessee courts, additionally, admitted hearsay evidence favorable to the plaintiff's case. At any rate, the practice of private manumission was never abrogated. Whether a device to pacify enslaved black masses, a means to allow a master to dispose of property in his own fashion, or a concession to humanitarian inclination, at least a few slaves were freed. The state judiciary, moreover, repeatedly ruled slaves had a dual identity under the law both as human beings and a "special" form of property. But as men and women with natural rights, it perennially was conceded, a recognized prerogative was to accept a grant of freedom when offered.<sup>312</sup>

Legislators moved more slowly to restrict slave importation. Of course, one can view this policy, at least initially, as crafted merely to ensure social stability in wartime. But, in the minds of many Tennesseans, it increasingly took on mild antislavery connotations. From this perspective, import restrictions mitigated many commercial aspects of the speculative slave market and thereby, allegedly, inclined slaveholders to treat slaves more humanely and someday perhaps liberate them. At a minimum, by slowing the flow of slaves into the state, the white population maintained a comfortable ascendancy in terms

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<sup>311</sup> Trabue, "The Voluntary Emancipation of Slaves in Tennessee as Reflected in the State's Legislation and Judicial Decisions," pp. 50-68.

<sup>312</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:486-487; Henry, "The Slave Laws of Tennessee," pp. 175-203; Patton, "Progress of Emancipation in Tennessee," pp. 67-102; Arthur Howington, "'Not in the Condition of a Horse or an Ox': Ford v. Ford, the Law of Testamentary Manumission, and the Tennessee Court's Recognition of Slave Humanity," Tennessee Historical Quarterly, 34 (Fall 1975):249-263.

of overall numbers. Consequently, it was said, whites felt less threatened, which diminished any perceived necessity to clamp down on bondsmen too harshly.<sup>313</sup>

In any event, during the War of 1812, emergency measures, designed to lapse in five years, were enacted which aimed to prevent slaveholders elsewhere from using Tennessee as a storage facility to safe keep slave property until peace returned. Exceptions for wedding dowries, inheritances, and various gifts were granted, and a migrant slaveholder might bring his slaves, too, if ready to become a citizen of the state. Some confusion afterwards ensued regarding whether importing slaves still was against the law. Finally, in 1826, the legislature re-enacted the old prohibitory statutes after the Giles County sheriff seized a man's slaves. This law remained on the books until the 1850s. The enactment aimed, in particular, at curbing professional slave dealers from operating in the state, although not every loophole was entirely sealed off.<sup>314</sup>

A reasonable case can be made, of course, that recognizing humanity of slaves was not simply a possible prelude to future liberation but a means to hold slaves accountable for their actions and, in the end, reduce a master's liability for unauthorized acts. One might argue, too, the slave importation ban was not intended so much to set the stage for emancipation but had a more immediate goal in mind of driving up domestic slave prices. But other legal provisions imply that bald cynicism is too sweeping. Humanitarian impulses, in other words, were not entirely absent, even if such sentiment did not always translate into antislavery zealotry. In short, Jeffersonian-era lawmakers, as a rule, were

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<sup>313</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:504-505; Chase C. Mooney, "Some Institutional and Statistical Aspects of Slavery in Tennessee," Tennessee Historical Quarterly, 1 (1942):195-228; Imes, "The Legal Status of Free Negroes and Slaves in Tennessee," pp. 254-272; Journal of the 12<sup>th</sup> Tennessee House (1817):217.

<sup>314</sup> Patterson, The Negro in Tennessee, pp. 43-44; Journal of the 16<sup>th</sup> Tennessee House (1826):97-98.

not entirely comfortable with the dictum that a master always was the slave's best friend. If they thought so why enact laws obliging owners, and later hirers, to provide basic necessities such as food, clothing, shelter, or medical services? Nor were masters or their agents permitted to extend punishment to life or limb; they were restrained to bounds of "moderate" correction, which still meant floggings, only not more than thirty lashes.<sup>315</sup>

The law also interceded in cases where whites inflicted wanton abuse on slaves they did not own. This statute, again, protected the slave from physical harm but also served interests of the master. The same might be said about the "humane" decision to end the practice of outlawing runaways who committed mayhem, a law which had exempted citizens from criminal liability for the killing of these renegades. In short, concerns about humane treatment of slaves and property rights of slaveholders are entangled and intertwined to the point where it is hard to tell which consideration was paramount.<sup>316</sup>

The slave code also created daily annoyances, inconveniences, and more alarming problems for free blacks. Marriage to a slave required the master's approval and the posting of bond, among other things. Various statutes, while applying to whites, too, had special resonance for free blacks trying to interact with other African Americans whom were enslaved. Trading with slaves was fineable unless a strict set of guidelines was

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<sup>315</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:505; Patterson, The Negro in Tennessee, p. 34; there is considerable scholarly controversy over the "dual" legal status of slaves as human beings and chattel property and implications for white humanitarianism versus the defense of slaveholder property rights, or its functional role in facilitating adjustments in class relations amongst whites, see Andrew Fede, People Without Rights: An Interpretation of the Fundamentals of the Law of Slavery in the U. S. South (New York: Garland Publishing, Inc., 1992); Thomas D. Morris, Southern Slavery and the Law, 1619-1860 (Chapel Hill: University of North Carolina Press, 1996); Michael Tadman, Speculators and Slaves: Masters, Traders, and Slaves in the Old South (Madison: University of Wisconsin Press, 1989); Jenny B. Wahl, The Bondsmen's Burden: An Economic Analysis of the Common Law of Southern Slavery (Cambridge, New York: Cambridge University Press, 1998); Arthur Howington, "'A Property of Special and Peculiar Value': The Tennessee Supreme Court and the Law of Manumission," Tennessee Historical Quarterly, 44 (Fall 1985):302-317.

<sup>316</sup> Patterson, The Negro in Tennessee, pp. 36-37, 42.

followed. In cases involving unauthorized sale of liquor to bondsmen, in particular, free blacks were made to pay a larger sum than whites. It also was illegal to allow slaves to assemble or congregate on one's premises without a master's permission. No one, indeed, was permitted to accompany a slave anywhere without such warrant.<sup>317</sup>

Certain statutes, as well, punished "improper," seditious, or insurrectionary language in front of slaves or insults to masters in their presence. Above all else, free blacks, based on racial criterion, were subject to patrol scrutiny, as well as fifteen stripes if caught breaking curfew or cavorting with slaves illegally. If taken up without papers, and no proof was forthcoming to support claims to freedom, there also was a possibility of being sold as a runaway slave. Not too surprisingly, the advice of a local free black resident was for African Americans to "go slow and be cautious." Tennessee law also banned racial intermarriage (at least to certain degrees of African ancestry). Yet, to put things in proper context, some notable exceptions existed. The Democratic mayor of Memphis in the late 1820s, for example, had a mulatto wife.<sup>318</sup>

Not everything was so grim. To be sure, the Constitution of 1796 based official enumerations for legislative apportionment purposes on the number of white inhabitants only. This provision was a setback as it implied free blacks were unworthy of consideration when it came to allocating representation in the popular assembly and,

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<sup>317</sup> Ibid., pp. 44-49, 50-51, 161, 173.

<sup>318</sup> Ibid., pp. 38-39; Loren Schweninger, "A Slave Family in the Ante Bellum South," *Journal of Negro History*, 60 (January 1975):29-44; Emerson, "Frances Wright and Her Nashoba Experiment," p. 300. The Democratic mayor was Marcus Brutus Winchester, son of the first Senate speaker in the state legislature, and a member of the general assembly himself from 1851 to 1853. His first wife "Mary" was probably a Louisiana Creole. They had eight children. It is unclear what happened but in 1842 he married again, this time to a widow. *Tennessee Biographical Directory*, pp. 812-813. The amalgamation issue in Democratic electoral politics is developed in Thomas Brown, "The Miscegenation of Richard Mentor Johnson as an Issue in the National Election Campaign of 1835-1836," *Civil War History*, 39 (March 1993):5-30.

hence, not really first-class citizens. Still, in Tennessee, free blacks were members of the state militia. Not only did they attend musters, in some counties they voted as a bloc in officer elections. While perhaps a financial burden, free blacks also paid the poll tax, which, at some level, conveyed enhanced civic standing. The same thing can be said about public roadwork, which free blacks performed, although the right to work beside white neighbors, admittedly, was not much of a boon.<sup>319</sup>

Of more consequence, free blacks could marry each other, bequeath legacies to heirs, and enter business contracts, although some memoirs claim “gentlemen’s agreements”--based on shaking of hands--were not unheard of. Nor, for that matter, did state law ban free blacks from obtaining education. Most importantly, if owning sufficient property, free black men were eligible to exercise the franchise. Many, perhaps hundreds, did. The State Supreme Court approved, too.<sup>320</sup>

In 1827 a justice explained freedom was “not a mere name—a cheat with which the few gull the many.” No, it transferred those in its possession, “even if he be black, or mulatto, or copper colored,” from home and field “to the courthouse and election ground.” Of course, the free black masses simply were too impoverished to meet suffrage requirements. As a result, the state electorate, in practice if not theory, essentially was a sea of white with a few free black sprinkles. Nonetheless, free blacks

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<sup>319</sup> Journal of the Proceedings of a Convention Began and Held at Knoxville, January 11, 1796 (Reprint, Nashville: McKennie and Brown, 1852); Journal of the 17<sup>th</sup> Tennessee Senate (1827):469; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” p. 167.

<sup>320</sup> England, “The Free Negro in Tennessee,” pp. 37-58; William B. Gatewood, Jr., ed., Slave and Freeman: The Autobiography of George L. Knox (Lexington: University of Kentucky Press, 1979); Charles W. Cansler, Three Generations: The Story of a Colored Family of Eastern Tennessee (Kingsport, Tennessee: Private Printing, Kingsport Press, Inc., 1939):23-27. On Whig and Democrat politicians alleged soliciting the votes of free blacks prior to their disfranchisement, see The Nashville Union and American, May 1, 1839; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” pp. 71-72.

had a right to a jury trial. They exercised a right of petition, too, which was never abridged. Nor was personal liberty left entirely unprotected.<sup>321</sup>

“Free” status, whether obtained at home or abroad, in other words, was legally binding. The law was aimed to safeguard against kidnappers, too. Penalty for conviction carried the death sentence. The law of 1826 to ban slave importation also allocated a \$500 fine and possibly up to six months imprisonment if an individual brought a free black convict into the state, whose sentence had been commuted on condition of relocating elsewhere, and sold this person as a slave.<sup>322</sup>

On the flip side of the coin, numerous disabilities were enacted in the code, too. A law inherited from North Carolina prohibited free blacks from testifying in court cases involving white litigants. This exclusion, however, did not extend if African ancestry was more than three generations removed. Somewhat disingenuously bondsmen ultimately were allowed to testify against free blacks born as slaves. Special legislative acts, however, might permit free blacks to give their oath in order to prove book accounts against white debtors.<sup>323</sup>

Another set of laws, adopted between 1800 and 1810, aimed to regulate free blacks more stringently. Free papers now were filed with local courts at which time a small licensing fee was paid although immigrants, for some reason, avoided the requirement

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<sup>321</sup> A petition for a free black man to prove his book accounts was presented in 1806; half-a-century later in 1859 a Democrat legislator introduced a petition to benefit the heirs of a free black man. At no time in-between was free black petitioning banned. Journal of the 6<sup>th</sup> Tennessee Senate (1806):22; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):279; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:492-493; Patterson, The Negro in Tennessee, pp. 56, 174.

<sup>322</sup> Patterson, The Negro in Tennessee, pp. 44-45, 162.

<sup>323</sup> Ibid., pp. 16, 32; Journal of the 6<sup>th</sup> Tennessee Senate, 2<sup>nd</sup> Session (1806):45-46; Journal of the 15<sup>th</sup> Tennessee House of Representatives (1824):26-27; Robert B. Toplin, “Between White and Black: Attitudes Toward Southern Mulattoes, 1830-1861,” Journal of Southern History, 45 (May 1979):185-200.



until 1825. A bond of \$500 with two sureties also was required. A detailed description of each individual was appended to court documents, too. Having free papers on one's person, as well, soon become required for movement about the state. If in public without papers, free blacks were arrested and summarily punished. If unable to produce these documents posthaste, one had to post \$250 as security or spend ten days in jail. Finally, free blacks at-large with no apparent lawful business were liable to face a loitering charge.<sup>324</sup>

This scenario prevailed when new parties began percolating in the 1820s. A racist legal precedent already was there. At the same time no systematic agenda to create a "white man's republic" yet was articulated fully much less put in play. Enslavement of most black people, of course, did make a huge difference. After all, less than three percent of African Americans, as a whole, held "free" status. Even so, liberation from bondage was not sealed off entirely but actually had been made somewhat easier.<sup>325</sup>

Between 1800 and 1820, overall, proportional growth amongst free blacks was more accelerated than it was among whites or slaves. Interestingly, by 1830, it had slowed to a comparable rate, just prior to the enactment of a new bevy of discriminatory laws. Enough of the Jeffersonian-era legal inheritance, nonetheless, did orient in racist directions to give arguments about white republics, yet on the horizon, a veneer of plausibility when later made. Just as importantly, on a different front, a baseline is now in place against which to refract initiatives Democrats and Whigs brought forward, as

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<sup>324</sup> Patterson, The Negro in Tennessee, p. 161; Journal of the 6<sup>th</sup> Tennessee Senate, 2<sup>nd</sup> Session (1806):85.

<sup>325</sup> Walker, The Statistics of the Population of the United States (1872):61-63.

well as the means to isolate continuities in the legal code extending into much later times.<sup>326</sup>

### III. As Parties Were Forming

The alignment in legislative politics between 1827 and 1854 on free black issues defies simple categorization. Bipartisanship comes closest to describing it but this depiction also is highly misleading. While legislators often voted similarly across party lines, the corollary proposition also holds. A substantial chunk of Democrats and Whigs at times did not. Cooperative ventures, moreover, did not always produce the anticipated racist outcome. At times Whigs behaved as the grander racists while, on increasing occasions, it was Democrats that took the lead. When all is said and done, though, divergence across party lines is quite often measured in smidgeons.

Legislative cliques appear prior to the mid-1830s but no two-party system in an institutional sense was yet on the scene. In statewide elections Democrats faced only token opposition. William Carroll, repeatedly, was the governor and, when not, another Democrat momentarily took his place. Almost everyone called himself a follower of Old Hickory, too, at least until his second term, when even some old buddies bolted and entered Whig ranks.<sup>327</sup>

Even before the Hugh White revolt, John Bell “and company” had departed, or been driven off, as had Davy Crockett. Nevertheless, based on divisions in the session of 1827 about the administration of John Quincy Adams, it is possible to roughly establish which

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<sup>326</sup> Ibid.

<sup>327</sup> Hopkins and Lyons, Tennessee Votes, pp. 15-22.

men formed an “Opposition” faction, per se. This element was a distinct minority but rather soon the Democrat advantage eroded to a point where “unaligned” legislators become significantly prevalent to make it difficult to tell who, exactly, outnumbered whom.<sup>328</sup>

It probably is fair to hold Democrats responsible for legal reforms enacted in these years. Even so, proto-Whigs might be accountable, too. If we push further back in time, though, the picture gets even fuzzier. In 1826, Democrats controlled the House. The “Opposition” perhaps had an edge in the Senate. In prior sessions, between 1815 and 1825, anti-Jackson men are more prevalent, if future party inclination of a plurality of legislators applied retrospectively, is a reliable guide.<sup>329</sup>

So what changed in the legal code for which lawmakers on either side of the aisle can be charged with complicity? Legislative outputs prior to the mid-1830s only rarely advanced racist agendas. As noted above, a slave import ban was reenacted in 1826 and proto-Whigs possibly held sway in the Senate. It seems Democrats were needed to pass the act but, then again, maybe the “Opposition” provided its chief advocates. What is

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<sup>328</sup> Journal of the 17<sup>th</sup> Tennessee House of Representatives (1827):256, 277-278; Jonathan M. Atkins, “The Presidential Candidacy of Hugh Lawson White in Tennessee: 1832-1836,” Journal of Southern History, 58 (February 1992):27-56.

<sup>329</sup> The differential in voting scores for the period 1815-1825 between future Whigs and Democrats is not vast and the majority of legislators were “unaligned.” The men that became Locos cast racist votes about two-thirds of the time. Those that drifted ultimately into “Opposition” ranks did so less than on three-fifths of occasions. Amongst the membership of the legislature during this time were James K. Polk, Adam Huntsman, John Bell, and Davy Crockett. All but the former later associated with the Whig Party (or White Revolt) but for reasons that had little to do with free black issues. All but the latter mostly cast racist votes. John Balch was a moderate Democrat in the session of 1819 and was so again almost twenty years later when returned for two more terms. Whig Matthew Stephenson was a state legislator from 1809 until 1815. He re-appears between 1831 and 1835. An East Tennessee Whig, John Cocke, resurfaced in the legislature in the early 1840s after an absence of almost three decades. His earlier service was in the late 1790s and several sessions about a decade later. Both men were “liberal” on racial issues. Tennessee Biographical Directory, pp. 25, 40-41, 151-152, 173-175, 392-393, 588-589, 697-698.

known is that many legislators from a decade before who later became Whigs voted for similar legislation, unlike most future Jackson men.<sup>330</sup>

Democrats dominated the session of 1827. An ameliorative mood persisted but not across the board. By a narrow margin, for example, legislators tabled a bill on private manumission. Democrats probably made the difference in sidelining the bill. An attempt to amend manumission laws also met defeat; all sides agreed in defeating it. Before adjourning, however, lawmakers did enact a law which allowed a free black person if illegally held as a slave, to sue for trespass and lost wages, even though protracted litigation could still deny a timely remedy. A petition of a free black man to marry a white woman was granted, too. No roll calls were recorded on either measure. Legislators also failed to do certain things that are relevant to our line-of-inquiry. On a motion to postpone a bill proposing to ban free blacks entry into the state, Democrats voted “yea” by a three-to-two margin. Then again, 90 percent of proto-Whigs voted to kill the bill, too.<sup>331</sup>

In the session of 1829, factional distributions are less clear. House Democrats still held an edge, even though the Speaker was later a prominent Whig. The situation in the Senate is uncertain. Party affinities of four men cannot be ascertained and they tip the balance between the two camps. At any rate, at this time, a variety of laws appeared.

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<sup>330</sup> Journal of the 12<sup>th</sup> Tennessee House of Representatives (1817):217; Journal of the 16<sup>th</sup> Tennessee House of Representatives (1826):97-98.

<sup>331</sup> Journal of the 17<sup>th</sup> Tennessee Senate (1827):207-208, 415; Journal of the 17<sup>th</sup> Tennessee House of Representatives (1827):594; England, “The Free Negro in Ante-bellum Tennessee,” p. 38; Trabue, “The Voluntary Emancipation of Slaves in Tennessee as Reflected in the State’s Legislation and Judicial Decisions,” pp. 50-68.

Several involved regulating liquor traffic amongst slaves. On a related subject, two-thirds of each faction voted to restrain free blacks from buying or selling spirits.<sup>332</sup>

Not every new law, though, was restrictive in nature. One example was when legislators revisited the 1799 statute on “stealing” free blacks (or slaves). Rather than a capital offense, as heretofore, the crime, if done “knowingly,” was now punishable with a five to fifteen year prison stretch. No roll call tells about party alignments. The reduction in penalty perhaps indicates white attitudes were changing, becoming more callous toward African Americans, and therefore caring less about the severity of this offense. If so, the fact that the crime itself still warranted extreme punishment must qualify this judgment somewhat. It is possible the adjustment was intended to secure convictions more readily, too.<sup>333</sup>

Another new law also involved an ameliorative reform and it seems to have commanded support across factional lines. Slaves could now, through a “next” friend, bring freedom suits in chancery court, as well as county courts, if executors or agents had failed to complete the manumission process as promised before demise of a master. A majority of the court had to be present and agreement of two-thirds of the judges was necessary to obtain state consent and thereby bar creditors from filing for restraining orders.<sup>334</sup>

On a related front, two-thirds or more of each faction favored a private manumission bill while rejecting imposition of extra requirements. But legislators, in an about face,

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<sup>332</sup> Ephraim H. Foster was House Speaker. He voted as a moderate. Journal of the 18<sup>th</sup> Tennessee Senate (1829):549.

<sup>333</sup> Patterson, The Negro in Tennessee, p. 162.

<sup>334</sup> Journal of the 18<sup>th</sup> Tennessee Senate (1829):316; Journal of the 18<sup>th</sup> Tennessee House of Representatives (1829):367-368.

across factional lines, also rejected a bill for relief of a free black man. Furthermore, perhaps most significantly, a proposal for constitutional emancipation of slaves throughout the state was postponed. On this roll call, both factions, generally speaking, scattered their votes.<sup>335</sup>

Two years later legal vibrations sounded a different tune. Laws enacted in this session often pertained to slave court proceedings, punishment of criminal slaves, or regulation of slaves otherwise. Among this output was a statute which placed the burden of proving innocence on defendants charged with violating the ban on slave importation. Another law obliged patrollers to search all “suspected” places more often, at least once a month, for slaves at-large without permission of owners. If a free black person was at-large without papers, the punishment remained fifteen stripes administered on a bare back.<sup>336</sup>

What made this session different was the basic orientation in outlook had changed. Things began to take shape after a Democrat committee report recommended several discriminatory reforms. A bare majority in each coalition, in the end, coalesced to pass the Act of 1831, although, almost universally, legislators opposed a proposed amendment relating to selling free blacks “under certain circumstances.” The Act of 1831 forbid free blacks, whether born so or emancipated, from removing into the state for a period of more than twenty days. Freedom of residence formerly accorded free blacks from other states was withdrawn, too. Violators faced a fine between \$10 and \$50, as well as a one-to-two year term in prison. The sentence doubled for repeat offenders.<sup>337</sup>

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<sup>335</sup> Journal of the 18<sup>th</sup> Tennessee House of Representatives (1829):293-294, 258-259, 346, 574.

<sup>336</sup> Patterson, The Negro in Tennessee, pp. 38-39.

<sup>337</sup> Journal of the 19<sup>th</sup> Tennessee Senate (1831):42, 222, 244-245, 332.

An exemption to any policy was possible in the form of a special legislative act which, on occasion, was granted. In addition, free blacks might relocate into the state if married to the slave of a new state resident and a \$500 bond was posted. Finally, if a master gave consent and posted bond, alien free blacks who married local slaves might also enter the state. Legislators enacted another law, as well, which required manumitted slaves to leave the state. Masters were required to post bond to ensure removal took place, provide funds for transportation to Africa, and support for six months afterwards. The statute exempted old or diseased slaves.<sup>338</sup>

Tennessee law now facilitated shutting off several possible sources of free black proliferation in the state. The rate of increase amongst free blacks over the next decade did, indeed, decline, although it still remained faster than the proportional increase amongst whites. Why legislators acted in this fashion is not altogether certain. Free blacks were rapidly growing in relative numbers but remained a tiny group in absolute terms. Even so, as early as 1815, Governor McMinn had urged the legislature to implement remedial action in order to prevent Virginia from casting refuse slaves upon Tennessee.<sup>339</sup>

Proponents of the Act of 1831 insisted free blacks were lazy, improvident, prone to vice or criminal behaviors and, in any case, posed a threat to security of slave property. Critics asserted free blacks were too few in number to pose any substantial threat to white society and, in fact, most were well-behaved and respectable. From this perspective, the

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<sup>338</sup> Henry, "The Slave Laws of Tennessee," pp. 175-203; Van Dyke, "The Free Negro in Tennessee, 1790-1860," pp. 32-35, 71-72; Patton, "Progress of Emancipation in Tennessee," p. 78.

<sup>339</sup> Walker, *The Statistics of the Population of the United States* (1872):61-63; Van Dyke, "The Free Negro in Tennessee, 1790-1860," p. 15; William E. Beard, "Joseph McMinn, Tennessee's Fourth Governor," *Tennessee Historical Quarterly*, 4 (June 1945):154-166.

whole project resulted from a momentary hysteria ensuing after Nat Turner's Rebellion. Fanny Wright's experiment at Nashoba, ultimately, had raised eyebrows, too. A prominent Whig, alternatively, later recalled an ameliorative trend was ongoing when abolitionist agitation in the North intruded and caused a reaction. A Democrat--also retrospectively--remembered things the same way. Then again, it is possible restrictions on free black entry and the removal policy was merely the price of more lenient manumission policies.<sup>340</sup>

The sessions held in 1832 and 1833 featured some contentious wrangling over the nullification crisis in South Carolina. Most legislators sided with Andrew Jackson. What the legislators did, in addition, was enact new laws to curb slave access to liquor or travel on stagecoaches, steamboats, or railroad cars without court passes. With respect to free blacks, legislators, almost to a man, rejected a bill to aid in recovery of "just debts." A good deal more time was spent on petitions seeking special legislation to manumit individual slaves. Some bills passed; others did not. Whether it was racist proclivities or the merits of each case that made the difference is unclear. What is evident is Democrats more often voted favorably, doing so about two-thirds of the time. Proto-Whigs scattered. A heftier minority of them, moreover, were disposed to insist masters "make children legitimate" before bestowal of freedom. At the same time, legislators enacted a law making it patently clear that slaves had a right to contract with masters for their freedom.<sup>341</sup>

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<sup>340</sup> Nashville Republican and State Gazette, December 1, 1831; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:529; "Speech of John Bell," Congressional Globe, 31<sup>st</sup> Congress, 1<sup>st</sup> Session, appendix, pp. 1667-1669; Bette B. Tilley, "The Spirit of Improvement: Reformism and Slavery in West Tennessee," West Tennessee Historical Society Papers, 28 (1974):27-29.



Floor debates also featured intense discussions about the possibility of repealing the removal clause. Proto-Whigs were the most vocal champions of the initiative. In the past, though, men in their faction had behaved often in a contrary fashion. On the present occasion, Democrats divided on the proposal. The House “Opposition” favored repeal; Senators did not. Both Democrats and proto-Whigs divided on a related proposition that free blacks obtain court permission if out of their county of record for more than ten days. On this division, proto-Whigs in each chamber now inverted their stances somewhat. More decidedly, about 80 percent of legislators, regardless of factional affinities, favored passage of a supplementary bill to the Act of 1831. This measure exempted slaves from the removal clause who had contracted for freedom prior to 1831 or whose liberty was provided for in the will of a master yet alive.<sup>342</sup>

The legislature, in addition, passed a bill authorizing the state treasurer to pay the American Colonization Society the sum of \$10 for each free black inhabitant in Middle Tennessee transported to Africa, with an annual cap set at \$500. Both Democrats and the “Opposition” divided on this proposal and it narrowly passed with the support about one-half of each faction. In much earlier times, the alignment was different, at least initially, when such ideas began circulating in the 1810s. Towards the end of that decade, future Whigs lent support to A. C. S. proposals at a disproportional rate compared to incipient Democrats.<sup>343</sup>

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<sup>341</sup> Journal of the 19<sup>th</sup> Tennessee Senate (1832):118; Journal of the 19<sup>th</sup> Tennessee House of Representatives (1832):112, 147-148; Journal of the 20<sup>th</sup> Tennessee Senate (1833):51, 138, 218, 226, 244, 259, 261, 268, 292, 295, 297, 301; Patterson, The Negro in Tennessee, pp. 26, 47, 178; Bergeron, “Tennessee’s Response to the Nullification Crisis,” pp. 23-44.

<sup>342</sup> Journal of the 19<sup>th</sup> Tennessee House of Representatives (1832):69, 108-109; Patterson, The Negro in Tennessee, p. 178.

A seminal event then occurred in 1834 when a convention met to revise the state organic law. Delegates split almost evenly between Democrats and Proto-Whigs. If the former previously had an edge in the legislature, the tables now had turned a little. Among prominent topics addressed was the future of slavery. Petitioners, mostly from East Tennessee, were requesting a constitutional provision to provide for some kind of gradual emancipation program, perhaps coupled with colonization. But some editors in central districts also foretold slavery must have an end. Some critics, of course, mentioned how it was so easy for certain persons to give away other people's property. East Tennessee advocates of emancipation howled in response that the charge was untrue; simple justice was their aim. In the end, petitioners did not get their way.<sup>344</sup>

The memorials were referred to a committee whose Whig chairman, an East Tennessean, issued a report recommending against adopting any plan. The McKinney Report deemed slavery an evil but a longstanding one which could not be removed easily. It was premature to attempt an endeavor, so the report ran, whose projected outcome, while desirable, probably was not obtainable anytime soon if, in the process, social order was put at risk. To announce that slaves would be freed in the future only would lead many masters--it was claimed--to sell bondsmen into the Lower South. Once concentrated there with resident slave populations, moreover, chances of servile revolt allegedly would increase. In any case, it was estimated Tennessee masters generally treated slaves humanely, at least better than elsewhere, and bondsmen themselves,

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<sup>343</sup> Journal of the 12<sup>th</sup> Tennessee Senate (1817):210-211; Journal of the 12<sup>th</sup> Tennessee House of Representatives (1817):217-218; Journal of the 20<sup>th</sup> Tennessee Senate (1833):253, 279.

<sup>344</sup> Journal of the Convention of the State of Tennessee (1834):31, 52, 81-82, 85, 106; National Banner and Nashville Whig, November 21, 1833.

therefore, supposedly preferred to keep things as at present rather than be sold down the river.<sup>345</sup>

A minority element of proto-Whigs from East Tennessee drafted a protest which denigrated the report as an apology for slavery. A second committee report issued; additional protests appeared. Among the various opinions registered was that most masters did not treat slaves well, slaves were not better off than free blacks, and the contents of the report seemed to include language subversive of republican principles and tenets of scripture. Regardless of faction, three-fourths of delegates concurred to have the protests entered in the official journal. Yet, an equivalent contingent of the “Opposition,” and nine-tenths of Democrats, approved the contents of the report itself. It is important to note, in addition, that East Tennesseans, or at least a majority of them, voted the same way. In this conclave, though, all but a handful of delegates from this region were proto-Whigs.<sup>346</sup>

Instead of implementing a plan for gradual emancipation, delegates inserted a provision in the new constitution that required owner consent prior to undertaking any such project in the future. No division was taken explicitly on this question but several were recorded on a set of resolutions which bundled this topic with others, such as continuing the slave import ban for resale purposes, ensuring humane treatment of slaves, compensating owners for emancipated slaves, and perpetuating private manumission, contingent upon removal, along with other things. Although sponsored by one of their

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<sup>345</sup> Journal of the Convention of the State of Tennessee (1834):87-93.

<sup>346</sup> *Ibid.*, pp. 100, 102-104, 125-130, 147-150, 222-228

own--a West Tennessean, proto-Whigs divided on the Hess Resolutions, while Democrats, or about two-thirds of them, voted to endorse the recommendations.<sup>347</sup>

Another proposal was to prohibit the state government from appropriating revenue or using public money to fund emancipation programs. Both proto-parties went on record against the idea. About three-fifths of each coalition preferred to leave options open. As far as articles pertaining to the slave code in general, when it came to amendments, Democrats sometimes leaned this way or opponents leaned that way, but both essentially voted a moderate line. Democrats usually cast racist votes slightly more often, but enough proto-Whigs aligned with them to carry things through. On a failed motion to elevate the removal clause to organic law status, however, Democrats tilted in the other direction. Less than two-fifths of them cast favorable votes. The “Opposition” was divided but, relatively speaking, some of its members served as the main proponents of the defeated initiative.<sup>348</sup>

The primary purpose of the convention was to settle controversies about land valuation. Everybody knew the firebrand of emancipation would make an appearance, too. But this issue was secondary despite recent events in Virginia. An important step taken in the convention, given the swollen ranks of sturdy yeomanry in the state, was to remove property requirements for exercise of the suffrage. This measure dramatically inflated the potential electorate; poorer citizens might now fully participate at the polling

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<sup>347</sup> Ibid., pp. 201, 272.

<sup>348</sup> Ibid., pp. 271-273.

grounds. There was a rub. Certain free blacks held sufficient property to qualify as voters under the old regime. What was to be done about them?<sup>349</sup>

In debates factional lines are blurred. Proto-Whigs and Democrats appear on both sides. One camp claimed the legacy of local founding fathers should not be dismissed lightly. An elderly Democratic delegate, a member of that distinguished group himself, was called upon to attest to the validity of contentions that enfranchisement of propertied free blacks was not an oversight back in 1796 but a determined course of action. On the other side, older men were enlisted, too, who recalled founding fathers, sometimes literally their father, telling them a different story.<sup>350</sup>

In other words, free blacks, if propertied, exercised the suffrage, not from constitutional right, but because early lawgivers simply were not paying close enough attention to specifics and details. A better guide for bestowal of political standing, from this perspective, was the standard used for legislative apportionment, i.e. white. The official journal of the statehood convention was re-published around mid-century but a perusal of this slender volume did not reveal any evidence to adjudge what was the “original intent” of founders on this matter.<sup>351</sup>

The problem posed a conundrum. If the new law was applied universally across racial lines, as had the old one, poorer free blacks would become voters, which most lawmakers did not deem a desirable outcome. Both a Democrat and a Whig, though, made this very

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<sup>349</sup> Mooney, “The Question of Slavery and the Free Negro in the Tennessee Constitutional Convention of 1834,” pp. 487-509.

<sup>350</sup> Journal of the Convention of the State of Tennessee (1834):37, 51-52, 83, 107, 209; White, ed., Messages of the Governors of Tennessee, 2:601-610; Nashville Republican and State Gazette, June 28, July 10, July 15, 1834, July 15, 1835.

<sup>351</sup> Journal of the Convention of the State of Tennessee (1834):214; Journal of the Proceedings of a Convention Began and Held in Knoxville (1796; Reprint, 1852).

proposal. Critics expressed doubts about abilities of the black masses to exercise political privileges responsibly, which fostered arguments that exceptional cases of exemplary individuals (even if military veterans) should not set the rule when it came to framing state policy. Worries were expressed, too, about the impact on slaves, or electoral politics, if free blacks ever attained a balance-of-power role between the two parties. Although an obviously remote possibility, but free black militiamen already were showing an inclination to do that very thing. Furthermore, it appeared North Carolina was planning to disfranchise free blacks in the near future, too.<sup>352</sup>

The primary alternative, it seemed, was to create yet another anomaly in the legal culture. Permit existing free black voters to retain the boon, just deny it to all others. Several Whigs made this argument. As a Democratic delegate explained, too, it was their constitutional right, they had done nothing to deserve shabby treatment, and, if some individuals abused their liberty, it was not fair to visit retribution on everybody. In short, it would probably do, in this one case, to permit the privilege to continue for a while longer. In doing so, though, it meant making class distinctions amongst African Americans at the very moment when prevailing winds were blowing in the opposite direction in white society. At least some consistency, it seemed, might be desirable.<sup>353</sup>

Under the new state constitution no free black voters remained except a handful that qualified as eligible to render court testimony (meaning no African ancestry in the past three generations). Initially, at the convention, things started out differently. A Middle

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<sup>352</sup> Journal of the Convention of the State of Tennessee (1834):83, 184; White, ed., Messages of the Governors of Tennessee, 2:601-610; National Banner and Nashville Whig, November 21, 1833.

<sup>353</sup> Nashville Republican and State Gazette, June 28, 1834; Fletcher Green, "Democracy in the Old South," in J. Isaac Copeland, Democracy in the Old South (Nashville: Vanderbilt University Press, 1969):65-86; Chilton Williamson, American Suffrage: From Property to Democracy, 1790-1860 (Princeton: Princeton University Press, 1960).

Tennessee Whig reported a suffrage article without racial exclusions. A member of his party from a western district criticized the idea and insisted that voting was a conventional privilege which government had every right to manage. While given the opportunity, delegates, he said, should expunge the “odious and objectionable” feature which probably ran counter to the intent of original framers. The suffrage, in his view, should be entrusted only to the “most moral and intellectual” classes, i.e. free white men. He did express astonishment, though, that amongst delegates, the friends of African Americans were more numerous than he first supposed.<sup>354</sup>

Another Whig, from a western district, offered a resolution insisting that free blacks were not citizens of the state or the nation and the constitutional authors had not intended them to be such. Ergo, they were not parties to the political compact and could not vote. He not only argued statewide emancipation was unconstitutional but that blacks must be kept subordinated to whites, unless separated, or a race war would result. Based on the popular will, prudence, and want of constitutional authority, this Whig concluded free blacks (and Indians) should not vote. Ultimately, it was a Democrat that moved to insert the word “white” in the suffrage article. This proposal passed, 33 to 23. Two-thirds of proto-Whigs voted favorably. Democrats split almost right down the middle. The same alignment recurred on a division pertaining to a defeated motion by an East Tennessee proto-Whig to allow existing free black voters to retain that status. The only basic difference was that Democrats to a slight degree were even less enthusiastic about exclusion (but still mostly divided).<sup>355</sup>

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<sup>354</sup> Journal of the Convention of the State of Tennessee (1834):171, 208-209; White, ed., Messages of the Governors of Tennessee, 2:601-608.

On a collateral note, only a third of either faction endorsed a proposal for a “white military vote” which, in effect, would have lowered the age requirement to eighteen years. The continued exclusion of this class of whites, while approved, also provided fodder for arguments that if young white men could not vote (or women for that matter), why was anyone so exercised about free blacks occupying the same position. On a related matter, the new constitution also banned free blacks from the state militia. The factional alignment on this issue was somewhat distinctive. Almost two-thirds of Democrats voted favorably. Whigs tilted the same way but in a scattered fashion.<sup>356</sup>

A few roll-call divisions do stand out in terms of a visible cleavage between Democrats and proto-Whigs, but usually the gap is not so wide. Tucked in the McKinney Report, for instance, was a section pertaining to free blacks. These passages lamented their plight but determined that granting equality to them with a prejudiced white community inevitably was a losing proposition; the A. C. S. was a possible remedy not yet proven viable, and, consequently, through no real fault of their own, free blacks were “strangers” in the land of their nativity.<sup>357</sup>

Such a population, it was contended, only would generate tensions in a republican community that needed larger doses of homogeneity, considering all that was going on in terms of the big picture. If not constitutional, philanthropic, or even imperative at the moment to remove free blacks, it made some sense, from this point-of-view, not to encourage their proliferation. When a proto-Whig moved to strike this portion of the report, the overwhelming response was negative. Nine of ten Democrats, along with two-

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<sup>355</sup> Journal of the Convention of the State of Tennessee (1834):107, 184, 208-209, 264.

<sup>356</sup> *Ibid.*, pp. 184, 208-209; White, ed., Messages of the Governors of Tennessee, 2:602-605.

<sup>357</sup> Journal of the Convention of the State of Tennessee (1834):87-93.



thirds of proto-Whigs, responded so. While divergence between factions is more observable on this roll call than most, the outcome, it should be remembered, was secured on a bipartisan basis.<sup>358</sup>

The Constitution of 1835 also featured a white poll tax. Free blacks no longer were subject to this requirement. Thus, it seems a package deal was coming down—no vote, no militia, no poll tax. But voting on this issue reflected yet another configuration, closely resembling but unique from the others, although these divisions also generated comparable polarity across factional lines as the aforementioned roll call on free blacks as “strangers.” In short, three-fourths of proto-Whigs cast favorable votes, whereas barely half of Democrats did. Of course, much of this alignment reflects reactions to the poll tax provision itself. Previously, the “Opposition” defended its continuance and collection. Many Democrats called for its abrogation or at least a reduction in the amount paid. At the convention in 1834, however, the bulk of both factions expressed a preference for a poll tax (as a partial means to generate revenue) rather than a proposed substitute to raise revenue from a uniform tax on slaves, land, and town lots. With even more solidarity, delegates determined the legislature would direct implementation of the white poll tax.<sup>359</sup>

Adjournment of the convention marked an important benchmark in Tennessee history. Insofar as racial matters are concerned, slavery was not put on the road to extinction.

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<sup>358</sup> Ibid., pp. 87-93, 98-100.

<sup>359</sup> Ibid., pp. 264, 270-271; Journal of the 15<sup>th</sup> Tennessee House, 1<sup>st</sup> Session (1823):283-285, 304-305; Journal of the 15<sup>th</sup> Tennessee Senate, 2<sup>nd</sup> Session (1824):63; Journal of the 15<sup>th</sup> Tennessee House of Representatives, 2<sup>nd</sup> Session (1824):134-135; Journal of the 16<sup>th</sup> Tennessee House of Representatives (1825):345; Journal of the 17<sup>th</sup> Tennessee House of Representatives (1827):310-311, 416-417, 612, 644; Journal of the 17<sup>th</sup> Tennessee Senate (1827):469, 495; Journal of the 19<sup>th</sup> Tennessee House of Representatives (1832):133.

Instead, it was perpetuated on grounds of expediency and actually given a firmer footing in terms of constitutional law. The possibility of emancipation was not ruled out, but the possibility of any such event transpiring soon began receding. At no time afterwards was the state ever so close to abolishing slavery--and it was not so close in the first place--until the 1860s. The practice of private manumission, however, was not overturned. But even men who defended it were not always encouraging about what they had to say about free blacks.

A Democrat justice on the State Supreme Court, for example, had earlier ruled a will or deed of manumission was valid, albeit qualifying this assertion with a stipulation that it was an “imperfect” right until State consent was obtained. From his personal point-of-view, though, freeing slaves did not necessarily benefit them or society, even if granting liberty was constitutionally sanctioned. To enter into the body politic as a new member, he contended, was “a vastly important measure,” especially in Tennessee where the “free negro’s vote . . . is of as high value as that of any man.” At the same time, he deemed free blacks, as a class, “a most objectionable population,” their “fancied” freedom a delusion, and felt these people probably would do better in Liberia. Here, in America, free blacks, allegedly, could never be politically free, as ostracism from white society stripped them of motives for self-improvement and hopes of social mobility, thereby sinking them slowly deeper into degradation. As a consequence, the removal clause was not merely a good idea but, seemingly, the only viable option if present state policy on manumission was to continue.<sup>360</sup>

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<sup>360</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:499-500.

Henceforth, legislative dialogue turned more to discussions about the fine-tuning of the internal mechanisms of the slave system and less on proposals to terminate the master-slave relation anytime soon. As a result, courts increasingly addressed issues that formerly came under the purview of the legislature. Another factor had to do with the exodus of many antislavery men from the state. Yet if antislavery activity diminished, pockets of it still percolated, especially in East Tennessee. As one source explained, though, these men chose to stay underground.<sup>361</sup>

Free blacks left historians almost nothing from which to assess their reaction to disfranchisement. Little, it seems, was said or done. On occasion, afterwards, individual free blacks were privileged with political rights. A Democratic legislator in the late 1830s sponsored a petition praying for just such a thing. But, in general, free black voting disappeared and never again resurfaced. Discussion of the topic evaporated, too. The subject seemed closed, in particular, after the State Supreme Court in 1839 determined state laws never allowed free blacks “equal rights or immunities” as it had free white citizens [read apportionment]; hence, they technically had never been citizens and could not become so now.<sup>362</sup>

#### IV. Democrat versus Whig

After the constitutional convention, and a reapportionment, the Whig Party controlled the legislature for several years. Democrats sat in the minority between 1835 and 1838

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<sup>361</sup> Galpin, ed., “Letters of an East Tennessee Abolitionist,” pp. 134-149; John Rankin, Letters on American Slavery Addressed to Mr. Thomas Rankin (Boston: Isaac Knapp, 1838; Reprint, New York: Arno Press, 1969); David T. Bailey, Shadow on the Church: Southwestern Evangelical Religion and The Issue of Slavery, 1783-1860 (Ithaca: Cornell University Press, 1985).

<sup>362</sup> Journal of the 22<sup>nd</sup> Tennessee Senate (1837):290; Catterall, ed., Judicial Cases Concerning American Slavery and the Free Negro, 2:507-508.

except for a solitary session of the Senate. The “Opposition,” it seems, can be called Whigs at this point, at least in the sense that the Hugh White revolt had erupted. According to some historians the panic of 1837 would seal the deal, if it had not already been done. During these sessions several new laws became enacted, in part, as a response to local events. Rumors of conspiratorial plotting amongst slaves in central Tennessee disquieted the times, as did detection of an Ohio abolitionist with seditious materials on his person whom a vigilance committee had flogged and expelled. Prominent Democrat and Whigs, including both U. S. Senators, applauded the action.<sup>363</sup>

The Whig legislature took remedial action to prevent any recurrence of such events with a mix of ameliorative and sterner reforms. Bondsmen now received a trial by jury, a right of appeal, and state-appointed counsel if needed. Another law assessed a \$50 fine and ten day stay in jail for those individuals convicted of providing a gun or bladed weapon to a slave without an owner’s permission. To burn a barn, bridge, or house, if the intent was to commit murder, now became a capital offense. In addition, masters that allowed their slaves to sell whiskey were fined. Lawmakers also revisited penalties for providing aid to runaways or harboring them.<sup>364</sup>

As further precaution legislators also made it illegal to circulate seditious materials, whether pamphlet, engraving, or drawing, that might foster insubordination among slaves

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<sup>363</sup> Atkins, “The Presidential Candidacy of Hugh Lawson White in Tennessee, 1832-1836,” pp. 27-56; Holt, The Rise and Fall of the American Whig Party; Robert E. Corlew, “Some Aspects of Slavery in Dickson County,” Tennessee Historical Quarterly, 10 (September 1951):355; Amos Dresser, Narrative of the Arrest, Lynch Law Trial, and Scourging of Amos Dresser at Nashville, Tennessee, August 1835 (New York: American Anti-Slavery Society, 1836). The Dresser affair and the local slave revolt panic can be followed in the Nashville Union and American, July 24, August 5, August 10, August 12, August 19, August 21, September 2, September 7, 1835; March 4, 1837. Also see James L. Penick, “John A. Murrell: A Legend of the Old Southwest,” Tennessee Historical Quarterly, 48 (Fall 1989):174-183.

<sup>364</sup> Journal of the 21<sup>st</sup> Tennessee Senate (1835):110, 447; Patterson, The Negro in Tennessee, pp. 29-30, 45, 52.

or free blacks. First-time conviction carried a prison term of five-to-ten years; repeated offenders looked at twenty. Both parties helped pass this measure. On a failed motion to strike “sermons,” however, Whigs divided. But their party, nevertheless, voted overwhelmingly “yea” on final passage, even more so than did Democrats.<sup>365</sup>

Free blacks also became subjected to new restrictions especially with regard to certain trade activities. Not only was it illegal to operate a tipling house, the same fine of \$50 attached for illicit bartering or peddling. Across party lines, most legislators approved. The criminal code was revised, too, and we might assume the same party alignment held although it is mere guesswork. African-American males convicted of intending to commit rape on a white woman, at any rate, now were to be hung. The response to a failed proposal also serves to illustrate the problematic nature of rigid categories involving bipartisanship and two-party divergence. This bill aimed to protect “free” persons from arbitrary proceedings. A motion to insert the word “white” was defeated; by what margin is not known. On final passage, though, the bill tanked. Democrats voted nine-to-one against it while a bare majority of Whigs did so, too.<sup>366</sup>

The session of 1837-1838 met during calmer times although economic depression soon crashed down all around. In any case, the Whig legislature revisited the issue of providing attorneys for slave defendants in terms of who was responsible for payment of fees. But, with regard to free blacks, the only noteworthy output was a statute reiterating that slaves could initiate freedom suits; the grounds for action, moreover, might include

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<sup>365</sup> Journal of the 21<sup>st</sup> Tennessee Senate (1835):449, 463; Journal of the 22<sup>nd</sup> Tennessee Senate (1837):163.

<sup>366</sup> Journal of the 21<sup>st</sup> Tennessee Senate (1835):284, 581; Patterson, The Negro in Tennessee, p. 52.

trespass, illegal imprisonment, or assault and battery. Session journals do not inform where each party stood on this matter.<sup>367</sup>

What is documented is that the parties diverged on Democrat initiatives to amend manumission laws to increase the amount of the bond requirement. Some of the proposals made suggested astronomical figures at that. Senate Democrats were overwhelmingly receptive to the idea of reform. Less than half of Whigs agreed. House Democrats scattered on the issue, while only a third of the Whigs proved supportive. A party differential also appears on reactions to the issue of free blacks consuming alcohol in venues wherein it was purchased. Three-fourths of Democrats voted not to postpone a bill to ban this practice. Three-fifths of Whigs wanted it shelved. On final passage, the Whig posture had not changed. Only a bare majority of Democrats, though, now pushed for its adoption.<sup>368</sup>

James K. Polk became Governor in 1839 and Democrats gained control in the legislature. Some historians view this event as the real date of birth for the Tennessee Democracy as a “modern” party. Once entrusted with power, however, not much was done. A law was secured, to be sure, to obtain better conviction rates in cases involving illicit trade between free blacks and slaves. It permitted bondsmen to testify in those cases wherein a person of mixed-racial ancestry was on trial. Democrats also tried to

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<sup>367</sup> Journal of the 22<sup>nd</sup> Tennessee Senate (1837):121; Journal of the 22<sup>nd</sup> Tennessee House of Representatives (1837):445; Trabue, “The Voluntary Emancipation of Slaves in Tennessee as Reflected in the State’s Legislation and Judicial Decisions,” pp. 50-68; Henry, “The Slave Laws of Tennessee,” pp. 175-203.

<sup>368</sup> Journal of the 22<sup>nd</sup> Tennessee Senate (1837):247, 397, 433; Journal of the 22<sup>nd</sup> Tennessee House of Representatives (1837):359.

revise the statute banning illegal slave assembly but about half of them voted for postponement along with almost all of the Whigs.<sup>369</sup>

Bipartisanship was more pronounced on a bill to ban the practice of allowing slaves to live apart as if free, although about a third of legislators in each party disagreed. The anomalous presence of “nominal” slaves had escalated in recent years as certain masters began allowing slaves to live in a “quasi-free” manner to circumvent the removal clause, the need to post bond, or the necessity to petition the legislature for grant of a policy exemption. Scholars are unsure as to exact numbers but it seems several thousand “nominal” slaves possibly inhabited the state. This legislation, in practice, proved largely a “dead letter” before the issue, overall, became temporarily moot a few years later.<sup>370</sup>

During this session, several other divisions are recorded which marginally pertain to free black status. A bill concerning white male public roadwork, for example, passed in almost unanimous fashion. This policy was not novel, so the bill probably was routine in nature and therefore not all that insightful about racial issues necessarily. What perhaps was at issue was the roadwork part of the equation. What generated discord on the topic was a failed amendment to exempt white men past the age of forty-five. The parties, while not mirror images, one of the other, both essentially scattered their votes.<sup>371</sup>

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<sup>369</sup> Voter turnout among Tennesseans was at 73 percent in 1835, then dipped to 55 percent in the presidential contest of 1836, before surging to 90 percent in the elections of 1839 and 1840, see Burton W. Folsom, “Party Formation and Development in Jacksonian America: The Old South,” Journal of American Studies, 7 (1973):224. Patterson, The Negro in Tennessee, p. 32; Journal of the 23<sup>rd</sup> Tennessee Senate (1839):124.

<sup>370</sup> Journal of the 23<sup>rd</sup> Tennessee Senate (1839):182; Journal of the 23<sup>rd</sup> Tennessee House of Representatives (1839):350; Loren Schweningen, “The Free-Slave Phenomenon: James P. Thomas and the Black Community in Ante-Bellum Nashville,” Civil War History, 22 (December 1976):293-307.

<sup>371</sup> Journal of the 23<sup>rd</sup> Tennessee House of Representatives (1839):132-133.

A proposal in the Senate to extend manumission “benefits” in the 1831 Act did generate a mild cleavage across party lines. Democrats tilted in the same direction as did most Whigs but were more divided. Finally, the most polarizing roll-call on racial issues at the time involved a bill on regulating free blacks, liquor consumption, and slave assembly. Two-thirds of Democrats voted for it. An analogous number of Whigs did not.<sup>372</sup>

Mixed government followed in the session of 1841-1842. Whigs had a slight advantage in the lower chamber, Democrats a one vote edge in the upper. Legislative output, while not voluminous, was highly consequential. Of minor note, a new statute mandated thirty days imprisonment (in lieu of the old fine) for selling whiskey to slaves or allowing free blacks to become intoxicated on one’s premises. By a four-to-one margin, members of each party, respectively, approved the measure. More divisive was a vote on whether to strike “white” sales from a bill to repeal tippling licenses. Whigs voted “nay.” Democrats divided. But, in this case, it seems we are talking more about temperance than race relations. On a proposal to ban gambling with slaves, coupled to a rider to stop intruders from cutting and hauling wood off the property of others, the alignment inverted. Whigs now voted overwhelming “yea.” Only two-fifths of Democrats did. But, again, this measure involves a host of considerations that go beyond racial considerations alone.<sup>373</sup>

Except for a few divisions pertaining to execution sales involving slaves, redemption of slave property, and like matters, the roll-call record contains little else. A caveat

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<sup>372</sup> Ibid., pp. 425-426; Journal of the 23<sup>rd</sup> Tennessee Senate (1839):179.

<sup>373</sup> Journal of the 24<sup>th</sup> Tennessee House of Representatives (1841):514, 699, 777.



though, is in order and it involves the vote taken in the lower chamber on a senate amendment to a bill for amending the laws regulating free blacks. What exactly this amendment entailed is not entirely clear, but we do know it came from the side of the legislature where Democrats predominated. As might be anticipated, almost three-fourths of House colleagues concurred with the recommendation. Barely one-half of Whigs agreed with them.<sup>374</sup>

What the bill addressed is documented and, in the context of things, reoriented state policy in more ameliorative ways. County courts, as administrative agents of the state, and not as a judiciary, were given oversight in manumission proceedings. The removal clause was abrogated with certain reservations. In order for a petitioner to remain, evidence of good character was required along with bond and satisfactory security for good behavior. Judges had to consider it a violation of the feelings of humanity to deny the applicant his prayer. Free black registration papers now were renewed every three years at which time an inquiry into character and conduct occurred. If denied renewal, an individual had twenty days to leave the state. The ban on entry also was lifted. Free blacks could migrate into the state if posting a bond of \$500 for good conduct. Local court consent was required in order to relocate into a different county. The legal climate in Tennessee for free blacks, according to some scholars, had entered a “liberal interlude.”<sup>375</sup>

Whigs held sway in both chambers in the session of 1843-1844. Not much legal reform occurred. A law was enacted authorizing sheriffs to hire out runaways to

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<sup>374</sup> Ibid., pp. 262, 771, 856; Journal of the 24<sup>th</sup> Tennessee Senate, 2<sup>nd</sup> Session (1842):50.

<sup>375</sup> Imes, “The Legal Status of Free Negroes and Slaves in Tennessee,” p. 270.

municipal authorities. More significantly, legislators, almost unanimously, repealed the act of 1833 authorizing modest financial aid to the A. C. S. This decision, in part, probably had something to do with growing interest in Texas more than any deep disenchantment with the experiment in Liberia. Nonetheless, it did provide the capstone to Whig reforms, which Democrats seem to have gone along with. In other words, much legislation passed between 1831 and 1833 had been eviscerated in the 1840s.<sup>376</sup>

Residual voting divisions recorded for this session pertain to a variety of different things. Both parties, for example, favored a bill on the disposition of slave felons suffering from insanity. Each of them also acted in tandem when rejecting a proposal to substitute life imprisonment for the death penalty, if the convicted felon was a white person. In this case, though, we perhaps are seeing reactions to the subject of capital punishment. At any rate, Democrats were a bit friendlier to the idea. On other occasions, Whigs scattered. Democrats also scattered their votes when the item under review involved a bill about black witnesses and cases involving racial cohabitation. On liquor issues, they struck a more identifiable stance. About three-fourths voted for exemptions in policy if liquor was sold to a slave. A similarly-sized contingent favored tabling an amendment to a bill which called for prohibiting blacks from retailing liquor.<sup>377</sup>

During the session of 1845-1846, Democrats, for only the second time since the new constitution was ratified, captured control of the general assembly. Granted, the margin between parties rested on three representatives and one senator. Again, Democrats at the

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<sup>376</sup> Journal of the 25<sup>th</sup> Tennessee House of Representatives, 1<sup>st</sup> Session (1843):202; 2<sup>nd</sup> Session (1844):262-263; Patterson, The Negro in Tennessee, p. 42..

<sup>377</sup> Journal of the 25<sup>th</sup> Tennessee House of Representatives, 1<sup>st</sup> Session (1843): 187, 290, 335, 447-448, 599, 682-683; 2<sup>nd</sup> Session (1844):329, 360, 430; Journal of the 25<sup>th</sup> Tennessee House of Representatives, 2<sup>nd</sup> Session (1844).

helm produced little in terms of legal change except a modification of the liquor license oath regarding sales to slaves. More relevant to our inquiry is another legal revision which modified the penalty for selling whiskey to slaves, or allowing free blacks to consume liquor on site. The penalty of thirty days in jail still obtained, only now at the court's discretion the sentence could be reduced to as little as one week.<sup>378</sup>

The advantage tipped back to the Whigs in the session of 1847-1848, although only one man gave them the edge in the Senate. Stasis, as a general rule, continued. During this time, though, the state high court was active. Nothing startling happened on this front. What the justices did was to reiterate or refine earlier rulings upholding the constitutionality of private manumission and the "free" status of Tennessee slaves who resided by permission outside slave society, longer than a sojourn, but had returned to the state. But the court was not so sympathetic about "nominal" slaves, adjudging masters responsible for any acts such servants committed.<sup>379</sup>

The legislature, however, was not entirely inactive during this period. A statute was enacted, for instance, which dealt with slave trials and, more specifically, a master's right to appeal verdicts. Various divisions were taken on proposals to revise the slave criminal code, compensate masters for publicly executed slaves, appropriate revenue to pay patrols, or provide for concurrent court jurisdiction in cases involving dowries and slaves. Property-rights issues, in other words, were visible, but not so much matters relating to free blacks. A motion to reconsider a bill to repeal the ban on slave importation,

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<sup>378</sup> Journal of the 25<sup>th</sup> Tennessee House of Representatives, 2<sup>nd</sup> Session (1844):342-345, 551-552; Patterson, The Negro in Tennessee, p. 47.

<sup>379</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:501, 527, 538-539, 543.

however, is nearer to that camp. Whigs voted against the measure, while Democrats scattered (meaning their party, relatively speaking, provided the most support).<sup>380</sup>

## V. The Twilight Years of the Second Party System

The period between 1849 and 1854 is somewhat unique. Mixed party government, in particular, was common. Democrats had the advantage initially in the House, Whigs among senators. In the next session, Whigs secured a majority in both chambers but only barely in the House. When the legislature reconvened again in 1853, the House Whig contingent had increased. Only Democrats now had gained a one-seat edge in the Senate. It seems Democrats, if wanting to accomplish anything, had to have the cooperation of at least a few Whigs.

So, what happened? In the session of 1849, absolute unanimity prevailed in both chambers on proposals to enumerate white male inhabitants, a rather routine measure. Hence, it does not tell us too much about racist posturing, except that no one was upset or bold enough to challenge this precedent. Another set of roll calls prove tricky. Again, Democrats and Whigs, to a man, voted in favor of the bill under consideration. This measure revised statutes relating to punishing black rapists, as well as the crime of accessory to murder. What this measure involves is uncertain. Shortly thereafter we know the state high court ruled little white girls under the age of ten years old did not qualify as “women” and, regrettably, legislators had left a loophole in the statute. Perhaps the earlier legislation in this session also was remedial in design and not a

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<sup>380</sup> Journal of the 27<sup>th</sup> Tennessee Senate (1847):380, 441, 526; Journal of the 27<sup>th</sup> Tennessee House of Representatives (1847):600, 699, 757, 781, 875.

straight up-or-down vote on whether black rapists should be singled out for discriminatory treatment, especially, given the circumstance they already were.<sup>381</sup>

Legislators also voted on several measures pertaining to the slave code, such as bills pertaining to compensation for apprehending runaway slaves, a county tax to pay patrollers, or authorizing the governor to commute the death sentence of slaves. Democrats favored the first proposal but everybody scattered otherwise. With regard to free black policy, one proposal called for revising the statute restricting hawking or peddling goods. The bill sailed through the House with approval of two-thirds or more of each party but ran into trouble in the Senate. Only half of Democrats voted for it. A mere fourth of Whigs did.<sup>382</sup>

What did pass both chambers was highly significant and probably related, chronologically speaking, to ongoing debates in Kentucky concerning the possibility of implementing a plan of statewide emancipation. This act rendered nugatory parts of the Act of 1842. The removal clause was put back into law and any discretionary power bestowed on county courts to act otherwise was terminated. The roll-call record gives only a glimpse at what transpired in the Senate where parties polarized to an unprecedented extent. To be sure, an amendment regarding slaves received near unanimous approval. But on questions pertaining to postponing the bill itself, or its passage, Democrats, almost without deviation, voted to facilitate its enactment. Three-fifths of Whigs opposed them. A year later the legislature passed a bill, in addition,

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<sup>381</sup> Journal of the 28<sup>th</sup> Tennessee Senate (1849):559, 611; Journal of the 28<sup>th</sup> Tennessee House of Representatives (1849):838, 850; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:551.

<sup>382</sup> Journal of the 28<sup>th</sup> Tennessee Senate (1849):262, 265, 387, 635, 672; Journal of the 28<sup>th</sup> Tennessee House of Representatives (1849):163, 496, 499.

incorporating the Tennessee Colonization Society. While party alignments are not recorded, a society agent insinuated Democrats were less friendly or at least preoccupied with national slavery extension debates.<sup>383</sup>

During the session of 1851-1852, Whigs, for the last time, held a majority in both chambers. Among other things, they closed legal loopholes on payment of bounties for returning runaways and debated a slave exemption for homesteads facing execution sales. As for policy on free blacks, legislators enacted measures making it a misdemeanor for white persons to buy liquor for free blacks or slaves, or play games of chance with them on Sunday. In addition, the penalty for allowing free blacks to drink liquor on sites where purchased was supplemented to include not only a jail sentence but a fine. It is unclear where the parties stood but voting responses on a bill to restrain free blacks may provide a clue. On a motion to postpone it both parties divided but tilted against the suggestion. The vote on passage saw most Whigs now responding “nay.”<sup>384</sup>

On a more liberal note, legislators enacted a law to “ameliorate” the condition of children of indigent free black parents who did not provide for them. This legislation authorized county courts to bind out these minors to a suitable person. The bill passed almost unanimously. No roll-call is in the record, though, with regard to another change in the law. This act exempted free-born blacks, if native Tennesseans, from posting bond

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<sup>383</sup> A. E. Thom to William McLain, August 27, September 12, October 8, November 12, 1849, American Colonization Society Papers, Library of Congress, Washington, D. C., Reel 60, vol. 115:129-132, 252-254, 420-426, 657-658; Journal of the 28<sup>th</sup> Tennessee Senate (1849):210, 251; Patton, “Progress of Emancipation in Tennessee,” p. 101; Winston Coleman, “The Kentucky Colonization Society,” Register of the Kentucky Historical Society, 39 (January 1941):3-7.

<sup>384</sup> Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):331, 486-487, 621, 699, 835-836, 865; Patterson, The Negro in Tennessee, pp. 42.

as security for keeping the peace. As Whigs were in the ascendant, it probably is safe to surmise the bill could not have passed with Democrat votes alone.<sup>385</sup>

The same might be said of another law which addressed, again, the question of “nominal slaves.” It permitted them to remain in the state but instructed county courts to appoint trustees as guardians, who had authority to hire them out for support or if behaving in a disorderly manner. Yet, despite enactment of various ameliorative measures by state legislators, it should be mentioned that the state high court at this time ruled “color,” in the absence of other evidence, determined free or slave status.<sup>386</sup>

In the next session, mixed party government prevailed again although Whigs had an advantage on joint ballot. Several laws were enacted, including one resurrecting special slave courts in lieu of jury trials. In the Senate, unanimity prevailed, while in the lower house a bare majority in each party voted favorably. The legislature, in addition, repealed the ban on slave importation; unfortunately, party alignments are not recorded. Other matters the legislature addressed included the slave criminal code, securing county taxes on slaves, or compensating masters for publicly executed slaves.<sup>387</sup>

More importantly legislators revisited issues relating to manumission and the removal clause. The new law which resulted modified state policy significantly. Manumission petitions now were filed in any court of record (not just county courts), and slaves could appeal in higher courts. If a master failed to provide funds to send a freed slave to Africa,

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<sup>385</sup> Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):717; Patterson, The Negro in Tennessee, p. 162.

<sup>386</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:552; Patterson, The Negro in Tennessee, p. 158

<sup>387</sup> Journal of the 30<sup>th</sup> Tennessee Senate (1853):199, 458, 468; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):78, 261, 287, 657.

county clerks could hire the individual out to raise the money. Finally, old or infirm slaves, as well as those with prior contracts for freedom, were made exempt from requirements for emigration to Liberia.<sup>388</sup>

During the previous session a similar proposal was raised but rejected. Three-fifths of Democrats and three-fourths of the Whigs voted against it. Now, however, both parties proved supportive. In the Senate, two-thirds of Democrats and Whigs, respectively, acted so. In the lower chamber 80 percent of Democrats voted favorably, along with about half of the Whigs. The legislature, on a collateral matter, also revisited the issue of slaves living in a state of “inchoate” freedom. The recently-minted law on the trustee system was replaced with a new statute authorizing the hiring out of “quasi-free” African Americans to use their wages to fund removal to Africa.<sup>389</sup>

The free black and slave code, in the perspective of many lawmakers, now was perfected. The existing free black population was too small to create much trouble, so their existence in slave society while potentially a nuisance, might serve instead a mediatory function between whites and slaves. But its numbers would be kept few. Still, masters, if they wanted, might liberate servants. Removal to Africa seemed the key, not as a flood but only a trickle, as this was all that was needed to neutralize disparity in the growth of free black numbers compared to whites. This policy also was crafted with a view towards recent events at the North, where a fuss had been kicked up about banning black entry into certain states. Everything, now, finally seemed set. But, then along

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<sup>388</sup> Journal of the 30<sup>th</sup> Tennessee Senate (1853):629; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):709.

<sup>389</sup> Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):724.



came northern Republicans, and the ripple effects of that new party soon made their way south.<sup>390</sup>

## VI. Legislative Parties in Tennessee

The correct inferences to be drawn from exigent evidence on legislative parties and handling of racial issues are not altogether clear. It seems the data can be read in all kinds of ways. Often, Democrats and Whigs, at least a lot of them, can be found standing side-by-side. On occasion, though, each party exhibited a slightly different orientation or persuasion than the other. In a host of cases, one party or the other, perhaps both scattered. Laws enacted also tell a convoluted story. Both parties secured a few ameliorative revisions but also, and more demonstrably, each was responsible for a series of racist modifications, too. But legislators from each side of the party aisle were not always enthusiastic about the same ones and, moreover, in many cases sessions passed with relatively little happening at all.

So what should one make of it all? It seems an argument can be made for bipartisan racism. A majority of bills and resolutions introduced into the legislature, whether by a Democrat or Whig, might be categorized as racist in content. This tendency escalated in the late forties. Voting on roll-calls tells a similar tale. At least half of each party, on average, cast racist votes and numbers were increasing at the end. Just as importantly, cohesion amongst assemblymen as a whole slightly increased after the mid-1830s.

Before then, majority coalitions on an average roll call included about 65 percent of all legislators. Afterwards, the number goes up to 70 percent. With the rise of competitive

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<sup>390</sup> Patterson, The Negro in Tennessee, p. 158.

political parties, though, we might expect a decline in overall unity. Despite the prevalence of bipartisanship, however, many response patterns do show party differentials. But, in the grand scheme of things, these cases are few and the gap between parties, when existing, is not usually very pronounced. Polarity to either end of the spectrum is almost unheard of.<sup>391</sup>

In terms of bloc voting, two-party conflict slowly was growing in frequency but at a rather glacial rate. Consensual stances across party lines, however, were increasingly the case (see Table 5). What happened in the 1840s was that parties stopped scattering as much, as each exhibited tighter unity. At day's end, only 13 percent of divisions between 1848 and 1854, though, reflect intense conflict across party lines, and this figure surpasses earlier comparative data. In contrast, polarized voting on slavery extension divisions is evident nine-tenths of the time.<sup>392</sup>

Finally, there are the legal reforms enacted with consent of both parties. Democrats sponsored the Act of 1831 but the "Opposition" helped enact it. Similarly, Democrats were involved in passing the bill to aid the A. C. S. with a Whig assist. Whigs pushed through a bill to punish sedition and other regulatory measures with Democratic support. In 1839, both parties approved a ban on "nominal" slaves. A decade later mixed party government prevailed in several sessions in which other racist legislation was adopted. And, lest it be forgotten, the constitutional convention in 1834 incorporated a series of

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<sup>391</sup> See Appendix on Roll Call Analysis.

<sup>392</sup> Journal of the 28<sup>th</sup> Tennessee Senate (1849):761-766; Journal of the 29<sup>th</sup> Tennessee House of Representatives (1852):440, 469-471, 477-478; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):1094-1097.

Table 5 Bloc Voting Alignments in the Tennessee Legislature			
Alignment	Sessions		
	1827-1834	1835-1847	1848-1854
Free Blacks and Slave Code			
Consensus	42	46	58
Scatter	51	46	27
Conflict	6	7	13
Slavery Extension and Federal Relations			
Consensus	-	100	4
Scatter	-	-	4
Conflict	-	-	91

\*The “consensus” category reflects the percentage of roll-call divisions wherein 60 percent or more of both parties responded the same. The “conflict” category pertains to instances wherein at least 60 percent of each party’s membership, respectively, voted different. Explanation of the technique used in this Table is given in Appendix A.

exclusions of the first magnitude in the new organic law and most delegates, regardless of party, were on board with that outcome.<sup>393</sup>

Before resting the case there, certain qualifications warrant further elucidation. Discovery of bipartisan leanings, for example, does not necessarily mean the same thing as a white racist consensus. If we examine the full array of activity, it is evident some initiatives spawning bipartisan reactions were more ameliorative in intent. The rather liberal laws enacted in the late 1820s, for example, came primarily at the hands of Democrats but most of the “Opposition” concurred. Whigs later probably account for the Act of 1842, but Democrats controlled the Senate at the time. Some of them had to vote favorably, too. In the next session, the law of 1833 providing partial public funding to the A. C. S. was repealed nearly unanimously. Near unanimity appeared again in 1851 on the division relating to indigent free black children, too. In short, rather than uniformly racist, bipartisan consensus seems to have been on the acceptability of vacillating across specific framings of the “Negro Question.”<sup>394</sup>

When bipartisan responses do reflect a racist posture, in many cases only a bare majority of members in each party coalesced together, especially before the mid-1830s.

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<sup>393</sup> Delegates voted 55 to 3 to adopt the revised state constitution. Journal of the Convention of the State of Tennessee (1834):389; Journal of the 19<sup>th</sup> Tennessee Senate (1831):245; Journal of the 20<sup>th</sup> Tennessee Senate (1833):295; Journal of the 21<sup>st</sup> Tennessee Senate (1835):463; Journal of the 23<sup>rd</sup> Tennessee Senate (1839):182; Journal of the 23<sup>rd</sup> Tennessee House of Representatives (1839):350; Journal of the 28<sup>th</sup> Tennessee Senate (1849):251.

<sup>394</sup> Journal of the 18<sup>th</sup> Tennessee Senate (1829):316; Journal of the 18<sup>th</sup> Tennessee House of Representatives (1829):367-368; Journal of the 24<sup>th</sup> Tennessee House of Representatives, 1<sup>st</sup> Session (1841):856; 2<sup>nd</sup> Session (1843):202; Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):717.

In other words, a finding that 60 percent of each party favored the Free Black Bill in 1831 shows bipartisanship prevailed but hardly in a consensually racist fashion. Divisions on the A. C. S. bill, shortly thereafter, illustrate the same point, as do roll calls on the suffrage article at the constitutional convention.<sup>395</sup>

On other occasions, divergence across party lines is more pronounced but the overall outcome still was secured on a bipartisan basis. Take the division in the mid-1830s on striking the section designating free blacks as “strangers.” A majority of delegates on either side of the aisle rejected this motion. Only ten percent of Democrats voted for it. A third of Whigs did, too. In short, the parties, while similarly inclined, were not exactly the same. Voting on the white poll tax fits the same bill; only now Whigs are the more racist, which brings us to another point. The degree of bipartisan cooperation fluctuated depending upon the precise issue niche presented at the time. In other words, instead of a broad consensus carrying the day, bipartisan enactment of new laws, as a whole, was predicated on shifting coalitions in which each party’s presence faded or surged, but not necessarily at the same time.<sup>396</sup>

Another crucial point involves internal cohesion of each party (see Table 6). To be sure, unity increased over time; by the late 1840s and early 1850s it had reached impressive levels. On an average roll call, Democrats now divided amongst themselves four-to-one, whereas Whigs split about three-to-one. Even so, once compared to the Ohio data, unity levels, while noteworthy, do not seem extreme. Prior to mid-century,

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<sup>395</sup> Journal of the Convention of the State of Tennessee (1834):208-209; Journal of the 19<sup>th</sup> Tennessee Senate (1831):245; Journal of the 20<sup>th</sup> Tennessee Senate (1833):279.

<sup>396</sup> Journal of the Convention of the State of Tennessee (1834):99-100, 271.

Table 6 Tennessee Legislative Parties, Race Issues, and Rice Indices of Cohesion		
Session (roll calls)	Democrat	Whig
1827-1834 (59)	.28	.34
1835-1847 (22)	.43	.42
1848-1854 (17)	.62	.51

\*The Rice Score for a consensual vote is 1.00. A response wherein members of the same party are evenly split would have a score of 0.00. Explanation of the technique used in this Table is given in Appendix A.

though, intra-party cohesion was lower, especially before the mid-1830s. Back then, Democrats split about three-to-two, whereas Whigs divided two-to-one.<sup>397</sup>

Comparison of party cohesion scores across more narrowly-construed issue niches also points to a finding that issues about free blacks and manumitted slaves did not always head the list of party programs. Granted, solidarity in party ranks increased over time, but heightened cohesion was most often apparent on other types of divisions pertaining to slave discipline or property rights questions. The pattern across party lines, though, was somewhat unique. In early sessions Democrats were most unified on roll calls dealing with slave property issues. Unity, otherwise, was dismal. It increased some across issue subsets after the mid-1830s but not so much on free black issues. Only after 1848 did manumission issues generate heightened levels of cohesion. Now, however, slave property rights questions became the most disruptive, for Whigs as well. Whig solidarity also was on the rise except for manumission issues. Prior to the mid-1830s, however, proto-Whigs were not particularly unified on any issue niche. Afterwards, the slave discipline divisions generate some of the tightest clustering (although the slave property rights roll calls did so even more).<sup>398</sup>

The argument for two-party conflict also has some merit if we do not mean by “conflict” a near absolute polarity in response patterns. A coincidence between racial voting behavior and party attachment is discernible while not stark. At a minimum,

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<sup>397</sup> The Rice Cohesion Scores between 1848 and 1854 for each state party is as follows: Ohio Democrats (.42), Ohio Whigs (.57), Ohio Free Soilers (.88); Tennessee Democrats (.62), Tennessee Whigs (.51). Earlier, between 1835 and 1847 the scores were more uneven: Ohio Democrats (.77), Ohio Whigs (.57), Tennessee Democrats (.43), Tennessee Whigs (.42).

<sup>398</sup> Slave issues relating to property rights and discipline, for example, are located in Journal of the 24<sup>th</sup> Tennessee House of Representatives (1841):262, 699, 771, 777; also see Journal of the the 27<sup>th</sup> Tennessee House of Representatives (1847):600, 699, 757, 781, 875.

conflict within a tentative consensus makes some sense. In other words, while parties did not diverge widely all that often, sometimes they did, and these cases should not be allowed to be entirely lost in net results. Of course, no real disparity, in terms of aggregated patterns, appears until after the mid-1830s. Democrats, thereafter, voted a bit more racist than Whigs (see Table 7). Voting patterns on the bills near mid-century for reverting to the removal clause or sending manumitted slaves to Africa are cases in point.<sup>399</sup>

It also is important to consider the full range of party activities on racial matters with an eye trained to relative degrees of continuity and change. Tennessee legislators never encountered the avalanche of petitions on racial issues which their Ohio counterparts did. But some memorials did trickle in. On occasion, social policy was addressed but for the most part petitions pertained to individual concerns. Members from each party served as conduits for their entry into proceedings, whether emitting from free blacks or the white community. For the most part, changes sought were ameliorative in nature. That is, until the late 1840s, when both parties began introducing more racist memorials. But, in terms of overall volume, the extent of this activity more resembled a stream than a mighty river.<sup>400</sup>

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<sup>399</sup> Journal of the 28<sup>th</sup> Tennessee Senate (1849):210, 251; Journal of the 30<sup>th</sup> Tennessee Senate (1853):629; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):709.

<sup>400</sup> Whig William Pepper introduced a petition from “Daniel, a free man of color” in the late 1840s seeking permission for him to remove and settle within the state. A decade earlier Democrat Jonathan Hardwicke presented the petition of forty-one citizens of Dickson County to confer the right of suffrage and right to bear testimony in all civil cases to Benjamin Lott, a free black man. Members of all parties, however, also introduced petitions calling for aid to colonization societies. Journal of the 19<sup>th</sup> Tennessee House of Representatives (1832):77; Journal of the 22<sup>nd</sup> Tennessee Senate (1837):290; Journal of the Tennessee 23<sup>rd</sup> House of Representatives (1839):562; Journal of the 27<sup>th</sup> Tennessee House of Representatives (1847):705; Journal of the Tennessee 29<sup>th</sup> House of Representatives (1851):321



Table 7 Tennessee Legislators, Racial Issues, and Two-Party Polarity			
Divergence Score	Sessions		
	1827-1834	1835-1847	1848-1854
0-40	98	97	87
41-59	1	2	5
60-100	-	-	4
Polarity Score:	Whig +2	Democrat +11	Democrat +14

\*The “divergence score” indicates the percentage of times the differential between aggregated voting scores for each legislative party falls within each category. The “polarity score” shows the absolute difference between each party’s aggregated voting score on all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

Legislators, regardless of party, also sponsored more racist bills than ameliorative ones. Nonetheless, it is pertinent that the disparity was not as prominent before the approach of mid-century. Whigs, in addition, were always found trailing in the rear. The volume of legislation introduced, whether racist or not, also ebbed and flowed. In other words, some sessions encountered more proposals than others. In Tennessee peak activity was in the early 1830s as parties were forming. Afterwards the average number of bills and resolutions introduced into each session dropped--especially by the 1840s--before resurging somewhat toward the end of the decade. Finally, another difference involves committee work. Reports Whigs drafted mostly contained mild recommendations. Democrats initially did the same but over time the content in their documents became increasingly harsher. Of course, this is a rather subjective assessment.<sup>401</sup>

A simple review of voting response scores also suggests reservations are in order before touting bipartisan racism as a definitive explanation, much less the more expansive notion of a white consensus. These figures estimate the normative frequency with which a party's membership cast racist votes. What, exactly, do the numbers relate? For one thing, Democrats by mid-century were casting almost three-fourths of all votes in a racist fashion (see Table 8). The party, as a unit, also voted towards the liberal end of the scale only twelve percent of the time. Prior to then, the score for our "average"

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<sup>401</sup> A couple of Whig committee reports in the mid-1830s, for instance, recommended against repealing the Act of 1831 as well as a petition to exempt a manumitted black family from the removal clause. Democratic committees, shortly thereafter, rejected several free black petitions as "unreasonable" and also reported favorably on a bill to prohibit "nominal" slaves. The majority of committee recommendations tilted in this direction but exceptions exist. A Whig committee in the session of 1837, for example, reported favorably on two free black petitions. Journal of the 21<sup>st</sup> Tennessee Senate (1835):166, 240, 256, 278, 284, 291, 449, 463, 485, 521, 530; Journal of the 22<sup>nd</sup> Tennessee Senate (1837):51-52, 82, 106, 138, 158, 163, 202, 218, 232, 237, 239, 245, 247, 264, 267, 290, 397, 442; Journal of the 22<sup>nd</sup> Tennessee House of Representatives (1837):27, 68-69, 121, 126, 163-164; Journal of the 23<sup>rd</sup> Tennessee Senate (1839):128, 166-167, 170, 179, 182, 324, 354.

Table 8 Tennessee Democrats and Voting Scores			
Scale Cohort	Sessions		
	1827-1834	1835-1847	1848-1854
0-40	34	17	12
41-59	37	26	12
60-100	28	56	75
Scale Score:	48	61	74

\*The “scale cohort” column shows the percentage of divisions wherein the voting scores for the party in the aggregate falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for the entire legislative party across all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

Democrat was lower although the prejudicial tendency already was there. Way back in the 1820s and early 1830s, however, Democrats fragmented; as a unit, they voted the racist line a mere one-fourth of the time. So, Democrats, overall, were the more racist party. This is true, but with the stipulation that we are talking about the period after the early 1830s (with the exclusion of parts of the 1840s, too).<sup>402</sup>

Scores for the Whig Party, by comparison, are more constant (see Table 9). Between the late 1820s and the approach of mid-century, legislators in this coalition divided their votes, on average, almost evenly. The only notably shift occurred after the mid-1830s when the party, as a unit, voted moderately more often, whereas Proto-Whigs before then tended to vote first one way and then another. This is the pattern that began to reappear around mid-century. What was unique at that point was the Whig score now had increased. Even so, the Democrat score is still noticeably higher.<sup>403</sup>

Simply put, the two-parties fail to replicate caricatures of Tweedle-Dee and Tweedle-dum, at least on racial issues. Their example makes the case for bipartisan, consensual white racism, moreover, problematic when we learn both parties voted erratically on a quite regular basis. In other words, prior to the mid-1830s, as a rule, parties scattered their votes. Among Whigs this pattern endured for another decade or more. Even when voting response scores peak in the late 1840s and early 1850s, we still find Democrats

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<sup>402</sup> A shift towards a more positive proslavery argument over time is also detectable amongst certain elements of the Tennessee Democracy, see “Speech of Felix Grundy (1829),” in Nashville Union and American, August 26, 1835; “Speech of J. H. Savage,” Congressional Globe (1856), appendix, p. 1035-1036.

<sup>403</sup> Near mid-century Whigs divided, sixteen to eighteen, against postponing a bill to restrain free blacks. Democrats also voted to keep the bill alive, thirteen to eighteen. On final passage, though, the measure lost. Democrats supported it, eighteen to twelve. Now, however, Whigs opposed the bill, thirteen to twenty-one. Journal of the 29<sup>th</sup> Tennessee House of Representatives (1851):835-836.

Table 9 Tennessee Whigs and Voting Scores			
Scale Cohort	Sessions		
	1827-1834	1835-1847	1848-1854
0-40	32	31	31
41-59	23	40	18
60-100	43	27	50
Scale Score:	50	50	60

\*The “scale cohort” column shows the percentage of divisions wherein the voting scores for the party in the aggregate falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for the entire legislative party across all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

casting a fourth of party votes in an ameliorative fashion, while two-fifths of Whigs did the same.<sup>404</sup>

Even if Democrats were the more racist bunch, an awareness of how infrequently their party was in a position to effect unilateral change, as well as how little was done in such situations, are important considerations, too. The Democracy rarely had a majority in both chambers at the same time. In the late 1820s, the early party of Jackson did hold sway in the legislature but enacted rather ameliorative measures and voted in a similarly divided fashion on most issues. Later, it appears they still were in control in 1831 but now a more racist agenda was promoted. But not everyone agreed.<sup>405</sup>

It was not until 1839 that Democrats again a majority in both chambers. Nothing of real consequence was done. The same can be said of their restoration to power, momentarily, again, in the session of 1845-1846. A dozen more years would pass before they were similarly situated. In the interim, at best, the party on occasion had a majority in one branch. In other words, Democrats became the most racist in their voting tendency during a time period when mixed party government prevailed and the organization, at some level, had to work with some Whigs to accomplish anything.

Nor is the tale of the Whigs straightforward. Some Democrats, to be certain, introduced ameliorative legislation but these measures, overwhelmingly, came from the Whigs. A rough figure probably is in the neighborhood of 70-80 percent of bills and resolutions of this nature originated in Whig hands, with the upper end number reflecting

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<sup>404</sup> For a perspective that racism was pervasive in both parties, see Pessen, Jacksonian America, 37-44.

<sup>405</sup> One observer claimed in 1831 that opposition to Andrew Jackson in the state was “insignificant.” Nashville Republican, August 19, 1831. Statewide gubernatorial elections, however, show that Whig candidates did well at the polls after the mid-1830s. Hopkins and Lyons, Tennessee Votes, pp. 23-37.

changes after the mid-1830s. In their voting behavior, these legislators acted much less decisively racist and instead rather moderately, in part, because they endorsed a mixed assortment of laws.<sup>406</sup>

Prior to the mid-1830s, the “Opposition” invariably was in the minority and, hence, no good yardstick exists to evaluate what they were capable of doing if given the chance. We probably should lump them in with the Democrats as complicit for producing the Act of 1831, more so the new constitution, and, most definitely, the flurry of measures that came shortly thereafter. So, if Whigs cast a lot of ameliorative votes, they also helped pass many racist laws. Nonetheless, Whigs reigned themselves in during the late 1830s and by the next decade played an instrumental role in putting on the books the ameliorative Act of 1842. Near to mid-century, many Whigs, moreover, resisted racist initiatives to reactivate removal clauses or ship freed slaves to Africa.<sup>407</sup>

My point is it makes a substantial difference in our assessment which time period is under review. The “normative” configuration, even then, is not always so clear. Consensual voting did recur periodically on specific issue niches. Bipartisanship, as a general proposition, is a more apt description for what happened with some regularity. But, then again, the two parties at many times simply took a backseat to intra-state regional loyalties, which usually were omnipresent in any case. Two-party conflict also

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<sup>406</sup> Whigs during the mid-1830s, for example, enacted a varied assortment of laws which, among other things, curbed sedition and regulated slaves more stringently but also provided jury trials for bondsmen and expanded the legal grounds for “freedom suits.” Whig Governor Newton Cannon had urged legislators to take precautions “against all attempts from any source whatever, to excite insurrection or discontent amongst the slaves.” White, ed., Messages of the Governors of Tennessee, 3:49; also see Robert Cassel, “Newton Cannon and the Constitutional Convention of 1834,” Tennessee Historical Quarterly, 15 (September 1956):224-242.

<sup>407</sup> Journal of the 19<sup>th</sup> Tennessee Senate (1831):244-245; Journal of the 24<sup>th</sup> Tennessee House of Representatives (1841):856.

is apparent, although not to an extreme degree. Finally, certain bipartisan voting patterns also reflect some of the most pronounced illustrations of divergence across party lines.<sup>408</sup>

The impact of constitutional revision in the mid-1830s certainly must be factored into evaluations. For example, the scenarios in 1831 and 1849 superficially resemble each other. Mixed government was the case at the latter date and one might argue a parallel situation prevailed in 1831. Democrats, on joint ballot, at least, had the advantage in both sessions. Each conclave adjourned with a removal clause on the books. What is important, though, is the precise configuration of two-party competition had become substantially altered in the interim. In other words, racist voting propensities had increased among Democrats. Free blacks, or at least some of them, also had exercised the suffrage in those earlier times and, theoretically speaking, had some recourse for action, however meager. By mid-century, the black franchise was a ghost and white lawmakers had more legal latitude to treat free blacks cavalierly.<sup>409</sup>

The seminal event was the constitutional convention. Delegates disfranchised free blacks, excluded them from paying the poll tax, and barred them from the militia while at the same time permitting slavery to grow stronger. It is easy, at first glance, to conclude systematic racist motives were at work. After all, this avalanche of disabilities was a marked departure from the past. Moreover, a majority of both Democrats and Proto-

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<sup>408</sup> It also makes a difference which grand division of the state is under review as legislators from central and western districts more often cast racist votes than did their colleagues from East Tennessee. Nonetheless, variation within grand divisions is noteworthy, too. Gibson County in West Tennessee, for instance, regularly returned less racist delegations to the statehouse. To a lesser degree, the same can be said of Wayne and White counties in Middle Tennessee. Finally, in East Tennessee, certain counties, such as Hawkins or Sullivan, elected men more inclined to cast racist votes than the local regional norm.

<sup>409</sup> Journal of the 19<sup>th</sup> Tennessee Senate (1831):42, 222, 244-245; Journal of the 28<sup>th</sup> Tennessee Senate (1849):210, 251.



Whigs coalesced to secure these outcomes, which endured. Statutes, alternatively, might come and go.<sup>410</sup>

A bipartisan coalition, for example, secured the Act of 1831. A bipartisan coalition dismantled much of it later. Less than a decade passed before under mixed government, the removal clause went back on the books. The constitutional reforms were more durable. Yet the purpose for the 1834 gathering had little to do with free black issues. Prior to adjournment, moreover, many dissenting voices from across the party aisle were raised about specifics and details. The voting on white suffrage, in particular, shows that something much less than unanimity on this fundamental consideration pervaded the ranks of both parties.<sup>411</sup>

The point is that a white consensus did not produce these outcomes. It almost stretches things to call it bipartisanship. A more preeminent divide pitted East Tennessean against Middle Tennessean, with the western district men at times voting the most extreme racist position. The eastern bunch, of course, were almost Whig to man, at least at this moment, and therefore party considerations cannot be completely eliminated from the equation even when intra-state regional cleavages are evident.<sup>412</sup>

The second point is the constitutional reforms, regardless of how they came into existence, left their mark ever afterwards. Discussion of general emancipation had been

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<sup>410</sup> Mooney, "The Question of Slavery and the Free Negro in the Tennessee Constitutional Convention of 1834," pp. 487-509.

<sup>411</sup> Journal of the Convention of the State of Tennessee (1834):102-104, 147-150, 222-228.

<sup>412</sup> Whigs from East Tennessee outnumbered local Democrats at the constitutional convention by a margin of fifteen to three. It should be noted that this imbalance was unique. Democrats, while perennially in the minority, usually existed in the legislature in much more respectable numbers. In the House session of 1837, for example, the East Tennessee delegation featured sixteen Whigs and eight Democrats. In the next session, however, Democrats and Whigs each numbered twelve.

tabled, maybe to be discussed sooner or later, but not just right now. At least talk about when and precisely how to implement such a program was replaced with speculation about how distant was the day when slavery finally would end. Free blacks no longer voted, too. The topic was never revisited except on a case-by-case basis. It never was the bone of contention in the forties and fifties that it became in Ohio. All these things happened, moreover, before Democrats and Whigs had firmly sunk down roots as party organizations. As we shall see, the scenario in Ohio, in this regard, will be different.

## VII. Conclusion

Black legal status had spiraled downward, suddenly and dramatically, never to fully recover, despite the corrective adjustment made in 1842 and the handful of ameliorative measures enacted in 1851-1852. In a very real sense, state policy after 1834 was set on a new course. But the coincidence that more mature party organizations were developing at this time, and that a slight majority on each side of the aisle affixed these new provisions into the organic law should not necessarily be interpreted as evidence that the “parties” were responsible for actions of these men. This handiwork, nonetheless, did alter the landscape and channel party conduct in the future.<sup>413</sup>

In this sense, groundwork was laid for common posturing across party lines; henceforth, revisions in the organic law would maintain their place. In other words, despite wrangling over removal clauses and bans on entry into the state, which at times

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<sup>413</sup> England contends most restrictive acts were not enforced until times of perceived crisis but concedes that the trend after 1831 was to degrade free black legal status. Imes earlier dated the crucial change in 1834. Van Dyke cited enactments at both dates as examples of legislative “overkill.” England, “The Free Negro in Ante-Bellum Tennessee,” p. 49; Imes, “The Legal Status of Free Negroes and Slaves in Tennessee,” p. 269; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” p. 60.

cleaved Democrats from Whigs, all parties agreed free blacks would not exercise political rights, beyond petitioning, and certainly not the suffrage. Complacency after the fact might be the best evidence, in the end, of a broad and sustained white racist consensus.<sup>414</sup>

But this finding does not fully substantiate that “racial consciousness” drove lawmaker actions, only that an institutional setting had been put in place more conducive to fostering such an outcome. We would need to see more consistent evidence of positive actions over time to make discriminatory disabilities systematic across the board which, in the best case scenario, we will not witness until the latter half of the 1850s. Whether political leaders in one or the other party considered free blacks second-class citizens, denizens, or “strangers,” even after barring free blacks from the franchise, also tells us important things about differences amongst whites and the nature of two-party alignments. While the 1840s, in this context, perhaps was not such a “liberal interlude,” after all, the retrenchment in racist initiatives is significant. We simply cannot ignore that party leaders, once having experienced “take-off,” did not proceed so relentlessly or long on the same trajectory, but instead took a step back, even if the earlier trajectory was resumed somewhat later.<sup>415</sup>

Of course, near mid-century, Democrats begin to muddle this scenario but this development occurred only after twenty years on the trail. What is interesting, too, is how discussion of free black issues picked up in the late 1840s, just as the free soil insurgency was manifesting in the North and the slavery extension issue was proving so disruptive on the national scene. An argument can be made that heightened saliency was

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<sup>414</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:507-508.

<sup>415</sup> Journal of the Convention of the State of Tennessee (1834):87-93, 107; “Speech of Terry Cahal,” in Nashville Republican and State Gazette, July 10, 1834.

due to reactions to these developments that pushed state lawmakers more into the arms of proslavery apologists. While a reasonable contention, it also needs to be considered why Democrats and Whigs, at this moment, exhibited more pronounced disagreement on those topics than ever before, instead of maintaining silence, covering up differences, and showing solidarity to the outside world, as often was done on questions about federal relations and slavery.<sup>416</sup>

What seems to be case, after weighing the evidence, is that party affiliation and racial posturing had a complex and rather unstable relationship during the second party system. Free blacks lost the suffrage but retained a right of petition. Nor was there talk of expelling them outright from the state, although newly manumitted slaves faced a different situation. The vacillating policies, as well as scattered roll-call voting, both suggest whites were not all likeminded. Even if bipartisan coalitions were not uncommon, these alliances did not always reflect overwhelming numbers drawn from either organization. Moreover, the outcomes produced did not always tilt in the same direction. On many occasion, too, the parties diverged enough in their responses to differentiate their stances as unique. But these cases are too few to tag this pattern as normative.

Perhaps a State Supreme Court Justice was on the mark when he retrospectively explained, in his opinion, why so many changes in legislation had taken place on the subject of free blacks. Rather than emphasizing party ideology or discipline imposed by

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<sup>416</sup> The Whig governor near mid-century, for example, stated that he “would as soon trust a Democratic congressman from Tennessee on the slave question as a Whig—there was no difference.” Roll-call voting of legislative parties suggests his observation is overdrawn. But it does indicate public officials at times downplayed disparities across party lines on national debates on slavery. “Progress of the Canvass,” Knoxville Register, May 30, 1849.

leaders, he instead had the following to say. The “Negro Question,” as it relates to free blacks had been “a vexed and perplexing question.” The reason for erratic policy fluctuations, supposedly, was that fickle public opinion acted upon “the representatives of the people” but could not decide what was more important—“sympathy and humanity for the slave” and his possible elevation in freedom, or “the safety and well-being of society.”<sup>417</sup>

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<sup>417</sup> Howington, “Not in the Condition of a Horse or an Ox’,” pp. 261-262.

## CHAPTER VI

### THE SECOND PARTY SYSTEM IN OHIO

#### I. Introduction

This chapter examines Ohio legislators before 1855. In this state, as in Tennessee, the interplay of partisan warfare with racial politics is a complex, fluctuating phenomenon which defies simple explanation. As proto-parties initially organized, bipartisanship mostly prevailed but something short of a white racist consensus appeared. Later, after the mid-1830s, divergence across party lines grew until near mid-century when Democrats and Whigs each retrenched towards the center. Despite this corrective adjustment two-party polarity in the Buckeye State was nonetheless more pronounced than in Tennessee.<sup>418</sup>

The states did share commonalities. Most early Jackson men in either place acted about the same as political foes. Democrats later cast more racist votes. It seems each stage of party development, moreover, warrants a different assessment about conflict versus consensus. Both states, in addition, had a particular region which elected less racist legislators; namely, East Tennessee and the Western Reserve. Still, the timing of

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<sup>418</sup> Erickson is on the right track to note that “the traditional alignment” in Ohio had Democrats, and Whigs from the southern part of the state, opposed to Western Reserve Whigs. Alignments were actually more complex. Certain areas of northwest Ohio regularly elected mildly “liberal” Democrats. Most Whigs in southern Ohio were much less racist than local Democrats; see Leonard Erickson, “Politics and Repeal of Ohio’s Black Laws, 1837-1849,” pp. 154-175.

changes and the basic trajectories thereafter rarely ran parallel. The role of third parties differentiates each state scenario, too. The Western Reserve, in addition, overshadows East Tennessee in terms of resistance to racist agendas. The Ohio data, moreover, shows more vigorous two-party conflict. Finally, free black status in Tennessee deteriorated over the long haul whereas for black Ohioans it slightly improved.<sup>419</sup>

The argument for bipartisan racism has much anecdotal support, if key terms are defined in the right way. This perspective was common among African-Americans. Democratic credos on no distinctions amongst mankind sounded great. But, in practice, dogmas on local majority rule usually meant blacks might enjoy a natural right to air or water but whites would horde conventional rights unto themselves. A third party man, alternatively, sarcastically suggested the black community ought to incorporate itself and thereby enlist Whig protection as guardians of its vested rights.<sup>420</sup>

Neither party, most importantly, was willing to abrogate white suffrage. But even this consensus frayed at the edges. When bipartisanship was operative common agreement at times also ran counter to racist agendas. In effect, if the alignment in Ohio differs from Tennessee, one thing shared across state lines was that the relationship between party loyalty and racial behaviors was not always consistent.

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<sup>419</sup> The Western Reserve, to be sure, regularly returned “liberal” legislators after the mid-1830s with the exception of some “moderate” Democrats. A Whig Free Soiler later recalled the Reserve prior to the rise of “modern” abolitionism was “unanimously proslavery” and that “every foot of its soil, by hard close bitter warfare, had first to be conquered to freedom.” While his statement is an exaggeration, legislative voting records confirm that a change did occur. Oberlin Institute, for example, was chartered in 1834. The Ohio Anti-Slavery Society shortly thereafter was formed in 1836. Riddle, “Rise of Antislavery Sentiment on the Western Reserve,” pp. 145-156.

<sup>420</sup> Smith, Official Reports, p. 983; Journal of the 50<sup>th</sup> Ohio Senate (1854), appendix, pp. 120-127.

## II. The Jeffersonian-Era Legal Foundation

By the mid-1820s the legal setting in Ohio featured racial differentials and had for several decades. Democrats and Whigs encountered no blank slate. For the most part, therefore, each party modified precedent rather than making sweeping changes. Admittedly, unsuccessful initiatives abounded proposing more daring innovations and reforms. But, in the final tally, most change came incrementally. As a result roll-calls do not reveal straight up or down responses on the existence of systematic institutional racism.<sup>421</sup>

Answers to questions of racial sensibilities have to be gleaned from the overall data through careful scrutiny of basic patterns and trajectories over prolonged periods of time. And, as a starting point, as was done for Tennessee, it is helpful to establish a baseline of what laws already were in place to regulate free blacks. Based on this knowledge, we can detect better when lawmakers later tried to chisel away at racist laws, reiterate longstanding policy, make minor revisions, or initiate a new departure. The unique legal setting passed down from an earlier generation also meant each legislature encountered somewhat distinct framings of racial issues, which must be borne in mind when reviewing comparisons of statistical computations.

If discriminatory laws preceded the second party system, what exactly was different in each state as new political coalitions came on-line? The most blatant differential was the absence of a slave code in the Buckeye State and the varied complications for free blacks. Granted, slave hunters had begun to prowl about; to help a runaway slave could incur a hefty fine. In the end, though, Ohio lawmakers had less reason to enact such an array of

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<sup>421</sup> Stephen Middleton, The Black Laws in the Old Northwest: A Documentary History (Westport, Connecticut: Greenwood Press, 1994).



restrictions as did Tennessee officials, given the absence of enslaved populations and relative scarcity of black people overall.<sup>422</sup>

Many Whig critics, for sure, insisted local institutional racism was a mere tentacle of the slavery monster and its prejudicial habits. Black Ohioans complained that the slave code impacted them even at a distance. Frederick Douglass made this contention although he identified Ohio lawmakers as the primary problem. The white masses maybe were gullible but not really to blame; instead, he suggested, corrupt demagogues who pandered to win approbation of the Slave Power were the real blackguards.<sup>423</sup>

A variant point-of-view, often an apologetic, was that proximity to neighboring slave states accounted for the situation. What made black laws indispensable was unique geographic positioning which, if situated differently, perhaps would have meant no necessity for the statutes. At any rate, the concession was there: some connection existed between discriminatory laws at home and slavery elsewhere. Another variation held black laws functioned as an antislavery device, supposedly, keeping burdens of slavery in the South, thereby not pruning the tree of bondage to keep it healthy. In doing so, these men also stood a criticism of the A. C. S. on its head; perhaps that was an intention all along.<sup>424</sup>

In any case many lawmakers argued black laws and slavery were predicated on similar prejudicial assumptions. While the parallel is striking, important distinctions need to be

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<sup>422</sup> Ibid., 15-18; Leo Alilunas, "Fugitive Slave Cases in Ohio Prior to 1850," Ohio State Archaeological and Historical Society Publications, 49 (April 1940):160-184.

<sup>423</sup> "Letters of Frederick Douglass from Austinburg and Cleveland in September 1847," in Carter G. Woodson, The Mind of the Negro as Reflected in Letters Written During the Crisis, 1800-1860 (Washington, D. C., 1926):478-485.

<sup>424</sup> "Minority Report," Journal of the 43<sup>rd</sup> Ohio House of Representatives (1845):25-34; "Legislative Proceedings," Ohio State Journal, December 21, 1842.

acknowledged, too, which shaped the quality of life for free blacks in each state for better or worse. An obvious advantage of living in Ohio was no slave patrol, no peculiar laws censoring speech, restricting public assembly, or curtailing trade with other African Americans. Less likelihood existed, overall, of being mistaken for a slave.<sup>425</sup>

Small wonder a former slave described arriving in Ohio as akin to entering a whole new world. Blacks spoke more freely, congregated without white supervision, and relocated about without constant interrogations. Some whites made kind offers of assistance or even encouraged blacks to stand up for their rights. For this woman, it was like a dream. But according to another black immigrant, what he encountered in Ohio was a “mountain of negro-hate.”<sup>426</sup>

Native soil was not actually devoid of a slave presence. The Ordinance of 1787 banned importing slaves but a legacy of the French regime was that some slaves were already there. In the Virginia Military District, as well, certain masters possibly held servants in de facto slavery through long-term contracts of indenture. Some people, evidently, thought it possible to bring more slaves in outright. A group of Revolutionary War veterans in the Old Dominion petitioned the territorial legislature for permission to bring slaves when relocating onto lands granted as bounties for past military service.<sup>427</sup>

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<sup>425</sup> Of course, blacks in Ohio did not enjoy equal access to theaters, streetcars, trade unions, many churches, and even graveyards. Smith, Official Reports, pp. 1223-1224; Ohio Anti-Slavery Society, Condition of the People of Color in the State of Ohio (1839):7-9, 28; Quillan, The Color Line in Ohio, p. 51; James H. Rodabaugh, “The Negro in Ohio,” Journal of Negro History, 31 (January 1946):9-29.

<sup>426</sup> Ohio Anti-Slavery Society, Condition of the People of Color in the State of Ohio, p. 20; Peskin, ed., North Into Freedom; William Wells Brown to William L. Garrison, November 12, 1857, in Woodson, ed., The Mind of the Negro as Reflected in Letters Written During the Crisis, 1800-1860, pp. 380-383.

<sup>427</sup> Journal of the 1<sup>st</sup> House of Representatives of the Territory Northwest of the River Ohio (1799):19; Peter S. Onuf, “From Constitution to Higher Law: The Reinterpretation of the Northwest Ordinance,” Ohio History, 94 (Winter-Spring 1985):5-33; J. David Griffin, “Historians and the Sixth Article of the Ordinance of 1787,” Ohio History, 78 (Autumn 1969):252-260.

Territorial legislators unanimously said “no.” St. Clair Federalists, along with the Jeffersonian “Opposition,” actually shut down anything resembling slavery or collateral mechanisms with the exception that blacks were not banned entirely from entry into binding contracts. Nevertheless, the census of 1830 records half-a-dozen slaves in residence many years later. Some Kentucky bondsmen were hired illegally, too. Slaveholders regularly visited the Queen City, bringing servants along for the sojourn. On a more clandestine basis, fugitives crept in or passed through on their way to Canada.<sup>428</sup>

As for legal justification, slavery in Ohio essentially had none. At statehood the constitution declared “there shall be neither slavery nor involuntary servitude in this State” other than to punish crime. To guard against slavery in specious form the organic law read no contract of indenture, involving a black person, was valid if the term of service exceeded one year, unless given in cases of apprenticeships. The overall outcome, for the most part, was consensual. Political jousting at statehood is a complex story but, at the risk of oversimplification, a brief sketch of it will be attempted to illustrate my point.<sup>429</sup>

Unlike late antebellum times when northern Ohio became a formidable political player, the contest in 1802 was primarily an intramural struggle within the southern part of the state. Jeffersonian types dominated the statehood convention, of course, but

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<sup>428</sup> Journal of the 1<sup>st</sup> House of Representatives of the Territory Northwest of the River Ohio (1799):19, 139-140; Abstract of the Returns of the Fifth Census (1832):30-31, 46; Quillan, The Color Line in Ohio, p. 54; Larry Gara, The Liberty Line: The Legend of the Underground Railroad (Lexington: University of Kentucky Press, 1967); Carter G. Woodson, “The Negroes of Cincinnati Prior to the Civil War,” Journal of Negro History, 1 (January 1916):1-22.

<sup>429</sup> “Minutes of the Ohio Constitutional Convention of 1802,” in Daniel J. Ryan, “From Charter to Constitution,” Ohio Archaeological and Historical Society Publications, 5 (1897):110-111, 125-126; Middleton, The Black Laws in the Old Northwest, pp. 9-10.

Federalists were there, too. They mainly came from Marietta. Most were New Englanders; a few were southerners. The problem was they lacked numbers; a mere one-fifth of delegates were in the Federalist camp. Things might have been different if the Republican Congress had not altered voter eligibility requirements in the Enabling Act, as well as hew off the Federalist stronghold in Detroit, but it did.<sup>430</sup>

This outcome did not deter Federalists from trying to derail the statehood movement or, as a fall-back option, curb Jeffersonian excesses in any constitution drafted. This plan was not altogether naïve, for as no formal party structures existed, factionalism was present. The divide mainly reflected communities with conflicting economic interests and cultural orientations situated in different parts of the territory. The Hamilton County faction, based in Cincinnati, was comprised largely of Pennsylvanians. It was comparable in size to the Federalist clique. The “Virginia Party,” headquartered in the Scioto River Valley, was much larger and prone to Methodism. This faction provided almost half of all delegates and staffed key leadership positions.<sup>431</sup>

Of course, alignments were not so neat and tidy in practice. Cincinnati, Chillicothe, or Marietta contained core elements of each respective cohort. Rather than residency alone, I examined voting records of each delegate on every type of issue and then classified men exhibiting similar behavior as belonging to one or another faction. What was learned was

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<sup>430</sup> William H. Smith, ed., The St. Clair Papers (Cincinnati: Robert Clarke and Co., 1882); Beverley W. Bond, Jr., The Civilization of the Old Northwest: A Study of Political, Social, and Economic Development, 1788-1812 (New York, Macmillan, 1934):97-137; Ruhl J. Bartlett, “The Struggle for Statehood in Ohio,” Ohio Archaeological and Historical Society Publications, 32 (1924):495-500; Randolph C. Downes, “The Statehood Contest in Ohio,” Mississippi Valley Historical Review, 18 (September 1931):155-171; Randolph C. Downes, “Thomas Jefferson and the Removal of Governor St. Clair in 1802,” Ohio Archaeological and Historical Society Publications, 36 (1927):62-77.

<sup>431</sup> Randolph C. Downes, “The Statehood Contest in Ohio,” Mississippi Valley Historical Review, 18 (September 1931):155-171; Helen M. Thurston, “The 1802 Constitutional Convention and the Status of the Negro,” Ohio History, 81 (1972):15-37.

not every delegate acted the same as others from his home town. Men from outlying regions usually aligned with one group or the other, too. In short, the political configuration was more complex than simply a contest between three towns but, overall, this schematic does have merit as a general rule of thumb. In any event, this is the seam Federalists tried to exploit. During the campaign for delegate selection, it seemed that histrionics about Virginians introducing slavery might prove the ticket to unraveling the Jeffersonian coalition. When this effort failed, the same strategy was pursued at the convention.<sup>432</sup>

At the conclave the “Chillicothe Junto” chose not to inundate the committee tasked to draft an article on slavery with its followers. Federalists claimed duplicity was involved; based on their allegations a legend later arose that southerners planned to sneak in slavery without appearing to have had a hand in it. New Englanders on the scene, fortuitously, detected the scheme, raised the alarm among northern-born Jeffersonian men, and thwarted the plot. Although behind-the-scenes maneuvering perhaps helped shape the outcome, the official record of proceedings relates matters differently.<sup>433</sup>

Within convention halls neither Federalists nor either of the Jeffersonian factions voted to let slavery in, although idiosyncratic support did come from a few individuals in the Virginia Military District. As for contracts of indenture, Federalists did favor this

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<sup>432</sup> Thurston discerned five voting clusters on racial issues but did not examine other issue niches. I detected eight clusters on racial issues and three factions on all issue niches (with the exception of three “independent” Jeffersonian delegates). Wilson instead defines the alignment as New Englanders, Mid-Atlantic migrants, and Southerners. Thurston, “The 1802 Constitutional Convention and the Status of the Negro,” pp. 15-37; Charles J. Wilson, “The Negro in Early Ohio,” Ohio Archaeological and Historical Society Publications, 39 (1930):717-768; “Minutes of the Ohio Constitutional Convention of 1802,” pp. 87-88, 91, 93-94, 98, 103-119, 121-130, 132.

<sup>433</sup> William T. Utter, The Frontier State, 1803-1825 (Columbus: Ohio State Archaeological and Historical Society, 1942):8, 18-21; Bartlett, “The Struggle for Statehood in Ohio,” p. 495-500.

restriction, too. But a majority of Democratic-Republicans did the same thing, although substantial dissension appeared. The renegade element, however, was drawn from the Hamilton County faction. In other words, New England Federalists and Jeffersonian Virginians, for the most part, stood side-by-side in the convention on the proposition to ban slavery.<sup>434</sup>

Interrogatory responses in the Virginia Military District, prior to delegate selection, indicate that the antislavery posture adopted at the convention was not mere disingenuous masking of hidden agendas. Almost all of them made clear their personal distain for slavery as bad political economy and corrosive to republican government. Among many, this outlook was cited as a primary reason for leaving the South. At a minimum, nobody wanted a repeat of St. Domingo. So, if the issue of slavery was the lever to upset the statehood engine, Federalist hopes on this front dissipated when voters did not respond as anticipated when electing delegates and the “Virginia Party” adroitly sidestepped the allegations made against it.<sup>435</sup>

State officials later never looked back. Slavery was throttled in Ohio for good. In 1806, legislators went further by adopting a resolution urging Congress to terminate the African slave trade on schedule. Of course, the federal fugitive slave law of 1793 permitted private rendition of runaway slaves. By 1804, too, a statute imposed a fine of \$10 to \$50 for helping fugitives from labor or \$100 if convicted of aiding in escape from the state. Three years later the larger fine became applicable in all cases.<sup>436</sup>

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<sup>434</sup> “Minutes of the Ohio Constitutional Convention of 1802,” pp. 110-111, 125-126.

<sup>435</sup> Candidate Interrogatories are located in Scioto Gazette, August 28, September 4, September 11, September 18, October 2, October 9, 1802.

But otherwise, the legal setting was averse to slaveholding. In the 1820s, as discussion momentarily arose about convening a constitutional convention again, the stipulation invariably affixed that the ban on slavery must remain. Still, in initial decades after statehood, political leaders seemed content to offer self-congratulatory kudos on their escape from the clutches of a slave system rather than engage in lambasting southern slaveholders. By the late 1810s some debate occurred on abuse of rendition laws and kidnapping of free blacks. The A. C. S. had arrived on the scene, too, and state legislators, soon thereafter, adopted resolutions urging Congress to aid its mission.<sup>437</sup>

The Missouri crisis did arouse some outcries against slavery. A few years later lawmakers endorsed the Steece Resolutions also. These measures deemed slavery a national evil, one that required mutual cooperation and sacrifice in all parts of the Union to eradicate. As for a specific plan, the federal government, with consent of slave states, would ensure all children of persons held in slavery, born after passage of the law, would go free when twenty years old, if consenting to be colonized elsewhere. Despite mild criticism of slavery, it seems lawmakers were exercised less about bondage in the South than whether it gained a foothold in their midst. At least, they seemed willing to assist other places to get rid of it. A Democrat legislator, alternatively, felt it best for slavery to continue at the South, not because it was a good thing, but because it was to the comparative advantage of Ohioans.<sup>438</sup>

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<sup>436</sup> Middleton, The Black Laws in the Old Northwest, pp. 15-18; Wilbur H. Siebert, "Beginnings of the Underground Railroad in Ohio," Ohio Archaeological and Historical Society Publications, 56 (January 1947):70-93; Woodson, "The Negroes of Cincinnati Prior to the Civil War," pp. 1-22.

<sup>437</sup> *Ibid.*, pp. 19-20; Journal of the 18<sup>th</sup> Ohio House of Representatives (1819):167, 173-174, 176.

<sup>438</sup> Journal of the 18<sup>th</sup> Ohio Senate (1819):137-138, 146-147; Journal of the 18<sup>th</sup> Ohio House of Representatives (1819):162-163, 176, 198-199; Woodson, "The Negroes of Cincinnati Prior to the Civil War," p. 765; Thomas Matijasic, "The Foundations of Colonization: The Peculiar Nature of Race

My point is that if organic laws suggest Ohioans were hostile to slavery and Tennesseans were not, certain evidence implies a need to narrow that gap. Ohioans denounced slavery but not vociferously. Tennesseans still were talking in terms of “necessary evil” and possible statewide emancipation. Lawmakers in both places, in addition, acknowledged each state’s constitutional right to determine domestic policy for itself. The sectional divide on slavery was present but maybe too much should not be read into this differential as indicating racial attitudes were polarized as a result.<sup>439</sup>

Examination of the legal status accorded black Ohioans drives this point home. At first, under the Ordinance of 1787 no disabilities existed. If owning sufficient property, African Americans could vote. Of course, only 337 blacks resided in the territory by 1800. By the mid-1820s, though, black suffrage had been non-operative for two decades. The matter had come to a head in the statehood convention. Federalists, to their delight, suddenly discovered other framings of racial issues also divided the Jeffersonian majority. Only this time Federalists stood in direct opposition to the upstart Virginians. Simply put, on roll-call divisions the Chillicothe crowd regularly voted in a racist manner. Pitted against them were Federalists and the Hamilton County faction. In the end, after much vacillation and bickering, neither side got exactly what it wanted, although the “Virginia Party” got closer.<sup>440</sup>

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Relations in Ohio During the Early Antebellum Period,” Queen City Heritage: The Journal of the Cincinnati Historical Society, 49 (Winter 1991):23-30; Middleton, The Black Laws in the Old Northwest, p. 20.

<sup>439</sup> C. Vann Woodward, “The Antislavery Myth,” American Scholar, 31 (Spring 1962):328.

<sup>440</sup> “Minutes of the Ohio Constitutional Convention of 1802,” pp. 113-116, 122, 124-125; Middleton, The Black Laws in the Old Northwest, p. 4; Walker, The Statistics of the Population of the United States (1872):55-56.



When assigning members to the committee to determine elector qualifications, President Edward Tiffin did not act as he had when staffing the committee on slavery. Now delegates of his faction were given an edge in numbers. The section reported provided for white male suffrage. An attempt to strike the word “white” lost, nineteen to fourteen. A proposal next passed, by almost the same margin, permitting resident black voters to retain the franchise. The effort to secure voting rights to descendants then lost narrowly, seventeen to sixteen. Delegates now considered a new section making blacks ineligible to serve in the state militia, hold public office, or testify in court cases involving a white person. Another provision was exclusion from paying a poll tax but this point became moot when no such feature was adopted. In any case, delegates approved the overall section, nineteen to sixteen.<sup>441</sup>

Shortly before adjournment, delegates revisited the subjects. A motion to disallow black suffrage stalled when delegates divided, seventeen to seventeen. At this juncture, the president stepped in to break the tie. No black suffrage. The disabilities on office-holding and the like now were reconsidered, too. By a vote of seventeen to sixteen, delegates struck the entire section. A motion to resubmit it in diluted form fell stillborn. As a result, black status was left ambiguous except for the suffrage article and, one more thing, apportionment counts were based on the number of white inhabitants.<sup>442</sup>

Propertied free black voters persisted in Tennessee until the mid-1830s. Their counterparts in Ohio vanished by 1803. Hence, when parties arose later in the Age of Jackson, the context was a bit different in each state. Tennessee lawmakers soon settled many of these matters in a new constitution then proceeded forward to a more mature

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<sup>441</sup> Thurston, “The 1802 Constitutional Convention and the Status of the Negro,” pp. 15-37.

<sup>442</sup> Ibid.; Middleton, The Black Laws in the Old Northwest, p. 11.

two-party system. No revision of the organic law occurred in Ohio until mid-century. As a result, while white suffrage existed since statehood, constitutional reform seemed perennially on the horizon. In addition, the legal definition of the word, “white,” became disputed, as did some disabilities considered, then rejected, in 1802. Simply put, parties in Ohio had a broader range of contentious and substantive matters to clash over, at least until a new constitution might put some of these questions to rest.<sup>443</sup>

Ultimately, by the 1840s, each party had crafted its own tale about constitutional framers. According to many Democrats, white suffrage and apportionment articles clinched the case. Ohio was a white man’s republic. Some Whigs agreed. Most, though, were not so sure. From this perspective, narrow voting margins in the convention, seesawing back and forth on sections, and the fact the convention president had to intercede to secure black disfranchisement, all meant, it seemed, that no firm consensus existed at the time. Consequently, these questions legitimately might be revisited, particularly as framers had struck out many specified disabilities in a purposeful manner.<sup>444</sup>

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<sup>443</sup> On constitutional revision, see Scioto Gazette, December 25, 1818. In the mid-twentieth century, Sheeler contended “many” slave states treated free blacks “with less cruelty than did the free state of Ohio.” Rodabaugh, writing at the same time, simply felt the experience of African Americans in Ohio was “not a happy one.” Earlier, Wilson had written that free blacks were “not really free prior to 1849.” While none of these contentions fully satisfies without considerable qualification, the basic point holds that free blacks in the Buckeye State for a few decades held a degraded legal status which in several important ways was inferior to their counterparts in Tennessee. J. Reuben Sheeler, “The Struggle of the Negro in Ohio for Freedom,” Journal of Negro History, 31 (April 1946):214; James H. Rodabaugh, “The Negro in Ohio,” Journal of Negro History, 31 (January 1946):28; Wilson, “The Negro in Early Ohio,” p. 766.

<sup>444</sup> Some Democrats did begrudgingly concede that perhaps African-American residents prior to statehood and their descendants did have some claims under the organic law. One of them, for instance, insisted blacks were “intruders” who had “no claims on the people of Ohio,” most especially, he added, if entering the state since 1803. For arguments on either side of the “white man’s government” debate, see “Legislative Proceedings,” Ohio State Journal, January 18, January 29, 1839, January 13, 1847; Journal of the 44<sup>th</sup> Ohio House of Representatives (1846):55-57; Smith, Official Reports, pp. 11, 983. An early argument that founders did not intend for African Americans to become citizens due to degraded morals and prejudice stemming from slavery, see 32<sup>nd</sup> Journal of the Ohio Senate (1833):504, 507.

Back when the first legislature convened in 1803 it was conceded all around that African Americans held an “unnaturalized” status, although residents from territorial days enjoyed special exemption from future disabilities. The “Virginia Party” now was even more firmly at the helm and moved to enact into statutory law certain disabilities defeated at the convention, as well as some new ones. The first order of business was to bar blacks from the state militia which was promptly done.<sup>445</sup>

During the next session, in 1804, a law was passed requiring “black or mulatto persons” settling in the state to furnish a certificate of freedom from a United States court. Individuals already in Ohio had to register with the county court clerk and pay a small fee. Another law imposed a fine of \$10 to \$50 if convicted of employing a black person for more than an hour without confirming his certificate of freedom. A payment of fifty cents per day was due the master, too, if the laborer was a slave.<sup>446</sup>

Three years later the legislature again acted. The law of 1807 required immigrant blacks to post a \$500 bond within twenty days of entering the state with sureties from two white men guaranteeing support and good behavior. Residents prior to 1804 were exempted. Another section had universal application. It made testimony inadmissible in court proceedings wherein either party to the case was a white person. On a more liberal note, Section Seven imposed a \$1,000 fine for kidnapping a free black person, who also could bring a civil action for personal damages.<sup>447</sup>

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<sup>445</sup> Journal of the 1<sup>st</sup> Ohio Senate (1803):82; Middleton, The Black Laws in the Old Northwest, pp. 11, 13.

<sup>446</sup> “Ohio Legislature,” Scioto Gazette, January 16, February 6, 1804; Journal of the 1<sup>st</sup> Ohio Senate (1803):68; Middleton, The Black Laws in the Old Northwest, pp. 15-17.

<sup>447</sup> Journal of the 5<sup>th</sup> Ohio Senate (1806):131; Middleton, The Black Laws in the Old Northwest, pp. 17-18.

It is not entirely clear why the laws appeared at this time. Perhaps the “Virginia Party” is a sufficient answer. Maybe now was the chance to secure what had proved elusive earlier. Once the hegemony of this faction diminished towards the end of the decade, production of new laws also stopped. But, then again, the War of 1812 soon erupted and perhaps explains why the focus turned elsewhere. Another possibility is the code now simply was deemed sufficient as it stood.<sup>448</sup>

The general time frame when the black laws appear does suggest external factors may have been involved. Before 1810 lawmakers created the core features of the racial code as it existed later when Democrats and Whigs came along. Tennessee officials were doing much the same thing. Perhaps, given this coincidence, common reactions to contemporaneous events elsewhere shaped behaviors, too. There was much shock and dismay at recent events in Haiti. The Gabriel Prosser episode in Virginia generated concerns. Soon thereafter, in 1806, the governor there threatened to expel free blacks, and, next thing, new statutes pop up in Ohio and Tennessee.<sup>449</sup>

Local demographic changes perhaps played a role as well. The African-American population had grown by 1810 to six times its size a decade earlier. It seems plausible this surge had some impact on legislators. Once regulations were in place proportional growth amongst blacks did drop for the next ten years. While the rate of increase had been slightly faster for African Americans it now tilted the other way. Maybe black laws were functioning as intended.<sup>450</sup>

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<sup>448</sup> Actually the Virginia Party lost the gubernatorial election in October, 1807 and only was victorious again in 1814 and 1816. Joseph E. Kallenbach and Jessamine S. Kallenbach, American State Governors, 1776-1976 (Dobb’s Ferry, New York: Oceana Publications, Inc., 1977), 1:462.

<sup>449</sup> Scioto Gazette, November 6, 1800, September 10, 1801, March 20, April 24, 1802, August 27, 1807

At the same time, some reservations are in order. First, differentials in rates of increase are not pronounced. Second, in absolute numbers, the black community was miniscule. By 1810, 337 African Americans had turned into 1,899. The number of white inhabitants grew in the same time frame from 45,028 to 228,861. In 1820, 4,723 blacks now resided in the state next to 576,572 whites. Put another way, African Americans, in the aggregate, grew from 0.7 percent to 0.8 percent of the statewide population. So, if blacks were growing relatively fast they were not numerous enough to draw a lot of notice, much less a need for harsh regulatory laws. It seems significant, moreover, that lawmakers exempted resident blacks from certain regulations, seemingly indicating that discouragement of new migrants was a main concern. The problem is the evidentiary record is so thin for these early times to know for certain.<sup>451</sup>

Legal reforms now went on hiatus. No new statute appeared until a dozen years later in the wake of a flap over slave hunters kidnapping free blacks. The “Virginia Party” still was potent but now in eclipse; it was not their handiwork. The law, in brief, tried to prevent the “nefarious and inhuman practice” by replacing the old fine as a penalty with a one-to-ten year prison term at hard labor. Legislators from northern Ohio provided the bulk of support but the support receded as constituent districts got closer to the Ohio River.<sup>452</sup>

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<sup>450</sup> Walker, The Statistics of the Population of the United States, pp. 55-56.

<sup>451</sup> Ibid. Wilson, back in 1930, noted that many southern migrants came to Ohio to escape both slavery and blacks. Barnhart suggests prominent leaders in early statehood times, moreover, included many former southerners. Wilson, “The Negro in Early Ohio,” pp. 717-768; John D. Barnhart, “The Southern Influence in the Formation of Ohio,” Journal of Southern History, 3 (Spring 1937):28-42; John D. Barnhart, “Sources of Southern Migration into the Old Northwest,” Mississippi Valley Historical Review, 22 (June 1935):49-62; John D. Barnhart, “The Southern Element in the Leadership of the Old Northwest,” Journal of Southern History, 1 (May 1935):186-197.

During the early 1820s not much transpired besides enactment of a statute in 1824 to ban blacks from performing jury duty. It also should be noted that the code did not regulate or restrict African Americans in various ways. Blacks were not barred from performing public roadwork. Marriage, even across the “color line,” did not require special permission; legacies could be bestowed on heirs. African Americans could sue and be sued, enter into contracts (except long-term indentured servitude), and petition for special legislative acts. Nor were blacks denied access to public education. In 1821, township officials were given an option of levying local taxes for school purposes. Nothing was said about race distinctions. Four years later another act provided for a uniform tax. Again, no racial stipulations were attached. The new law instead echoed language in the state constitution to the effect that public schools were open to “every class and grade without distinction.”<sup>453</sup>

In sum, as the second party system was emerging, a racial code had been in place for about two decades. With minor exception the trend in recent years had begun to tilt in more liberal directions. Of course, some sources tell us in early days every white man was a potential “ranger,” so even if most neighbors were friendly, blacks never were entirely secure in their persons or property. Still, at a minimum, after 1807, enactment of new racist laws was very rare.<sup>454</sup>

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<sup>452</sup> Legislators in the session of 1817 also debated a bill to reduce the black laws into a single act. Journal of the 16<sup>th</sup> Ohio House of Representatives (1817):54-56; Journal of the 18<sup>th</sup> Ohio House of Representatives (1819): 167, 173-174; Middleton, The Black Laws in the Old Northwest, p. 26

<sup>453</sup> Journal of the 21<sup>st</sup> Ohio House of Representatives (1822):146-147; Middleton, The Black Laws in the Old Northwest, pp. 5, 10, 135; Stuart S. Sprague, ed., His Promised Land: The Autobiography of John P. Parker, Former Slave and Conductor on the Underground Railroad (New York: W. W. Norton and Co., 1996); Lewis Weeks, “John P. Parker: Black Abolitionist Entrepreneur, 1827-1900,” Ohio History, 80 (Spring 1971):155-162; Harry E. Davis, “Early Colored Residents of Cleveland,” Phylon, 4 (1943):233-243; Hickok, “The Negro in Ohio, 1802-1870,” p. 89.

Tennessee lawmakers were following a somewhat similar path, too, before reaction set in during the early thirties. Still, as comparisons go, living in the “free” state of Ohio had its advantages for free blacks. Granted, in many ways, racial codes across state lines ran parallel in the sense of special registration provisions, bond requirements, and so on. In some ways, too, free black Tennesseans actually had an edge in terms of overall status. Namely, they enjoyed access to a propertied franchise and served in the people’s militia. In rather short order, to be sure, those rights were lost. Yet, after the status of Tennessee free blacks deteriorated, it ultimately began improving for blacks in Ohio, although suffrage as a white privilege did remain intact. But, before various reforms brought some relief, the legal climate first got worse.<sup>455</sup>

In the 1820s the growth rate continued to decline across racial lines, only now the proportional increase among African Americans was considerably higher. Although blacks accounted for less than one percent of the entire population, in certain pockets of the state they were arriving in large numbers. In 1818, between 800 and 1,000 freed slaves from Virginia were resettled in Brown County, along the Ohio River, where they lived an impoverished existence. By the mid-1820s, more ex-slave colonies had been planted, amongst other places, in the eastern counties of Jefferson and Harrison, just north of the National Road.<sup>456</sup>

Not too long afterward seventy freedmen relocated into Lawrence County. According to some testimony, these “unfortunate creatures” were “ragged and dirty” with little or no

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<sup>454</sup> Wilson, “The Negro in Early Ohio,” pp. 717-768.

<sup>455</sup> Smith, Official Records, p. 1182.

<sup>456</sup> Walker, The Statistics of the Population of the United States (1872):55-56; “Documents: Transplanting Free Negroes to Ohio From 1815 to 1858,” Journal of Negro History, 1 (1917):302-317.

property. A newspaper editor conceded he would not censure a person for showing them kindness. Still, he did not view “rapid accessions” of this kind “without some degree of alarm.” Simply put, the size of the local black community not only was growing, its composition was changing.<sup>457</sup>

In some localities near destitute black strangers now clustered in dense enough numbers as to heighten white anxieties. As a consequence, political leaders kept a watchful eye on statistical compilations and projected estimations of how threatening black numbers might someday become if present trends held. At the same time, concerns that the advent of new forms of party organization itself was subversive of revolutionary republicanism resonated in the public forum at least for a while, until the phrase “slaves of party” became a mere moniker for designating political foes. At any rate, the politics of race and a two-party system were posed to intersect.<sup>458</sup>

### III. Jacksonian Democrats and National Republicans

The Jackson movement in Tennessee initially swept almost everything before it. In Ohio, not only were National Republicans more numerous, they often controlled the state government. Governor Allen Trimble was their man. He was elected by a five-to-one margin. Of course, National Republicans hardly qualify as a “modern” party; a loose clique of financiers, industrialists, and wealthy merchants is a more apt description. For

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<sup>457</sup> “Documents: Transplanting Free Negroes to Ohio From 1815 to 1858,” pp. 302-317.

<sup>458</sup> Marc W. Kruman, “The Second American Party System and the Transformation of Revolutionary Republicanism,” Journal of the Early Republic, 12 (Winter 1992):509-537.



heuristic purposes, though, it seems reasonable to consider them a “proto-Whig” coalition.<sup>459</sup>

Early political alignments, as in Tennessee, are at times difficult to ascertain with certainty and mixed party government often prevailed. In the sessions of 1827 and 1828 National Republicans controlled the lower house; proto-Democrats the Senate. Next, it seems proto-Democrats achieved parity of numbers in the House before National Republicans secured control in both chambers in 1830 and 1831 (although proto-Democrats perhaps matched them in the Senate at first). In the next two sessions the Democrats now had organized and held the upper hand although National Republicans initially possibly split the upper chamber with them.<sup>460</sup>

Except for the sessions of 1831 and 1833, whatever was accomplished legislatively probably required some cooperation across the party aisle. On many occasions, to be sure, bipartisanship was the norm. Despite some disunity on certain roll-call divisions, each “proto-party,” on average, cast about two-thirds of votes in racist ways. A new statute from 1831 does stand out as ameliorative. It revisited the penalty for kidnapping. This National Republican revision raised the minimum incarceration to three years and lowered the maximum to seven. But, despite its mixed nature, the reform did eliminate the most lenient sentencing while retaining the imprisonment feature; the old penalty of simply levying a fine was not resurrected.<sup>461</sup>

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<sup>459</sup> Kallenbach and Kallenbach, *American State Governors*, 1:463; Allen Trimble, *Autobiography and Correspondence of Allen Trimble, Governor of Ohio with Genealogy of the Family*, compiled by Mary M. T. Tuttle and Henry B. Thompson (Reprint from “Old Northwest” Genealogical Society, 1909).

<sup>460</sup> Some historians suggest Jacksonians captured control of the legislature in 1828. My calculations regarding relative party strengths indicates an even divide in the lower chamber of thirty-six legislators each. Donald J. Ratcliffe, “The Role of Voters and Issues in Party Formation: Ohio, 1824,” pp. 864-866.

Earlier, in the session of 1827, colonization schemes commanded attention. In a bipartisan response to a petition, legislators passed a resolution calling on Congress to aid the A. C. S. Among supporters were 72 percent of Democrats and 94 percent of National Republicans. At the same time a proposal to create a governor's contingency fund lost. In subsequent sessions the A. C. S. issue was repeatedly revisited. In the session of 1829 a House committee reported favorably on its plan. Two years later a National Republican senate committee urged formation of state societies, a governor's contingency fund, and another appeal to Congress, while urging black Ohioans to send a delegation to Liberia to investigate conditions there.<sup>462</sup>

Democrats did not officially address the matter when they ruled the roost. In the session of 1833 a senator did recommend colonization as preferable to repealing the black laws. In general, though, proceedings over time show bipartisan agreement on this issue. But sending a memorial to Congress hardly went beyond earlier resolutions. In the end, moreover, legislators refused public funding while insisting on consent prior to removal, too. Finally, it is uncertain if supporters regarded the A. C. S. plan more as an antislavery device, a means to uplift African Americans, or a way to get rid of them.<sup>463</sup>

A related matter involving expatriation appeared in the session of 1829. It pertained to the Wilberforce Colony in Canada. This settlement contained perhaps a thousand or

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<sup>461</sup> Middleton, The Blacks Laws in the Old Northwest, p. 27.

<sup>462</sup> Journal of the 26<sup>th</sup> Ohio House of Representatives (1827):85-91; 173-175; Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):38, 137-139, 142, 284-285, 288, 324-326; Journal of the 30<sup>th</sup> Ohio Senate (1831):402-404; Middleton, The Black Laws in the Old Northwest, pp. 20-21; Moses Henkle to William Gurley, January 4, 1827, Same Williams to William Gurley, African Colonization Society Papers, Library of Congress, Reel 1, pp. 334-335; Reel 2, pp. 100-101.

<sup>463</sup> Journal of the 32<sup>nd</sup> Ohio Senate (1833):504-507, 751-752; also see Thomas D. Matijasic, "The African Colonization Movement and Ohio's Protestant Community," Phylon, 46 (March 1985):16-24; Thomas D. Matijasic, "African Colonization Activity at Miami University during the Administration of Robert Hamilton Bishop, 1824-1841," The Old Northwest, 12 (Spring 1986):83-94.

more African Americans who recently had left Cincinnati. The Ohio Supreme Court earlier had ruled the bond requirement was constitutional and local whites then demanded its enforcement. When African Americans did not respond fast enough, riots ensued, and the exodus accelerated. The black community next approached the legislature requesting government aid for relocation.<sup>464</sup>

A finance committee report recommended private charity as appropriate but no expenditure of public funds. When a proposal was made to give \$1,000, it was shot down by 70 percent of Democrats and 60 percent of National Republicans. It seems reasonable, since exodus was ongoing, that we consider denial of financial aid as a racist response, although the argument could be made, alternatively, that funding expatriation is analogous whether the intended destination was Canada or Liberia.<sup>465</sup>

Although the state high court upheld the constitutionality of black laws, several later rulings slightly restrained that interpretation. In 1831 justices determined that mulattoes with less than 50 percent African ancestry were entitled to give witness in court. Two years later, a ruling held it appropriate to instruct juries to not let prejudice against dark skin color shape their verdict. Still, legislators upheld the black laws, in general, despite petitions calling for repeal which had begun to appear as early as 1826. A senate committee report in the session of 1829 did express interest in the topic but deemed repeal at the moment inexpedient. Four years later a National Republican House Judiciary Committee deemed it “unwise.” The lower chamber agreed. In the Senate a

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<sup>464</sup> Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):51; Journal of the 28<sup>th</sup> Ohio Senate (1829):59; Marilyn Bailey, “From Cincinnati, Ohio to Wilberforce, Canada: A Note on Antebellum Colonization,” Journal of Negro History, 58 (October 1973):427-440; Woodson, “The Negroes of Cincinnati Prior to the Civil War,” pp. 1-22.

<sup>465</sup> Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):246-247.

Democratic judiciary committee reported much the same thing. In other words, based on committee work, it appears bipartisan agreement existed to leave the statutes intact.<sup>466</sup>

Legislators instead supplemented the code. An 1829 statute prohibited immigrant blacks from gaining a legal settlement under the poor laws. A Democrat judiciary committee reported favorably on the bill; between 80 and 90 percent of each party agreed. The same outcome resulted on a proposal to strike the phrase “except as are citizens of other states.” A similar bill had been derailed two years earlier. Back then, various proposals in the lower house to strike out portions of it drew negative responses from three-fifths of each party. About 70 percent of Democrats, though, opposed striking the bond requirement and 80 percent rejected eliminating the hiring fine. On final passage, however, only a bare majority of either party voted “yea.” Importantly, along the way, a section was struck out in a bipartisan vote making it incumbent for local constables to enforce removal requirements. In effect, lawmakers left wiggle room for local option to prevail on whether statutes became “dead letters.” In the end senators postponed the subject, eighteen to seventeen.<sup>467</sup>

Shortly thereafter National Republicans held the edge. They not only revised the kidnapping law but enacted a discriminatory statute denying poorhouse benefits. Hence, it seems, both organizations are accountable for enacting new racist laws. At the same time many reforms aimed primarily at curbing immigration. In addition, despite

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<sup>466</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:3-4; Journal of the 25<sup>th</sup> Ohio House of Representatives (1826):193; Journal of the 28<sup>th</sup> Ohio Senate (1829):271-272; Journal of the 32<sup>nd</sup> Ohio Senate (1833):504-507; Journal of the 32<sup>nd</sup> Ohio House of Representatives (1833):435-436, 564-565.

<sup>467</sup> Journal of the 26<sup>th</sup> Ohio Senate (1827):403; Journal of the 26<sup>th</sup> Ohio House of Representatives (1827):174, 377-378, 389; Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):129-130; Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):129-130; Middleton, The Black Laws in the Old Northwest, pp. 131-132.

bipartisan support, dissent in early sessions ranged sometimes as high as 40 percent in each party. Finally, when Democrats became a clear majority, they did little except authorize an official book wherein county clerks copied down freedom certificates.<sup>468</sup>

Another set of statutes from 1829 banned admitting black children into public schools and exempted black property-holders from school taxes. Any revenues collected were held separate for black educational purposes as trustees deemed fit. More than 80 percent of each party approved. The same proportion of Locos, with two-thirds of National Republicans, also rejected a proviso to allow school directors to admit black children, with unanimous local white consent, if numbers in a district were less than fifteen.<sup>469</sup>

A follow-on enactment in 1830 stipulated common schools were for instruction of white youth “of every class and grade, without distinction.” About 70 percent of Democrats favored inserting the word “white” but less than half of National Republicans agreed. Support was most pronounced in southern Ohio. Later, in the session of 1832, a senate committee report deemed it inexpedient to change policy. Clearly, the ban on school admission was a setback for blacks but not too unexpected as legislators at the time often felt publicly funded education was warranted only in cases of future electors.<sup>470</sup>

Two other statutes also appeared on the books. In 1828 the ban on jury duty was reiterated. Later, in 1831, National Republicans produced a second law. It stipulated jurors must hold the same qualifications as electors, i.e. white racial classification.

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<sup>468</sup> Middleton, The Black Laws in the Old Northwest, pp. 18, 132.

<sup>469</sup> Journal of the 27<sup>th</sup> Ohio House of Representatives (1828):977-978; Middleton, The Black Laws in the Old Northwest, p. 34.

<sup>470</sup> Journal of the 29<sup>th</sup> Ohio House of Representatives (1830):544; Journal of the 31<sup>st</sup> Ohio Senate (1832); Middleton, The Black Laws in the Old Northwest, pp. 34-35; “Report of the Standing Committee on Public Institutions,” in Ohio State Journal, February 27, 1841.

Superficially, this reform seems to have added yet another layer of discriminatory insulation. Yet, given the high court's recent ruling about "nearer white" mulattoes giving court testimony, what was going on is not altogether clear.<sup>471</sup>

Legislators addressed few other racial issues prior to the mid-1830s. A pertinent roll call was recorded on a motion to insert the word "white" into a bill for public roadwork. A bipartisan outcome resulted, only, in this case, two-thirds of both parties answered "no." This response may not have been welcomed amongst individuals wanting relief from this public burden. Nevertheless, it conveyed civic status, especially since reformers often suggested the taxpayer provision for voting should be supplemented in such a way as to extend the same right to white males that performed this task.<sup>472</sup>

Based on this summary it seems reform trends prior to the mid-1830s aimed at supplemental discriminatory legislation. In rather short order blacks were denied access to public schools and the poorhouse, while a ban on jury duty was perpetuated, too, and black immigrants denied a legal settlement. Legislators also refused aid to the Wilberforce Colony while giving public sanction to the A. C. S. Yet funding proved another matter. The kidnapping statute was retained, as well, in modified fashion. Some dissent about the ban on legal settlements or creation of a "white" school fund also existed.

The timing of the new laws seems to have been driven in part by implanting of ex-slave colonies in Ohio, urban race riots (not only in Cincinnati but Portsmouth, too), and an awareness that general emancipation in the Upper South was a possibility, which it

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<sup>471</sup> Middleton, The Black Laws in the Old Northwest, pp. 47-48.

<sup>472</sup> Journal of the 29<sup>th</sup> Ohio House of Representatives (1830):515; "Minutes of the Ohio Constitutional Convention of 1802," pp. 112-114, 122-123, 127-128.

was anticipated would bring a deluge of freedmen into the North. Finally, when Democrats finally controlled both chambers they did almost nothing. Thus, if bipartisanship is a more apt description of normative two-party alignments, just like in Tennessee, this finding requires a series of reservations and qualifications. Polarity across the party aisle, during this period, did not exist.<sup>473</sup>

#### IV. Advent of the Whig Party

In 1834 the Whig Party had arrived once National Republicans merged with small businessmen, evangelical Protestants, and anti-Masons. Democrats lost their majority in the lower house but retained an edge in the Senate. Three years later Whigs captured control in both chambers. During this period little legal reform occurred although party discipline and racist behavior was on the rise among Democrats. Whigs scattered (meaning they acted less racist than had National Republicans). Due to these trends a gap increasingly becomes evident across party lines.<sup>474</sup>

Right off the bat, in a seeming new departure, lawmakers in the session of 1834 turned down the state colonization society's request to use the assembly hall for its annual meeting. Only one-fourth of Democrats voted "yea," as did two-fifths of Whigs.

Bipartisanship is thus evident, yet the outcome was not exactly a racist win. If this

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<sup>473</sup> On urban mobs, see Quillan, The Color Line in Ohio, pp. 27-31; Sheeler, "The Struggle of the Negro in Ohio for Freedom," pp. 208-226; David Grimsted, "Rioting in Its Jacksonian Setting," American Historical Review, 77 (1972):361-397; Richards, "Gentlemen of Property and Standing" Anti-Abolition Mobs in Jacksonian America (New York: Oxford University Press, 1970).

<sup>474</sup> James E. Stegemoeller, "'That Contemptible Bauble': The Birth of the Cincinnati Whig Party, 1834-1836," Cincinnati Historical Society Bulletin, 39 (Fall 1981):201-223; Stephen C. Fox, "The Bank Wars, the Idea of Party, and the Division of the Electorate in Jacksonian Ohio," Ohio History, 88 (Summer 1979):253-276; Donald J. Ratcliffe, "Politics in Jacksonian Ohio: Reflections on the Ethnocultural Interpretation," Ohio History, 88 (Winter 1979):28.

initiative was a racist move, moreover, it was a contingent of Whigs that led the charge. Legislators also discussed matters relating to rendition of fugitive slaves, a practice the state high court had recently upheld. In the session of 1836, Democrats, with three-fourths of Whigs, agreed to a judiciary committee report on regulating proof in trials of runaways. This result was likely not ameliorative as every opponent was from the Western Reserve, even though the region's delegation was split as a whole. In the recent past, it also should be noted, Reserve men had not always stood against every racist proposal. Henceforth, however, this region emerged as a leading pocket of liberal resistance to racist agendas (see Table 10).<sup>475</sup>

The congressional gag rule was a bone of contention, too. Democrats endorsed it. Whigs could not agree. Local introduction of abolitionist petitions intertwined with this debate and another about receiving petitions from African Americans. At first both parties agreed to their reception. By the session of 1837 most senators still voted the same way. Dissenters included a fourth of the Whigs and, even more significantly, a bare majority of Democrats. The matter then was tabled with the concurrence of three-fifths of Whigs and four-fifths of the Locos. When a Whig moved to refer a petition for black suffrage to a select committee, three-fourths of Democrats and almost half of the Whigs instead sent it to the less hospitable judiciary committee.<sup>476</sup>

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<sup>475</sup> Journal of the 33<sup>rd</sup> Ohio House of Representatives (1834):109; Journal of the 35<sup>th</sup> Ohio Senate (1836):595; Alilunas, "Fugitive Slave Cases in Ohio Prior to 1850," pp. 160-184. For an example of a Western Reserve Whig, see Vernon L. Volpe, "Benjamin Wade's Strange Defeat," Ohio History, 97 (Summer-Autumn 1988):122-132; Hans L. Trefousse, "Ben Wade and the Negro," Ohio Historical Quarterly, 68 (April 1959):161-176.

<sup>476</sup> Journal of the 36<sup>th</sup> Ohio Senate (1837):13-14, 159-160, 246, 753.



Table 10 Western Reserve Legislators and Voting on Racial Issues			
Sessions	Number of Roll Calls	Voting Score	Rice Index Of Cohesion
1817-1822	(7)	25	.82
1827-1836	(27)	51	.52
1837-1854	(176)	14	.77
1855-1861	(65)	3	.94

\*The “voting score” reflects the estimated frequency of the regional delegation casting “racist” votes based on scalogram analysis. The “Rice Score” for a consensual vote is 1.00. A response wherein Reserve legislators evenly split would have a score of 0.00. Explanation of the technique used in this Table is given in Appendix A.

Legislators received, referred, and tabled black petitions. Democrats scattered on reception roll calls; Whigs divided on motions to table or committee reference. Ergo, the plea for repeal of black laws was shelved, too. A senate judiciary committee in the session of 1834 merely reissued the report from a year earlier. A Whig senator two years later tried to repeal the 1807 law but his proposal was buried by a Democrat committee. An initiative to repeal laws of 1804, 1807, and 1831 did come to a vote. Its sponsor voted for it alone. Bipartisanship, in dramatic fashion, held fast.<sup>477</sup>

Legislators also responded on several roll calls during the session of 1835 which dealt with resolutions on supplemental black laws. A Whig senate committee did recommend an inquiry into altering statutes but another party member successfully moved to table. On a motion to postpone a resolution on amending black laws almost every Democrat and three-fourths of Whigs voted “no.” This pattern, if inverted, was replicated on a successful amendment to strike the phrase “except as are citizens of other states.” In each case the Western Reserve, as a bloc, stands out as the bulk of dissent.<sup>478</sup>

Democrats again tried to amend the black laws in the session of 1836. A Whig senator moved to recommit the bill to add a section banning black immigrants from receiving an inheritance. A Whig later wanted the title to refer to a ban on blacks conveying real estate “if not a U. S. citizen.” Whatever the precise content, Democrats overwhelmingly favored the bill. Whigs vacillated. Almost three-fifths sided with Democrats against postponement. Only two-fifths, however, favored engrossment. Finally, a mere third supported final passage. Afterwards, a Whig amendment to change

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<sup>477</sup> Journal of the 33<sup>rd</sup> Ohio Senate (1834):446-450; Journal of the 35<sup>th</sup> Ohio Senate (1836):148, 432.

<sup>478</sup> Journal of the 34<sup>th</sup> Ohio Senate (1835):269-270, 287.

the title to read an act to “advance abolition” failed, 1 to 29. In sum, Democrats pushed to supplement black laws but Whigs were somewhat resistant; in the end, the lower house did not follow through.<sup>479</sup>

The only statute appearing at this time pertained to the school law. The state high court earlier, in 1834, had ruled the “nearer white” rule applied to admittance to public schools. This new law did not address that verdict but also was mildly liberal. It rebated black taxes incidentally collected for school purposes rather than having trustees hold the funds in a separate account. Support came from four-fifths of Whigs and almost half the Democrats. Still, the modification was predicated on continued exclusion of black children (unless “nearer white” mulattoes) from common schools.<sup>480</sup>

A more divisive issue was private education which intruded into the session of 1836 when a bill to amend the charter of Oberlin Institute was lost. Democrats led the charge against it, denigrating the school as a depot for runaway slaves, a place that promoted race mixing, too. Most Whigs tried to keep the bill alive although a third demurred. Thus, on this issue, we find a more unified, racist set of Democrats, while Whigs were less so on both accounts, if compared to Democrats or National Republican predecessors.<sup>481</sup>

The period between 1838 and 1842, alternatively, spawned several new laws and various public pronouncements on state policy. Democrats secured majorities in both branches except for the House in 1840. While much legislative output failed to prove

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<sup>479</sup> Journal of the 35<sup>th</sup> Ohio Senate (1836):187-188, 558, 568-569.

<sup>480</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:4-5; Middleton, The Black Laws in the Old Northwest, pp. 35-36.

<sup>481</sup> Journal of the 35<sup>th</sup> Ohio Senate (1836):206-207.

durable, Democrats now cast racist votes about 80 percent of the time, and tight party discipline was sustained. Whigs scattered less often but more visible unity in their ranks pales next to the Locos. These men, collectively speaking, cast racist votes now only a third of the time. Polarity between parties was becoming a more regular event.<sup>482</sup>

Democrats pushed racist agendas aggressively on several fronts in the session of 1838. Amongst other things, they purged “higher-law” abolitionists such as Senator Thomas Morris who ultimately ended up in the Liberty Party. But the main initiative was enactment at the behest of Kentucky officials of a state fugitive slave law. The so-called “Black Act” meant state authorities would aid in the rendition process. A related matter involved a petition for relief of John B. Mahan. The Whig governor extradited the abolitionist to the Bluegrass State on a charge of slave stealing. He later was released all the while pleading not guilty. The case created a sensation although modern scholars suggest it probably did not impact statewide elections in the fall. Yet, when the legislature met certain Whigs brought it up, demanding state government protect its citizens better. By a narrow margin, along near straight party lines, Democrats referred the subject to the judiciary committee. Later, almost every Democrat and a fourth of the Whigs agreed to postponement.<sup>483</sup>

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<sup>482</sup> Neighboring Pennsylvania disfranchised African Americans in 1838; local Ohio blacks began meeting in state educational conventions about this time, too, although few counties, overall, sent delegates at first. Howard H. Bell, “Some Reform Interests of the Negro During the 1850s as Reflected in State Conventions,” *Phylon*, 21 (Summer 1960):173-181; “Education Convention of the Colored People of Ohio,” *Ohio State Journal*, September 11, 1839.

<sup>483</sup> “Legislative Proceedings,” *Ohio State Journal*, February 5, April 22, 1839; C. B. Galbreath, “Ohio’s Fugitive Slave Law,” *Ohio Archaeological and Historical Society Publications*, 34 (1925):216-240; Vernon L. Volpe, “The Ohio Election of 1838: A Study in Historical Method?” *Ohio History*, 95 (Summer-Autumn 1986):85-100.

Insofar as voting on the “Black Act” goes, Democrats across chambers unanimously responded “yea.” House Whigs instead offered a variety of unsuccessful amendments to dilute it. A motion to secure jury trials for the accused and preemptory challenges lost when Democrats rejected it with concurrence of two-fifths of the Whigs. A proposal to provide legal counsel to alleged runaways and require plaintiffs to post bond fell short. Democrats opposed it as did a third of Whigs. Later a bare majority of Whigs voted for final passage of the bill. In the Senate, less than two-fifths of the party lent their support. Nonetheless, lawmakers adopted a Whig motion to strike the preamble; a certain section was stricken out, too. In the end, at the instigation of Democrats, and connivance of a substantial minority of Whigs, however, the new law was enacted.<sup>484</sup>

The “Black Act” did not last, though. In the interim, in the session of 1840, the Whig House rejected an initiative to better secure the writ of habeas corpus to alleged fugitive slaves. Three-fifths of Whigs favored the bill; only a fifth of Democrats agreed. A proposal to provide jury trials also derailed. Only, in this case, two-thirds of Whigs alone favored the reform. What finally happened was the U. S. Supreme Court ruled a Pennsylvania rendition law was unconstitutional due, in part, to problems of concurrent jurisdiction. Ohio lawmakers saw the handwriting on the wall and dismantled the local statute. The vast majority of Whigs voted for repeal whereas only a bare majority of Democrats did also.<sup>485</sup>

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<sup>484</sup> “Legislative Proceedings,” Ohio State Journal, February 12, February 15, February 26, 1839.

<sup>485</sup> Ibid., March 13, March 20, 1840, December 14, December 21, 1842; Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):34; William M. Wiecek, “Slavery and Abolition Before the United States Supreme Court, 1820-1860,” Journal of American History, 65 (June 1978):34-59.

All this activity intertwined with escalating controversy over the abolitionist crusade in general. After all, it was only very recently that the Ohio State Anti-Slavery Society had formed. The colonization issue, which took precedence in the past, now faded. Economic hard times, in part, probably explain the neglect. The state colonization society did hold its annual meeting in Columbus in 1838. Among attendees were a dozen or so legislators; Whigs prevailed by a three-to-one margin. Yet, as official discussions about colonization diminished, abolitionist petitions poured in.<sup>486</sup>

Democrats then referred these memorials to the judiciary committee instead of friendly select committees. In future sessions Whigs pushed in vain for a law to assess damages on communities where anti-abolitionist mobs raged. Democrats instead tried to weed out abolitionists serving on public commissions or as university trustees. A main initiative in 1838 featured a set of Democrat resolutions discountenancing modern abolitionism. Bipartisanship prevailed, overwhelmingly, on propositions that the federal government had limited powers and slavery was under the exclusive jurisdiction of states wherein it existed. Democrats, almost to a man, also favored sections declaring that “higher law” men engaged in unconstitutional practices that ultimately did not help the slave. Whigs divided in response.<sup>487</sup>

A second round of resolutions appeared in the next session which, among other things, accused abolitionists of scheming to extinguish Anglo-Saxon peoples through racial amalgamation. Senators approved but the parties polarized. More than 80 percent of

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<sup>486</sup> “Legislative Proceedings,” *Ohio State Journal*, January 8, February 5, 1839; P. J. Staudenraus, *The African Colonization Movement, 1816-1865* (New York: Columbia University Press, 1961); Price, “The Ohio Anti-Slavery Convention of 1836,” pp. 173-188; *Ohio State Journal*, November 28, 1838.

<sup>487</sup> “Legislative Proceedings,” *Ohio State Journal*, January 18, February 12, 1839, March 10, February 2, 1841.

Democrats voted favorably; almost 90 percent of Whigs did not. In the lower house legislators across party lines urged toning down strident language before the whole matter was tabled. Instead, a proposal was adopted, 48 to 2, declaring the subject of slavery settled when the federal constitution was framed. No such resolutions surfaced in the session of 1840 when Whigs dominated the House. What legislators did debate was petitions calling for a ban on slaveholders from holding public office or for a delegation to be sent to Kentucky to urge the state to emancipate its slaves. On roll-call divisions the parties markedly diverged although Whigs were less agreed on the latter measure.<sup>488</sup>

The Liberty Party was now on the scene and Whigs, in particular, would vacillate in the future between denouncing political abolitionists and courting their votes. At this time the bulk of both parties were dubious about a request to use the assembly hall to deliver lectures on slavery. Many legislators suspected that it was a front to better organize the third party. In the next session, over three dissenting votes, lawmakers also refused to adjourn to attend the third party convention. In short, neither party was enthusiastic about Liberty men while on other abolitionist issues two-party polarity was prevalent.<sup>489</sup>

A collateral discussion involved reception of prayers emitting from African Americans. In the session of 1838 this issue received extended coverage and it was at

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<sup>488</sup> "Legislative Proceedings," Ohio State Journal, January 8, January 18, 1840, January 6, 1841.

<sup>489</sup> *Ibid.*, January 23, 1841, February 23, December 21, 1842; on the Ohio Liberty Party, see Douglas A. Gamble, "Joshua R. Giddings and the Ohio Abolitionists: A Study in Radical Politics," Civil War History, 88 (Winter 1979):37-56; Stanley C. Harrold, Jr., "Forging an Antislavery Instrument: Gamaliel Bailey and the Foundation of the Ohio Liberty Party," The Old Northwest, 4 (December 1976):371-387; Stanley C. Harrold, Jr., "The Southern Strategy of the Liberty Party," Ohio History, 87 (Winter 1978):21-36; John R. McKivigan, "The Antislavery 'Comeouter' Sects: A Neglected Dimension of the Abolitionist Movement," Civil War History, 26 (June 1980):142-160; John R. McKivigan, "The Christian Anti-Slavery Convention Movement of the Northwest," The Old Northwest, 5 (Winter 1979-1980):345-366; Joseph G. Rayback, "The Liberty Party Leaders in Ohio: Exponents of Antislavery Coalition," Ohio State Archaeological and Historical Society Publications, 57 (April 1948):165-178.

this time that some Democrats began to chant the mantra of a “white man’s government.” An attempt to reject such a petition failed despite efforts of three-fourths of Democrats and a few Whigs. A motion for postponement did succeed when another tenth of Democrats crossed over to the more racist side. While discussing these matters however, a Whig proviso on the right of free speech was adopted. As a compromise measure a Democrat offered a substitute declaring blacks had the privilege of petitioning but no constitutional right to do so; party colleagues almost universally agreed. Depending on the precise division of the party, between a fourth and a third of Whigs did, too. Thus, in symbolic terms, Democrats secured a racist gain but in practice petitions were received. In the next session, a few Democrats defended a black right of petition but most of their colleagues did not. In addition, racial epithets began to emit from the Locos more frequently.<sup>490</sup>

In the senate session of 1840 parties continued to polarize on the petition issue. Democrats even initiated a limited counter-petition campaign but it made little headway. One such petition had a broader strategic purpose. This memorial asked to excuse a Whig legislator to attend the funeral of a “nigger.” Whigs initially howled in protest about the insulting wording of the request, which is the response Democrats desired. For years they had been insisting petitions from black “intruders” were insulting and therefore should not be heard. Now, it seemed, Whigs were about to concede the abstract point. But the Whig lawmaker at issue smelled a trap and urged party colleagues to do an

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<sup>490</sup> Rufus P. Spalding was a long-time Democrat that defended the right of black petitioners. He was a Western Reserve man whom allegedly “left his party because of the Fugitive Slave Act, joining the Free Soil Party in 1850.” “Legislative Proceedings,” Ohio State Journal, January 8, January 11, January 15, January 18, January 25, January 29, 1839, February 21, 1840; Peskin, ed., North Into Freedom, p. 80n.



about face, which all but one did, and he later changed his vote. So, in the end, only two Democrats answered in the negative.<sup>491</sup>

In the session of 1841 a new arrangement was arrived at. Certain Democrats, to be sure, still argued against reception of any petition from African Americans. But, on a division in the lower house, only a fourth of them demanded rejection of such memorials outright. When the proposal was to receive petitions but refer them unread to a select committee, now three-fifths of both parties voted affirmatively. So, once again, a compromise solution was worked out. Petitions, while not rejected, would not necessarily be heard, despite the objections of 40 percent of legislators.<sup>492</sup>

In the next session, Democrats tried a new stratagem. Rather than obstructing reception, they stacked the committee to which memorials were referred exclusively with members of the Whig minority. In this manner, allegedly, it was intended to put Whigs in a situation where they invariably would upset somebody. In the end, to cover their flanks, Whigs produced a majority report deeming it inappropriate “now” to repeal the black laws, as well as a minority report urging remedial action immediately.<sup>493</sup>

Not too surprisingly, the Democrat legislature preferred the former recommendation. A report authored earlier by one of their own deemed repeal of the black laws inexpedient, too, and most lawmakers on the scene agreed. The anti-abolition resolutions passed in the session of 1838, noted previously, also featured a proviso against repealing the black laws and encouraging black emigration instead. Every Democrat favored this

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<sup>491</sup> “Legislative Proceedings,” Ohio State Journal, January 20, January 23, 1841.

<sup>492</sup> *Ibid.*, January 5, March 2, 1842

<sup>493</sup> *Ibid.*, January 4, 1843; Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):724-733.

provision; less than half of Whigs did. Nonetheless, a Whig House committee two years later reported against repeal. Even when the judiciary committee in the 1840 session deemed the testimony ban unconstitutional, the bill reported was tabled by almost all the Whigs and a handful of Democrats. Evidently, given a Loco senate, Whigs wanted to drop the matter for the moment.<sup>494</sup>

Repeal of the state fugitive law in the session of 1842 also spawned efforts by certain Whigs to attach riders for dismantling black laws. The House postponed an inquiry into the repeal issue then also rejected such an amendment to repeal the ban on testimony. Every Democrat agreed as did three-fifths of Whigs. Similar amendments in the Senate met the same fate. On each occasion Democrats were almost a solid phalanx. Whigs vacillated. About 70 percent favored repealing the testimony ban, 60 percent supported repealing the law of 1807 altogether, and only 39 percent sought to dismantle the black laws completely. Thus, Democrats unflinchingly defended the statutes whereas Whigs supported partial repeal. In this sense the posturing of each party was divergent. At the same time, bipartisanship seemingly prevailed on retaining at least some of the black laws.<sup>495</sup>

A new statute enacted in the Democrat session of 1838 reiterated the ban on blacks serving jury duty. Despite achieving this change, several Loco initiatives fell flat. In the session of 1839 a Democrat inquiry into a petition on banning interracial marriage spawned heated debate. A Democrat insisted these matters were best left to personal

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<sup>494</sup> “Legislative Proceedings,” Ohio State Journal, January 18, 1839, March 27, 1841; Journal of the 41<sup>st</sup> Ohio House of Representative (1842):725.

<sup>495</sup> “Legislative Proceedings,” Ohio State Journal, December 21, 1842; Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):34.

taste but many party colleges insisted racial amalgamation defied God's will and/or the laws of nature. Many Whigs reprobated the practice but often contended race mixing was more a result of the slave system; no such law was needed in Ohio. In the end the bill was recommitted. Finally, in the Democrat senate session of 1840, the judiciary committee in a new wrinkle reported on a petition to ban entry into the state. It was postponed.<sup>496</sup>

Another new statute emerged from the session of 1838. This law revised the school tax rebate provision. Now any revenues collected were noted in the margins of ledger books. In other words, blacks had to become proactive to retrieve their money. Democrats divided and Whigs were instrumental in securing passage. What produced more polarized responses were proposals on private education. A black petition to incorporate a school company was rejected, for instance; defenders of the memorial included every Whig and one-fourth of the Democrats.<sup>497</sup>

Between 1839 and 1842 Democrats also tried to obstruct incorporation of seminaries and colleges if no clause precluded admittance of black students. Efforts repeatedly were made to repeal the charter of Oberlin Institute, too. Such a proposal was postponed in the session of 1842 although three-fourths of Democrats and two Whigs demurred. Similar debates took place about Red Oak Seminary, Athens College, Willoughby University, Trust Central College, and a Baptist Educational Society. In each case, Democrats tried to ban black students, sometimes with success but not always. Whigs, on their part,

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<sup>496</sup> "Legislative Proceedings," Ohio State Journal, January 15, 1840, February 3, February 13, 1841.

<sup>497</sup> *Ibid.*, January 25, 1839; Middleton, The Black Laws in the Old Northwest, p. 36.

tended to defend private educational access, with one wit suggesting a ban instead should be put on African-American cadavers at medical schools.<sup>498</sup>

The early 1840s also saw some Whig activity to permit black entry into common schools. At first these men simply presented petitions. In 1842, after the state high court sanctioned exclusion as constitutional, a Whig legislator offered a bill on the matter. It was postponed, 52 to 11. Almost every Democrat voted for this outcome. So did two-thirds of Whigs. In a general sense, then, bipartisanship was prevalent on the issue of common schools compared to questions about private education. At the same time, Whigs voted a bit less racist than Democrats in either case.<sup>499</sup>

Probably the most salient development while Democrats held power did not originate in the legislature but emerged from the State Supreme Court. In the early 1840s justices ruled the “near white” criterion applied to the suffrage. By judicial ukase suddenly many mulattoes became enfranchised. A Democrat on the bench, however, wrote a dissenting opinion wherein he insisted the word “white” meant “pure white, unmixed.” From his perspective, “whether a man is white or black is a question of fact; that the white man, only, shall have the right to vote is a matter of law.”<sup>500</sup>

Party associates in the lower house agreed and passed resolutions in protest. On a series of divisions Democrats voted favorably whereas a mere fourth of Whigs did the same. Senators, though, put the matter aside. Not only did the initiative fail to secure joint approval, it had no standing as a means to overturn judicial decisions, although

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<sup>498</sup> “Legislative Proceedings,” Ohio State Journal, January 8, January 18, 1840, January 16, January 23, January 27, March 27, 1841, January 19, February 2, February 23, December 14, 1842, January 4, 1843.

<sup>499</sup> *Ibid.*, January 6, January 9, January 20, 1841; Journal of the 41<sup>st</sup> Ohio House of Representatives (1842):858-859; Catterall, ed. Judicial Cases Concerning American Slavery and the Negro, 5:7.

<sup>500</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:5-7.

public opinion was kept unbalanced. At any rate, a partial mulatto suffrage was now a legal reality which, in turn, rendered the debate over reception of black petitions somewhat nugatory. When Democrats were ousted in 1843 the residual legacy of their handiwork had not endured so well. Of course, the reason for Democrats fall from grace had little to do with racial policies. It was the Latham Act, which destroyed the banking system, and thereby revived economic hard times, that seemingly was the culprit.<sup>501</sup>

Between 1843 and 1847, Whigs held the advantage, although Democrats retained their majority in the lower house at first, and later had parity in numbers amongst senators in the session of 1846. Whigs pushed now more vigorously for repeal of black laws. The reaction of Democrats did not change except that about 90 percent of them, on average, stood together by this time. Whigs remained divided although racist voting became a bit more prevalent. Altogether, though, three-fifths of them stuck a more liberal stance. The notable exception was in the session of 1846 when this faction grew to about four-fifths and intra-party unity reached unprecedented levels. Polarity between parties, as a result, was especially pronounced, too.<sup>502</sup>

Debates on black law repeal had become a central campaign issue in fall elections of 1846. The Whig gubernatorial candidate, who won, spoke for reform although critics complained that his message mutated in diverse parts of the state. Thus this discussion

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<sup>501</sup> Journal of the 41<sup>st</sup> Ohio House of Representatives (1841):573, 946, 955; Edgar A. Holt, "Party Politics in Ohio, 1840-1850," Ohio State Archaeological and Historical Society Publications, 37 (1928):495-540.

<sup>502</sup> One writer concludes "little repeal activity" was undertaken by either party prior to 1844. While this statement is not accurate, he is correct to note that Whig majorities in 1837-1838 and 1843-1844 failed to dismantle the black laws. Based on analysis of eight roll calls, moreover, he concludes the geographical divide of the National Road is an "incomplete explanation" for differentials in voting responses. Democrats on these divisions cast racist votes. The density of black populations in home districts, he suggests, associates with Whig voting patterns. While these observations are valid, everything was not actually so neat and tidy. Erickson, "Politics and Repeal of Ohio's Black Laws, 1837-1849," pp. 154-175.

was initiated before the assembly met. Despite its importance, the main focus during this session was on slavery extension. Squabbles about abolitionists, which intertwined closely with discussions on black rights, now faded somewhat as questions about Texas, Oregon, the Mexican War, and the Wilmot Proviso moved to center stage. These matters, moreover, began to divide the legislature, with minor exception, along almost straight party lines unlike anything seen on the racial roll calls.<sup>503</sup>

With Whigs in charge the campaign against mulatto suffrage soon stalled at least for the moment. A protest petition drew a negative retort from a Whig committee which reiterated the issue was a judicial, not legislative matter. In the session of 1844 Whigs also tried to enact a bill to secure the writ of habeas corpus. The Whig Senate postponed it, although three-fourths of the party disagreed. During the next session a more visceral reaction ensued after Virginians carried blacks off Buckeye soil without local court permission. What really was at issue was where in the Ohio River was located the precise border separating the two states.<sup>504</sup>

Whig committees in both chambers issued reports. The low water mark was the boundary; the Virginians were kidnapers. Democrats avoided direct engagement on the topic and instead used the occasion to pander to immigrants. The request made was to print extra copies of the governor's correspondence on the incident in the German language. Now Whigs had to decide whether it was more important to disseminate the information or stand by a traditional policy of no printings unless in the English tongue.

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<sup>503</sup> Salmon P. Chase to Joshua R. Giddings, October 20, 1846, in "The Diary and Correspondence of Salmon P. Chase," Annual Report of the American Historical Association (Washington, D. C.: Government Printing Office, 1902), 2:108-111; Norman E. Tutorow, Texas Annexation and the Mexican War: A Political Study of the Old Northwest (Palo Alto, California: Chadwick House, 1978).

<sup>504</sup> Journal of the 43<sup>rd</sup> Ohio House of Representatives (1844):924; "Legislative Proceedings," Ohio State Journal, May 10, 1843, March 8, March 15, 1845, March 7, 1846.

The proposal, in the end, did pass. In the lower house, Democrats all voted favorably, while Whigs divided. But, in the same session, a bill also was postponed which aimed at protecting personal liberty. Only two-fifths of Whigs voted to keep it alive.<sup>505</sup>

The main feature was debate on petitions calling for repeal of the black laws. Not every memorial was received. The lower house rejected an out-of-state petition from a meeting of Quakers, 55 to 3. In the next session, though, a homegrown Quaker memorial was received although 70 percent of Democrats and a smattering of Whigs opposed the motion. This outcome seemed the more normative occurrence. Petitions usually then were referred to committees consisting of members of both parties, with Whigs holding an edge. In most sessions, as a result, there was emitted a majority report recommending repeal as well as a minority protest.<sup>506</sup>

Not much was accomplished under mixed party government in the session of 1843. Whigs tried to adopt a less radical tone by insisting they sought merely to secure civil rights of African Americans and not political enfranchisement. The bill to repeal the ban on testimony ran afoul, however, when the judiciary committee recommended its postponement. Whigs next captured the lower house in 1844 and promptly revived repeal measures even though still split over whether partial repeal or complete eradication was preferable. These men could not decide either if Liberty men were worthy but misguided gentlemen or closet Democrats (i.e., free traders).<sup>507</sup>

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<sup>505</sup> “Legislative Proceedings,” Ohio State Journal, December 13, 1845.

<sup>506</sup> Journal of the 43<sup>rd</sup> Ohio House of Representatives (1844):17-22, 25-34, 154; Journal of the 44<sup>th</sup> Ohio House of Representatives (1845):54-61, 118; “Legislative Proceedings,” Ohio State Journal, March 24, 1847.

The House, in any event, postponed a repeal bill. A motion to order a third reading of a bill to allow testimony also failed. On both divisions Democrats voted as a unit. More than two-thirds of Whigs stood against them on the former roll call, whereas about three-fifths did on the latter. In the senate session of 1845 basically the same alignment persisted. A Whig initiative to repeal the ban on testimony was tabled, 18 to 12. Altogether Senate and House Democrats, on average, voted against repeal measures about 95 percent of the time. Whigs either divided or tilted the other way. Yet a Democrat suggestion to conduct an inquiry into manumitted slaves colonized in the state was tabled as well.<sup>508</sup>

The session of 1846 witnessed the greatest surge in roll-call voting activity yet. Twenty-three divisions were recorded in the lower house alone, many pertaining to a proposed referendum. Whigs now used racial issues to put Democrat principles on popular sovereignty to the test. Of course, the topic of repeal was old hat but this session was different. For one thing, petition activity accelerated and the governor's message to the legislature also reiterated the goal of repeal as desirable. Still, it is interesting that the intensity of the Whig repeal campaign swelled to unprecedented proportions at the very moment when Democrats, momentarily, achieved parity in numbers in the senate.<sup>509</sup>

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<sup>507</sup> "Legislative Proceedings," Ohio State Journal, January 10, 1844, February 5, February 12, 1845. On June 21, 1843, two articles ran which pertained, respectively, to the Liberty Convention and the "Absurdities of Free Trade."

<sup>508</sup> "Legislative Proceedings," Ohio State Journal, December 25, 1844, February 12, February 19, March 5, March 12, 1845; Journal of the 43<sup>rd</sup> Ohio House of Representatives (1844):822; Journal of the 44<sup>th</sup> Ohio House of Representatives (1845):723, 734.

<sup>509</sup> Ohio State Journal, November 10, December 16, 1846; "Legislative Proceedings," Ohio State Journal, February 10, 1847; Journal of the 45<sup>th</sup> Ohio House of Representatives (1846):286-287, 450-451, 498, 518-524.



The core of the storm was in the lower chamber where Whig committees reported favorably on various bills. Democrats made repeated delaying or obstructionist motions. Two minority reports disagreed whether repeal was inexpedient or wrong-headed but, in either case, worries about cast-off slaves moving north were involved. Even a Whig legislator reminded colleagues that Virginia's governor was set to expel free blacks; hence, the present emergency required lawmakers to rise above party considerations.<sup>510</sup>

Yet on almost every division the cleavage reflected almost straight party lines. Discrepancies are few but one of particular interest involved a proposal to allow townships a local option on the issue of repeal. Democrats liked this idea, though it did not pass, even if it meant the racial code would not be systematic throughout the state. Whigs wanted all or nothing. Once passage of the referendum bill was a foregone conclusion, Democrat opposition waned. The only real disagreement was that Whigs preferred holding a plebiscite in the spring, rather than the fall, whereas Democrats divided on the question. But the Senate did not follow through.<sup>511</sup>

By 1847 Whigs again controlled the Senate but the repeal effort slowed down. Whether a proposal was to repeal the laws of 1804 and 1807, or only the testimony ban, the response of House members was the same. About 90 percent of Democrats opposed either initiative. Two-fifths of Whigs agreed; the party reverted to its pre-1846 form. Common school debates received renewed impetus, too, after the state high court ruled again in 1843 that the "nearer white" rule applied. Whigs soon began floating proposals to allow black children into the public schools as well. In the session of 1847 Whigs

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<sup>510</sup> "Legislative Proceedings," Ohio State Journal, January 13, February 10, March 24, 1847.

<sup>511</sup> Journal of the 45<sup>th</sup> Ohio House of Representatives (1846):519; "Legislative Proceedings," Ohio State Journal, February 10, 1847.

finally did enact a new law but it was not exactly what African-American petitioners had in mind. The bill, in any event, passed the House, 44 to 18.<sup>512</sup>

The statute required black property-holders to pay again a school tax. It also authorized the black community to organize schools districts and elect school directors in areas where twenty or more children desired to attend school. In areas with fewer potential pupils, and whites refused admission into common schools, the stipulation still held, no tax would be levied and, if paid, on application, it would be refunded.<sup>513</sup>

Whigs also passed another bill intended to benefit black children, the incorporation of a “colored” orphan asylum. While segregated schools and public institutions do not exactly run counter to racist logic, it is nevertheless important to acknowledge that when the choice was between something or nothing, separate facilities was the more liberal position. Spokesman for the black community saw things this way, although preferring integrated facilities. When the session of 1847 adjourned, although Whigs were unawares, it was the last time their party would control the legislature. Although two ameliorative laws had just been enacted, nothing else of substance had been achieved in the past four years. The main enchilada of black law repeal still remained outstanding, too. On a minor note, one other thing did occur. A petition from the A. C. S. was presented. The colonization impetus was coming back.<sup>514</sup>

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<sup>512</sup> “Legislative Proceedings,” Ohio State Journal, February 9, 1848; Journal of the 46<sup>th</sup> Ohio House of Representatives (1847):455-456, 524, 542; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:11-12.

<sup>513</sup> Middleton, The Black Laws in the Old Northwest, pp. 36-38.

<sup>514</sup> Ibid., pp. 132-133; “Legislative Proceedings,” Ohio State Journal, February 19, 1845, February 10, 1847; Minutes and Address of the State Convention of the Colored Citizens of Ohio, Convened at Columbus, January 10<sup>th</sup>-13<sup>th</sup>, 1849 (Oberlin: J. M. Fitch’s Power Press, 1849):14; Minutes of the State

## V. The Free Soil Insurgency

In the mid-1840s Tennessee was experiencing its “liberal interlude,” but Ohio was a boiling cauldron of conflict. Each state legislature soon reversed itself but on the eve of the change distinctive party posturing in Ohio seemed well-established, and fixed.

Negrophobia, said critics, was a prerequisite for “full Locofoco communion.”

Democrats, in turn, claimed Whigs were duplicitous, avoiding resolution of the black law issue to ride it at election time as a hobbyhorse.<sup>515</sup>

Whigs cried foul, insisting diversity in the ranks was no deep-laden conspiracy. Lack of solidarity, they said, resulted instead from a simple reason. Racial issues, rather than central to the party agenda, were mere issues of collateral expediency upon which Whigs might disagree and still be Whigs. Nonetheless, the point holds; the normative central tendency of the party had become less racist over the years.<sup>516</sup>

The nature of party warfare also changed in the late forties. The Free Soil insurgency, at the onset, captured eight House seats and four in the Senate. Because of contested seats neither major party controlled either branch which left third party men positioned to manipulate the balance-of-power. The story has been told elsewhere; hence, my coverage is abbreviated. Simply put, two Free Soilers in the House split from the Whig-Free Soil caucus to align with the Locos. This move, in turn, then allowed Democrats to

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Convention of the Colored Citizens of Ohio, Convened at Columbus, January 9<sup>th</sup>-12<sup>th</sup>, 1850 (Columbus: Gale and Cleveland, 1850):16-18.

<sup>515</sup> “Legislative Proceedings,” Daily Ohio Statesman, January 30, February 3, 1849; “Legislative Proceedings,” Ohio State Journal, March 12, 1845, March 10, March 17, 1849.

<sup>516</sup> Ohio State Journal, December 16, 1846, March 17, 1849.

organize the legislature and distribute loaves and fishes. As their part of the “bargain,” though, Democrats elevated Salmon P. Chase to the U. S. Senate and helped repeal the black laws!<sup>517</sup>

Whigs, at this time, did not alter their old posture. What changed was the Western Reserve had departed almost en masse into the third party leaving the old-line Whigs weakened and angry. No deal was cut between the feuding groups. While motives of opportunism presented in ranks of all parties, it seems Free Soil men were most sincere about desiring greater justice for African Americans. Many modern historians have not been so indulgent. Granted; they have a point. The third party men were not immune from racism. Several racist ex-Democrats joined because of pique at the southern Democracy. But bolting Barnburners in Ohio were not so prevalent. The Liberty men were a big contingent. The conscience Whigs formed the bulk of the coalition and these Western Reserve men had been leading critics of the racist camp for over a decade.<sup>518</sup>

The local Free Soil platform, to be sure, did express an ultimate desire for Ohio to have a homogeneous white population, once slavery stopped sending victims into the North. Party leaders also called for free white homesteads in the West but in this state, at least, the “free white” modifier was often a negative reference for slaveholders instead of a militant expression of anti-black sentiment. After all, certain planks in the state

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<sup>517</sup> Maizlish, The Triumph of Sectionalism, pp. 121-146; Mayfield, Rehearsal for Republicanism; Frederick J. Blue and Richard McCormick, “Norton S. Townshend: A Reformer for All Seasons,” in Brown and Cayton, eds., The Pursuit of Public Power: Political Culture in Ohio, 1787-1861 (Kent, Ohio: Kent State University Press, 1994).

<sup>518</sup> Rayback stresses that the message of slavery extension as a menace to white liberties appealed to hard-money Democrats in Ohio. Foner, shortly before, suggested Free Soilers diluted the racial egalitarian calls of the Liberty Party. In Ohio, he contended, no contradiction existed between racial prejudice and antislavery feeling. Joseph G. Rayback, Free Soil: The Election of 1848 (Lexington: University of Kentucky Press, 1970); Eric Foner, “Politics and Prejudice: The Free Soil Party and the Negro, 1849-1852,” Journal of Negro History, 50 (October 1965):239-256..

platform demanded fair treatment. In the early 1850s a demand for black suffrage appeared, too.<sup>519</sup>

In the legislature, at least, the Free Soil record is unique. Small in numbers, unable to attain anything on its own, the third party thus maintained tight voting discipline despite factional disagreements--about which historians have made much ado. On an average roll call, about 94 percent of them acted together. Only 14 percent of the time did they vote with the racist camp, usually as a bloc and in most cases trade-offs were involved.<sup>520</sup>

The third party's most noteworthy accomplishment, in terms of racial policy, was its role as catalyst for repeal of the black laws. Everybody concurred the event was seminal; disagreement raged on whether it was a good thing. Certain Democrats were draped in "black mourning" while not all Whigs were thrilled either. How the reform came about is somewhat an issue, too. Abundant correspondence survives giving glimpses at maneuvering behind the scenes. Some legislators also recorded testimony retrospectively. But, even amongst Free Soil men, debate raged for decades whether any "bargain" was necessary, how it allegedly was made, what it exactly involved, and, finally, whether both parties were willing to repeal the statutes anyway but feared negative fall-out at the polls.<sup>521</sup>

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<sup>519</sup> Ohio State Journal, January 6, 1849; Charles H. Wesley, "The Participation of Negroes in Antislavery Political Parties," Journal of Negro History, 29 (January 1944):64.

<sup>520</sup> Frederick J. Blue, "The Ohio Free Soilers and Problems of Factionalism," Ohio History, 76 (Winter-Spring 1967):17-32; Vernon Volpe, Forlorn Hope of Freedom: The Liberty Party in the Old Northwest, 1838-1848 (Kent, Ohio: Kent State University Press, 1990); Holt, "Party Politics in Ohio, 1840-1850," p. 296.

<sup>521</sup> Ohio State Journal, February 24, 1849; Cleveland Daily Plain Dealer, February 3, 1849; "The Diary and Correspondence of Salmon P. Chase," Annual Report of the American Historical Association (Washington, D. C. Government Printing Office, 1902):, v. 2; Annie A. Nunnis, ed., "Some Letters of Salmon P. Chase, 1848-1865," American Historical Review, 34 (July 1929):536-555; Beverley W. Palmer, ed., "From Small Minority to Great Cause: Letters of Charles Sumner to Salmon P. Chase," Ohio History, 93 (Summer-

What is clear is that Democrats that spoke against repeal suddenly declared for it a few days later. According to some sources the somersault was accomplished by applying extreme party pressure. Novitiates were required to vote against wishes of constituents, while a select few veterans, counted out precisely, got to oppose the initiative. But not every Democrat utterly opposed the idea. Others, however, claimed repeal came from no love for black persons but only to provide witnesses for white citizens or to wipe the statute book clean in order to deny Whigs their pet stump appeal. Perhaps, in addition, repeal might serve as prelude to inserting a more comprehensive provision in the organic law when constitutional revision finally came about.<sup>522</sup>

At first, in the session of 1848, no one beyond the Chase clique probably predicted this outcome. A Free Soil proposal in the lower house was approved, 61 to 7, which referred the governor's call for repeal to a committee of three third party men and two Whigs. A motion to take up a bill to repeal the law of 1804 also passed despite opposition from three-fifths of Democrats and a few others. Later the bill was tabled with consent from almost every Democrat, two-fifths of the Whigs, and a third of the Free Soilers. Senate Democrats also tried unsuccessfully to derail repeal legislation or replace it with a ban on blacks holding real estate. A Free Soil committee, finally, recommended tabling a bill to repeal the testimony ban; the Senate agreed.<sup>523</sup>

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Autumn 1984):164-183; J. W. Schuckers, The Life and Public Services of Salmon P. Chase (New York: Appleton, 1874); Albert G. Riddle, "Recollections of the Forty-Seventh General Assembly of Ohio, 1847-1848," Magazine of Western History, 6 (1887):341-351; Norton S. Townshend, "The Forty-Seventh General Assembly in Ohio—Comments on Mr. Riddle's Paper," Magazine of Western History, 6 (October 1887):623-628; Charles Reemelin, Life of Charles Reemelin, pp. 87-88.

<sup>522</sup> "Legislative Proceedings," Daily Ohio Statesman, January 30, February 3, 1849; "Legislative Proceedings," Ohio State Journal, January 20, January 27, February 3, February 10, March 3, March 17, March 24, 1849; Reemelin, Life of Charles Reemelin, pp. 252, 330.

Matters changed once the alleged “bargain” kicked in. Repeal measures now passed the senate, 23 to 11. Resisters included almost half the Whigs and a fourth of the Democrats. The lower house divided, 52 to 11, only now a fifth of Whigs and one-tenth of Democrats comprised the minority. In other words, repeal of the black laws gained the consent of a majority element within every party. With the appearance of this statute, moreover, black Ohioans no longer had to register freedom certificates or post bond with sureties. They had a right to testify in court cases involving white people, too.<sup>524</sup>

Before concluding the reform was entirely ameliorative a few other considerations warrant mentioning. First, the new statute also levied a fine on anyone bringing an African-American into the state that seemed “likely” to become a public charge. Second, the law explicitly declared that bans on jury duty and poorhouse benefits were to remain. One Democrat complained that denying poor relief was too harsh. Most party associates disagreed. More than 80 percent of both Democrats and Whigs favored the measure, as did 60 percent of the third party. Legislators, in a more decisive manner, upheld exclusion from jury duty. Only two Democrats voted otherwise. To be fair, certain Free Soil men cast favorable votes because of fears that the Senate otherwise would kill the entire bill. When senators did vote on the jury and poorhouse bans as a bundle, the margin of passage was 25 to 9.<sup>525</sup>

Subsequently repeal of the black laws endured. When a Democrat proposed a ban on entry into the state, claiming this was a different issue than the black laws (as it did not

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<sup>523</sup> Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):117, 198; “Legislative Proceedings,” Ohio State Journal, January 27, February 10, 1849.

<sup>524</sup> “Legislative Proceedings,” Ohio State Journal, February 10, 1849; Journal of 47<sup>th</sup> Ohio House of Representatives (1848):197; Middleton, The Black Laws in the Old Northwest, p. 40.

<sup>525</sup> Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):252; “Legislative Proceedings,” Ohio State Journal, February 3, February 10, 1849; Middleton, The Black Laws in the Old Northwest, p. 40.

impact resident African Americans), a Whig nonetheless moved to amend it with a proviso to re-enact the law of 1807. Although two-thirds of Locos and a few Whigs tried to keep it alive, the bill was tabled. In the session of 1850 a proposal to restore the black laws met defeat, 53 to 9. The House also postponed a similar suggestion, 47 to 15. A bare majority of Democrats and a lone Whig stood opposed.<sup>526</sup>

Repeal of the black laws was attained as part of a broader bill to revise the school law. Bipartisanship prevailed on final passage in both chambers although Whigs were less enthusiastic. They particularly dragged their heels during preliminary proceedings. In any event, the new statute mandated rather than simply recommended establishment of black school districts. Black children might attend common schools, if few in number, unless local whites presented a written objection. In that case, no school tax was levied.<sup>527</sup>

Where black pupils numbered twenty or more segregated facilities were available, too, which was deemed better than total exclusion. It also bears mentioning Democrats later never called for completely eradicating black schools although they did try to minimize autonomy from oversight of the white school board. And, when Cincinnati Democrats tried to withhold funds, the state high court ruled moneys must be dispersed. Justices also took the occasion to clarify that blacks were not constitutionally banned from holding the office of school director.<sup>528</sup>

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<sup>526</sup> “Legislative Proceedings,” Ohio State Journal, February 10, March 10, 1849; “Legislative Proceedings,” Daily Ohio Statesman, January 30, 1849; Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):466; Smith, Official Reports, pp. 1223-1224; Daily Scioto Gazette, February 15, 1850.

<sup>527</sup> “Legislative Proceedings,” Ohio State Journal, February 3, February 10, 1849; Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):196-197, 251-252; Middleton, The Black Laws in the Old Northwest, pp. 38-40.



In the session of 1849 Democrats now held an edge in the House, despite third party disruptions, but the Senate was up for grabs. Legislators, at any rate, permitted a “colored convention” to use the assembly hall. According to a Whig, this concession was huge as African Americans entered halls heretofore deemed “sacred to the white man.” This event is yet another distinctive feature of the Ohio scenario. In the end, only a third of Democrats and less than one-fifth of Whigs opposed the request. Of course, when asked to do so again later, legislators narrowly replied “no.” Yet, while still in an ameliorative mood, favorable committee reports were issued in the next session on granting relief to an impoverished black community in southern Ohio.<sup>529</sup>

The colonization plan was back as well. A House Joint Resolution adopted in the session of 1848 called for appropriating western lands for resettlement of local blacks if obtaining their consent. About two-thirds of each major party voted for it. No Free Soilers did. Subsequently, the main focus, as an intended point of destination, was Liberia. In the next session the lower chamber, by a margin of 59 to 14, adopted resolutions calling on Congress to recognize its independence. An amendment to add the phrase, that blacks might be induced to emigrate there, also passed, 50 to 15. Senators concurred.<sup>530</sup>

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<sup>528</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:13-14; Middleton, The Black Laws in the Old Northwest, pp. 38-40.

<sup>529</sup> The Whig Cincinnati Gazette had a less flattering assessment of African Americans at the capital compared to the Oberlin Evangelist, Ohio Daily Standard, or Columbus State Journal, see Minutes and Addresses of the State Convention of Colored Citizens of Ohio (1849):27-28; Minutes of the State Convention of the Colored Citizens of Ohio (1850):11, 16-18; Official Proceedings of the Ohio State Convention of Colored Freemen (Cleveland: W. H. Day, 1853):6; Journal of the 48<sup>th</sup> Ohio House of Representatives (1849):96-97; Journal of the 49<sup>th</sup> Ohio Senate (1850):243, 410.

<sup>530</sup> Journal of the 48<sup>th</sup> Ohio House of Representatives (1849):795; Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):570; Middleton, The Black Laws in the Old Northwest, pp. 22-23.

Actually, in the previous session, a Senate Joint Resolution had passed which praised Liberia as a means to suppress the African slave trade, civilize the continent, and uplift expatriates. The Senate, however, postponed a bill for state aid to benevolent societies which passed the other chamber. This proposal included payment of \$25 per head for a period of five years for each free black person the A. C. S. relocated to Africa in addition to an appropriation of \$600 for exploration purposes. In short, singing praises of the A. C. S. was popular. Allocation of public revenues was not.<sup>531</sup>

But the main topic at issue by mid-century was the federal fugitive slave law. Of course, concern about kidnapping of free blacks under the guise of rendition laws was not anything new. A bill to prevent abductions and ban the use of state jails for detaining alleged fugitives had been vetted earlier in the session of 1848. Whigs sponsored the bill which was postponed in both chambers. In the lower house almost 90 percent of the Democrats squared off against 90 percent of the Whigs and the entire Free Soil contingent. The vote in the Senate on postponement, alternatively, garnered support of three-fourths of Democrats and a bare majority of Whigs.<sup>532</sup>

The session of 1850 was again a time when Free Soil men held the balance-of-power. These third party men were particularly upset that the federal law on slave rendition tasked U. S. marshals to effect return of runaways, permitted them to deputize Ohioans, and thereby make local citizens complicit in the act. Other offensive features also

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<sup>531</sup> Middleton, The Black Laws in the Old Northwest, pp. 22-23; Edward W. Shunk, "Ohio in Africa," Ohio State Archaeological and Historical Society Publications, 51 (January 1942):79-88.

<sup>532</sup> "Legislative Proceedings," Ohio State Journal, March 17, March 24, 1849; Journal of the 47<sup>th</sup> Ohio House of Representatives (1849):117, 129.

generated alarm as did worries about possible kidnapping of free blacks. On roll-call divisions, Democrats were all over the board. Cohesion levels plunged to low depths.<sup>533</sup>

A few Locos defended the law; most did not. Some agreed with Free Soilers that the law was abominable and had to be repealed immediately. Others urged compliance but felt some modification was in order, an outlook many Whigs shared. In the end, resolutions of protest included an element of both. Attention to this national issue, rather than legal reform at home, was the order of the day. Bills on kidnapping and the writ of habeas corpus were debated but recommitted to judiciary committees. A fund, however, was put at the governor's disposal to defray legal fees in recovering a kidnapped black family held in Virginia.<sup>534</sup>

The much anticipated constitutional convention finally met about this time, too. The gathering was not convened for the express purpose of fixing racial policy although in certain areas citizens thought of it as such. Generally speaking, the main issues on the table involved incorporation laws, free banking, and the like. Another purpose was to repeal the taxpayer requirement for exercise of the suffrage. Democrats dominated proceedings, accounting for about 60 percent of delegates.<sup>535</sup>

To no one's surprise, the new constitution continued to ban slavery although the restriction on contracts of indenture was now gone, too. White suffrage also was retained. Besides two Democrats and three Whigs, every proponent of black voting was

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<sup>533</sup> Journal of the 49<sup>th</sup> Ohio Senate (1850):436, 762-766, 910-915; Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):55, 107, 163, 397, 744, 801, 828-834, 994-996.

<sup>534</sup> Journal of the 49<sup>th</sup> Ohio Senate (1850):623, 825; Journal of the 49<sup>th</sup> Ohio House of Representatives (1850):575.

<sup>535</sup> Smith, Official Reports, p. 11; Rowland Berthoff, "Conventional Mentality: Free Blacks, Women, and Business Corporations as Unequal Persons, 1820-1870," Journal of American History, 76 (December 1989):753-784.

a Free Soiler. In almost the same configuration, delegates rejected a proposal to allow the legislature to have discretion in bestowing the franchise. In another move the statute banning serving in the state militia was upgraded to organic law status. This measure passed with bipartisan support, too, although a fifth of each party now joined the Free Soil men in dissent. If not from the Western Reserve, these men were usually from elsewhere in northern Ohio. Another racial distinction was made in terms of restricting access to public benevolent institutions to white persons only.<sup>536</sup>

The white suffrage article is good evidence bipartisanship prevailed on probably the most important symbol of status under debate at the time. In overwhelming fashion Democrats and Whigs alike stood by this form of white privilege. Naturally, it seems, if both major parties approved, it looks like a white racist consensus. But the evidence, overall, is a little less straightforward. First, a stipulation was added that an elector had to be a U. S. citizen. Under interpretation of naturalization laws this verbiage meant “white.” But it also reopened debates about rights of citizens of other states. Second, the judicial ukase enfranchising “nearer white” mulattoes was left unaddressed which potentially could serve as a wedge issue, unless the U. S. citizen stipulation was intended to undermine it. Many African Americans felt mulatto suffrage had utility although some saw it as a means to co-opt this class and create dissension.<sup>537</sup>

Finally, for some reason, Democrats now based apportionment counts on the whole population rather than white inhabitants. Although a boost in African-American status,

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<sup>536</sup> Smith, Official Reports, pp. 493, 1182-1183; Quillan, The Color Line in Ohio, pp. 60-87; Middleton, The Black Laws in the Northwest, p. 10.

<sup>537</sup> Middleton, The Black Laws in the Northwest, p. 12; “The Courts of Ohio—Charlie,” Weekly Anglo-African, November 5, 1859.

the provision in practice disadvantaged the Western Reserve, the area least likely to elect racist legislators. Another area of two-party agreement involved reception of black petitions. Now, the matter was almost a mundane thing. A Democrat did offer a standing objection to reception but the convention president told him this was impossible. A Free Soiler also defended a petitioner as one of his constituents that was a mulatto voter. In the end, delegates voted to receive black petitions, 101 to 2.<sup>538</sup>

The article on common schools has mixed implications. Legislative discretion on black education was continued. About two-thirds to three-fourths of Democrats and Whigs were on board with this outcome. Thus, neither exclusion nor integration would be universal while segregated institutions, for the present, continued as the norm. Third party men, in particular, complained if “white” schools appeared in the constitution, such a feature would defeat ratification. Most of them also tried, albeit with less success, to ensure black schools had professional teachers. Allied with them was a larger contingent of about 40 percent of Whigs and 10 percent of Democrats.<sup>539</sup>

What convention delegates chose not to do also is relevant. The colonization society, for instance, was busy again. In the fall of 1850, it purchased land as part of a project known as “Ohio in Africa.” The local society agent spoke at the convention, too. In brief, he told delegates census returns showed the Ohio Valley was soon to be inundated

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<sup>538</sup> Smith, Official Reports, p. 415; Charles T. Hickok, The Negro in Ohio, 1802-1870 (Cleveland: Press of the Williams Publishing and Electric Co., 1896):61; David C. Shilling, “Relation of Southern Ohio to the South During the Decade Preceding the Civil War,” Quarterly Publications of the Historical and Philosophical Society of Ohio, 8 (January-March 1913):3-28.

<sup>539</sup> Smith, Official Reports, p. 690.

with “a large proportion of the free colored people.” Yet, everything denied to blacks in America, he declared, was freely available in the Republic of Liberia.<sup>540</sup>

Some delegates did express interest, mostly a sizeable contingent of Whigs. Democrats were unenthusiastic about putting anything in the organic law relating to the matter, although they usually had no problem if blacks emigrated on their own accord. At any rate, when a proposal to provide a fund to assist the society was put to a vote, it lost, 26 to 71. Whigs scattered whereas Democrats and third party men, overwhelmingly, voted no. Of course, some Whig proponents of the idea argued access to self-government in Africa was the main objective, whereas certain opponents of the proposed plan based resistance on the tax provision alone. In other words, reactions on colonization divisions do not always fit neatly into dichotomous categories of racist or not.<sup>541</sup>

What makes interpretation extra difficult is the colonization bill became intertwined with another proposal. Indiana recently had enacted a ban on black entry, and certain Ohio Democrats wanted the same for the Buckeye State. Party alignments became complex and confusing. Some delegates favored both proposals, some preferred one to another, and others wanted neither. In the end the proposed ban on entry was defeated, too. On the previous question, only a fifth of Democrats voted “yea,” along with two Whigs and one Free Soiler. A watered-down version to “discourage” entry also was lost. This time three-fifths of Democrats were on board with about ten percent of each of the other two parties.<sup>542</sup>

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<sup>540</sup> Shunk, “Ohio in Africa,” p. 81; David Christy to William McLain, August 16, September 4, December 1, 1849, African Colonization Society Papers, Reel 60, v. 115, pp. 39-43, 201-203, 828-831.

<sup>541</sup> Smith, Official Reports, p. 1228.

The new constitution was largely a Democrat product. But in terms of racial reforms, the convention's handiwork was somewhat of a mixed bag. On the one hand, the suffrage, mustering with the militia, and admission into public benevolent institutions all were deemed "white" privileges. On the other hand, black petitions were received, partial mulatto suffrage was not explicitly overturned, and apportionment was no longer based on a count of white noses alone. White schools were not mandated, separate schools were permitted, and legislative discretion was extended to change policy in the future, one way or another. Finally, delegates decreed no slavery, no ban on entry, and no constitutional mandate for funding expatriation. In short no systematic racist agenda.

Democrats dominated for the next several years, usually holding about 70 percent of seats in either chamber. Now that they held sway, though, not much was done. The frequency of casting racist votes did increase to 60 percent--still well below the pre-1848 rate--and cohesion levels rose modestly as well. In the session of 1852, however, unity among House Democrats still was lacking on fugitive slave issues. Only a bare majority of them, along with a fourth of the Whigs voted to table a bill to secure the writ of habeas corpus and trial by jury. A motion to postpone the bill until later was more successful when about 10 percent of each major party crossed over to join the bill's opponents. On the flip side of the coin, Democrats did not always approve all racist proposals either. In the next session, for example, attempts to ban entry into the state stalled.<sup>543</sup>

Discussion continued about colonization plans, too. According to agent David Christy, lawmakers had begun to "get it," they needed to settle state policy before

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<sup>542</sup> Ibid., pp. 1221, 1223, 1228; Emma Lou Thornbrough, Indiana in the Civil War Era 1850-1880 (Indianapolis: Indiana Historical Society, 1965):14-15, 19n.

<sup>543</sup> Journal of the 50<sup>th</sup> Ohio House of Representatives, November Session (1852):275, 490-491.

becoming overrun with immigrant blacks. He received a respectful hearing but little else. Christy suspected the legislature might have done something but for the embarrassing state of taxation affairs. Senators did pass a resolution, though, urging congressmen to support the Stanley Bill to distribute funds to the states for colonization purposes. Once again, legislators were not averse to voluntary expatriation. They just did not want to pay for it with local tax revenues.<sup>544</sup>

The legislature did enact a few new laws in the session of 1853. First, in response to petitions seeking relief for black paupers, lawmakers allowed directors of public benevolent institutions discretionary power to admit black applicants on a case-by-case basis. While an ameliorative reform, it did not, of course, provide for equal access. Second, another set of new statutes revised the school law. One dealt with Cincinnati schools, noting that common schools were open to all white children, while also authorizing a tax on black property for the maintenance of separate schools.<sup>545</sup>

The other law had statewide application. It passed with overwhelming consent of both major parties. According to its provisions, the regular “white” school board would manage separate “colored” schools established in areas with thirty (not twenty!) or more potential pupils and select school directors from the black community. If average attendance fell to less than fifteen for any one month, the school was closed. This latter

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<sup>544</sup> David Christy to William McLain, March 31, 1854, American Colonization Society Papers, Reel 72, v. 133-2:841-844; Shunk, “Ohio in Africa,” pp. 85-88; Louis Mehlinger, “Attitude of the Free Negro Toward African Colonization,” *Journal of Negro History*, 1 (1917):276-301; According to one historian the idea of colonization was popular in the 1850s but not the A. C. S. Staudenraus, *The African Colonization Movement, 1816-1865*.

<sup>545</sup> *Journal of the 50<sup>th</sup> Ohio Senate* (1853):163; Middleton, *The Black Laws in the Old Northwest*, p. 40-41.



stipulation, to be sure, initially ran into trouble in the Senate when only a third of Democrats and one-fifth of the Whigs voted for it, while third party men abstained.<sup>546</sup>

In the next session, a modification gave blacks more autonomy in managing segregated schools. All three parties agreed, only Whigs divided on printing committee reports on the matter. Now the black community, once again, elected its own school directors, who reported monthly to the “white” school board. A board of examiners also was created to certify teachers were competent and of moral character. Finally, another provision redefined “colored persons” as those “*reputed*” to be in whole or part of African descent. The debate between Democrat emphasis on complexion and Whig stress on blood-line as essential criterion for racial classification seemingly had resumed.<sup>547</sup>

For the most part, the session of 1854 was caught up in the swirl of events surrounding the anti-Nebraska insurgency and recent slave rescue cases. But some other racial issues besides the school law made it into proceedings. A Free Soil legislator introduced a petition from a “colored convention” requesting repeal of all racial disabilities. The argument that was appended advocating black suffrage, moreover, was replicated word-for-word in the committee report that followed. In other words, the voice of African Americans was included in official documents. But the suggestion to hold a referendum on the subject was not acted upon, other than to table and print it. This motion passed despite resistance from a slight majority of Democrats and one Whig.<sup>548</sup>

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<sup>546</sup> Journal of the 50<sup>th</sup> Ohio Senate (1853):130, 176, 212; Middleton, The Black Laws in the Old Northwest, p. 41.

<sup>547</sup> Journal of the 51<sup>st</sup> Ohio Senate (1854):398; Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):522; Middleton, The Black Laws in the Old Northwest, pp. 41-42.

<sup>548</sup> Journal of the 51<sup>st</sup> Ohio Senate (1854):474; appendix, pp. 120-127.

Early in the session another event spawned a visceral Democrat response and polarized party reactions. It began when a Free Soiler Senator moved to admit William Day to the reporter's gallery. Evidently, legislators were unaware he was a "nearer white" mulatto. Once ascertaining this knowledge, a Democrat moved to rescind the privilege, with arguments following about degrading consequences of racial amalgamation and how full-blooded Africans were preferable to mixed-blooded ones. Free Soilers simply noted Day was an enfranchised voter; hence, he should not be expelled. But he was. Almost every Democratic senator voted for expulsion. Whigs and Free Soilers opposed it. As for the House, the motion to admit Day was lost on first reading in a near straight party line vote. In sum, Democrats had reasserted their racist credentials in a symbolic form if nothing else.<sup>549</sup>

Democrats fragmented on another racial matter. In this case a Democrat suggested initiating a committee inquiry into an incident at the state penitentiary wherein the deputy warden had "cruelly" flogged a black convict. The proposal was adopted unanimously. A motion to adjourn then was defeated, winning support from less than half the Democrats and a fourth of the Whigs. Another lost motion was an attempt of a bare majority of Democrats to introduce a memorial on behalf of the deputy warden. Next, a motion to call the previous question on the proposal to dismiss him was adopted, although Democrats still tilted in opposition. On final passage the measure passed, 58 to 23. The opposition, by this point, had dwindled to less than two-fifths of Democrats.<sup>550</sup>

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<sup>549</sup> Journal of the 51<sup>st</sup> Ohio Senate (1854):102, 107; Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):134.

<sup>550</sup> Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):543, 566, 648-649.

To recapitulate, in the 1840s, Democrats increasingly had acted in a more systematic racist fashion. The new front taken late in the decade moved the party closer to the political center. What is noteworthy, in particular, is how Democrats, once fully in the ascendancy, did so little to resurrect their old habits, although clearly these proclivities, on occasion, were still potent. It is unclear whether Democrats feared public opinion, were courting third party men on collateral antislavery measures, or simply had a change of heart. The latter conclusion seems somewhat dubious--although it cannot completely be ruled out--but with the rise of "Black" Republicans, Democrats soon were back on the old track with a vengeance.

## VI. Democrats and Whigs

During the so-called Era of Good Feelings little transpired in terms of revision in the legal code, and what was done rarely went in racist directions. If we lump reactions to failed initiatives into the analysis, too, roll-call response patterns show late Jeffersonian-era lawmakers split right down the middle, casting racist votes about one-half of the time. Although only a partial sample, if party labels are applied retrospectively, future Democrats and Whigs both replicate the same pattern. With the advent of the second party system, the situation began to change.<sup>551</sup>

Petition activity, for one thing, escalated and in a vast majority of cases, the request made was to dismantle a racist law or some part of it. Members of each party presented such memorials. Based on a large sampling, it appears only one-fifth of petitions Democrats presented requested racist actions and the Whig rate is considerably lower.

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<sup>551</sup> Journal of the 16<sup>th</sup> Ohio House of Representatives (1817):54-56; Journal of the 18<sup>th</sup> Ohio House of Representatives (1819):167, 173-174; Journal of the 21<sup>st</sup> Ohio House of Representatives (1822):146-147.

Insofar as petitions from the African-American community go, both parties, again, had members serving as conduits for their entry into the public forum although Whigs outnumbered the Democrats by a two-to-one margin.<sup>552</sup>

The distribution of bills introduced into the legislature initially was oriented in more racist directions during the proto-party period; then the pattern inverted for about a decade. Later, no predominant tendency is apparent. Democrats sponsored mostly racist measures over the decades; less than a fifth of the proposals emitting from them were not so. Three-fifths of National Republican propositions also featured racist reforms while among Whigs between 1835 and 1847 the analogous figure drops to one-tenth. Thereafter, Whigs show no predilection one way or the other. Still, this evidence in its totality does indicate two-party divergence. Of course, it is not certain that sponsors of legislation represented the viewpoints of most party colleagues. Nonetheless, a survey of committee report recommendations suggests almost the same trend.<sup>553</sup>

Yet evaluation of internal party cohesion suggests a need for qualifications. Prior to the mid-1830s Democrats and National Republicans were not in disarray but nor was either tightly bound together (see Table 11). Democrats, to be sure, then became highly disciplined for about a decade. By the mid-1840s, on an average division, about 90

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<sup>552</sup> Examples of petitions from African Americans are located in Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):51; Journal of the 28<sup>th</sup> Ohio Senate (1829):59; Journal of the 35<sup>th</sup> Ohio Senate (1836):432; "Legislative Proceedings," Ohio State Journal, January 18, January 22, February 22, 1839, January 13, January 16, 1841, March 2, 1842, December 20, 1843, December 27, 1845, January 31, 1846, January 27, 1847; Journal of the 44<sup>th</sup> Ohio House of Representatives (1845):246; Journal of the 45<sup>th</sup> Ohio House of Representatives (1846):225, 279, 3808, 467; Journal of the 49<sup>th</sup> Ohio Senate (1850):548; Journal of the 50<sup>th</sup> Ohio House of Representatives (1852):275; Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):132.

<sup>553</sup> The sample of proposed legislation introduced between 1827 and 1854 includes 375 bills and resolutions; 73 committee report recommendations were examined, too.

Table 11 Ohio Legislative Parties and Rice Indices of Cohesion		
Session (roll calls)	Democrat	Whig
1827-1834 (59)	.47	.46
1835-1843 (51)	.76	.49
1844-1847 (38)	.79	.68
1848-1854 (90)	.42	.57

\*A "Rice Index Score" of 1.00 indicates all members of a party voted the same way; a score of 0.00 reflects instances wherein they divided equally into two halves. Explanation of the technique used in this Table is given in Appendix A.

percent of them voted together. But just as it seemed Democrats agreed that racial issues held a central position in their party program, the bottom suddenly fell out. In short, with the advent of the Free Soil insurgency, mixed party government, and a new federal fugitive law, Democrat unity eroded. Even in the early 1850s, when Democrats had clear dominance, cohesion improved only marginally.<sup>554</sup>

The point is that one would expect a party built on promoting systematic institutional racism would be mostly likeminded on policy proscriptions. For certain sessions and time spans, of course, the evidence points to just that conclusion. The problem is the patterns are not consistent. Hence, it seems, although Democrats certainly come closest, a white racial consensus was not always manifest amongst any party's membership. Voting response scores do clarify the extent to which Democrats, over the long haul, behaved in a racist fashion (see Table 12). Prior to the mid-1830s, racist votes were cast, on average, two-thirds of the time. Afterwards, the analogous figure runs to fourth-fifths or more. Finally, after 1848, Democrats scattered, although by a razor thin edge they still tilted in the racist direction. Put another way, prior to then, Democrats, as a bloc tendency, voted towards the racist end of the response spectrum in excess of 80 percent of the time. Thereafter, the party most often vacillated.<sup>555</sup>

In the late 1820s and early 1830s, the voting response score of National Republicans is almost identical to early Democrats (see Table 13). Whigs, initially, for a few sessions in

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<sup>554</sup> Historians long ago recognized that Ohio Democrats tilted in more antislavery directions near mid-century but paid little attention to the retrenchment in racist behaviors, too. William O. Lynch, "Anti-Slavery Tendencies of the Democratic Party in the Northwest, 1848-50," Mississippi Valley Historical Review, 11 (December 1924):319-331.

<sup>555</sup> See Appendix on Roll Call Analysis.

Table 12 Ohio Democrats and Voting Scores			
Scale Cohort	Sessions		
	1827-1833	1834-1847	1848-1854
0-40	11	5	35
41-59	5	8	25
60-100	83	85	39
Scale Score:	67	83	52

\*The “scale cohort” column shows the percentage of divisions wherein the voting scores for the party in the aggregate falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for the entire legislative party across all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

Table 13 Ohio Whigs and Voting Scores			
Scale Cohort	Sessions		
	1827-1833	1834-1847	1848-1854
0-40	5	67	61
41-59	16	17	15
60-100	77	16	23
Scale Score:	70	30	36

\*The “scale cohort” column shows the percentage of divisions wherein the voting scores for the party in the aggregate falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for the entire legislative party across all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.



the mid-1830s replicated this pattern. Then, the party moved in a new direction. Prior to 1848, Whigs cast racist votes less than one-third of the time. Even after much of the Western Reserve bolted to the Free Soil Party, the residual old-line Whigs still reacted much the same way, just a bit more racist. Free Soilers cast less than ten percent of votes along these lines.<sup>556</sup>

As a bloc tendency, National Republicans voted more than three-fourths of the time towards the racist end of the spectrum. Whigs were three times less likely to do so. Put another way, National Republicans, as individuals, voted as racists but almost a third of the time they did not. Whigs less often supported racist policies but one-third of the time they did. Consequently, it seems Whigs were the lesser racists, compared to Democrats, unless we are talking about certain elements in the state party from southern Ohio or their proto-party manifestation as National Republicans.<sup>557</sup>

Next, we need to consider what laws each party was responsible for and whether the overall trajectory of change over time tended in a racist direction. Democrats rarely were in power but, initially, when they were, some new racist statutes did appear. In the late 1820s, for example, Democrats must bear some accountability for the bans on admission to schools or gaining a legal settlement. It was not until the sessions of 1832 and 1833,

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<sup>556</sup> It should be noted that a couple of Free Soil legislators came from elsewhere in Ohio; even the Western Reserve, moreover, did not completely convert to the third party. Some counties continued to elect Whigs whereas others now increasingly returned Democrats, albeit, in either case, voting records on racial issues were liberal in orientation. Alexander found that third party success at the polls in Ohio came in counties with a substantial decline in voter turnout and attributes much of the bolt from Whig ranks as a symbolic protest against “Taylorism” led by Joshua R. Giddings. Alexander, “Harbinger of the Collapse of the Second Party System: The Free Soil Party of 1848,” in Lloyd E. Ambrosius, ed., The Crisis of Republicanism: American Politics in the Civil War Era (Lincoln: University of Nebraska Press, 1990):17-53; also see Douglas A. Gamble, “Garrisonian Abolitionists of the West: Some Suggestions for Study,” Civil War History, 23 (March 1977):52-68.

<sup>557</sup> Ross and Pickaway counties stand out, in particular, as strongholds of Whig racism in southern Ohio. Greene and Clinton counties in the southwest and Athens and Washington counties in the southeast elected mildly “liberal” legislators (unless the issue niche under review involves colonization).

though, that Locos had more unilateral control of the legislature. One new statute appeared--the court certificate book.<sup>558</sup>

The next Democratic stay in power was in the sessions of 1838 and 1839. But, as we have seen, many of the legal reforms enacted merely built on precedent in minor ways or did not prove durable. In the sessions of 1841 and 1842, the only thing really done was to repeal the recent slave rendition law. In other words, Democrats did enact racist laws but the reforms came episodically and were not far-reaching; this trend began to slow down by the early 1840s at the very time party solidarity was becoming most pronounced. A consistent position, though, was to uphold the black laws.<sup>559</sup>

By 1848, Democrats had been denied control of the legislature for a half-decade. Based on actions in this session, moreover, Democrats no longer look as racist. But, then again, the legislature did not dismantle all racial disabilities. At the constitutional convention, Democrats, to be sure, upheld white suffrage but also incorporated some more ameliorative features or rejected certain racist proposals. Finally, in the early 1850s, Locos passed racist measures but not in a systematic fashion and a few actions that were taken cut somewhat in the other direction.<sup>560</sup>

National Republicans, alternatively, account for the most racist statutes produced when Democrats were in the minority. But they also revised the kidnapping law and

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<sup>558</sup> Journal of the 27<sup>th</sup> Ohio House of Representatives (1828):977-978; Journal of the 28<sup>th</sup> Ohio House of Representatives (1829):129-130; Middleton, The Black Laws in the Old Northwest, pp. 18, 34, 131-132.

<sup>559</sup> Middleton, The Black Laws in the Old Northwest, pp. 36, 111-129.

<sup>560</sup> According to a Whig legislator from northern Ohio, the "other side" always had opposed repealing the black laws. During the recent canvass the previous fall, he noted, the Ohio Democracy "was inflexibly opposed to repeal. Now, however, they had "changed front." A party editor simply claimed the "Locofocos" had been "sold out" by party leaders "to the Abolitionists." Ohio State Journal, March 3, 1849; "Legislative Proceedings," Ohio State Journal, March 10, 1849.

provided for exemption from the school tax. The Whig Party--once fully on the scene--rarely changed the law. In the late 1830s the school tax rebate law was enacted. A decade later, the statute authorizing black schools was adopted with local option to admit small numbers of black children into common schools. An orphanage was incorporated, too. That is it. Of course, near mid-century the party voted for white suffrage, amongst other things, thus showing Whigs, late in the day, were not above supporting racist policies.<sup>561</sup>

At the same time Whigs defended a black right of petition, access to private schools, and the “nearer white” mulatto suffrage. These men also were not thrilled about fugitive slave laws, a ban on racial intermarriage, and a variety of other things. What looks like complicity in sustaining the black laws, moreover, is somewhat belied by repeated efforts of so many party members to eradicate them. Finally, it is important to note that with the passage of time resistance to racist measures spread from the Western Reserve to include a substantial portion of the Whig Party, including certain areas in southern Ohio.<sup>562</sup>

Insofar as themes of consensus and conflict are concerned, the Ohio data, if compared to the Tennessee scenario, indicates more pronounced divergence across party lines after the mid-1830s. During the proto-party period, however, two-party polarity was virtually unheard of (see Table 14). Each party, in the aggregate, cast an equivalent amount of their votes in a racist manner. No single roll-call division produced a pronounced degree of two-party divergence. Between 1834 and 1847 the frequency of racist voting,

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<sup>561</sup> Smith, Official Reports, p. 1182; Middleton, The Black Laws in the Old Northwest, pp. 27, 35-38, 132-133.

<sup>562</sup> “Legislative Proceedings,” Ohio State Journal, January 18, 1839, January 18, 1840, January 16, 1841, March 8, 1845; Journal of the 43<sup>rd</sup> Ohio House of Representatives (1844):924.

Table 14 Ohio Legislature and Two-Party Polarity			
Divergence Score	Sessions		
	1827-1833	1834-1847	1848-1854
0-40	100	29	66
41-59	-	22	22
60-100	-	49	10
Polarity Score:	Proto-Whig +3	Democrat +53	Democrat +16

\*The “divergence score” indicates the percentage of times the differential between aggregated voting scores for each legislative party falls within each category. The “polarity score” shows the absolute difference between each party’s aggregated voting score on all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

however, increased among Democrats and declined amongst Whigs. As a result, the gap between each coalition grew extreme. Afterwards, a corrective adjustment occurred. Democrats still outpaced Whigs in terms of racist voting tendencies but the differential no longer was so grand.

## VII. Conclusion

The best evidence of bipartisan racism comes from the proto-party period. But local scenarios are distinctive, too, in the sense that National Republicans had a more commanding presence in Ohio and, while Tennessee was still enacting rather liberal reforms in the late 1820s, Buckeye lawmakers were already moving in more racist directions. But this course of action did not involve systematic promotion of “white” privilege but was designed largely to curb future black immigration in the event of general emancipation in the Upper South.

The pattern between 1834 and 1847 better reflects a model of two-party conflict. Of course, bipartisanship, on occasion, is evident, too. Nor was every law Democrats enacted was fully satisfactory to its vanguard racist element. Increasingly, moreover, Whigs protested the black laws. Finally, at the end of their run in power, Whigs did enact a few liberal-minded measures. In 1848 Ohio politics entered a disruptive phase. As Tennessee Democrats escalated racist posturing and the gap between parties became a bit wider in that state, colleagues in Ohio diminished the intensity of their racist stance while enacting a variety of laws, some racist and others less so. Whigs, once stripped of power, generally continued to vote the same as before.

Free Soilers deserve some credit for securing Democrat cooperation to repeal the black laws but, otherwise, their numbers were too few to have much impact. Yet the size of the legislative party did increase sufficiently by 1854 to render the Whigs a nullity as a viable opposition. Although it seems reasonable to surmise the Loco change of front in the late 1840s had something to do with pandering to the third party, by this dating that explanation seems less applicable.

At any rate, evidence that local setting could spawn different political outcomes is discernible in the slope of the trajectory in legal reforms. Whereas the status of free blacks diminished in Tennessee it gradually improved in Ohio. On the eve of the advent of the Republican Party, to be sure, many local African Americans worried about an impending crisis. Discord emerged between “nativists,” who wanted to remain in America and fight for equal rights, with the aid of friendly whites, and a “separatist” faction increasingly militant or threatening to emigrate elsewhere. In recent years, after all, the ban on jury duty had been reiterated. The prohibition on poor relief was, too, although a stipulation later added made some exceptions to policy possible. The new constitution of 1851 still featured a white suffrage and exclusion of the militia now was embedded in the organic law, too.<sup>563</sup>

But the right of petition was secure. Blacks were included in enumerations for apportionment procedures. Testifying in court was not restricted. A certificate of freedom no longer was required for employment, nor posting of bond with sureties. In

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<sup>563</sup> Howard H. Bell, “Expressions of Negro Militancy in the North, 1840-1860,” Journal of Negro History, 45 (January 1960):11-20; Howard H. Bell, “The Negro Emigration Movement, 1849-1854: A Phase of Negro Nationalism,” Phylon, 20 (Summer 1959):132-142; Howard H. Bell, “National Negro Conventions in the Middle 1840’s: Moral Suasion vs. Political Action,” Journal of Negro History, 42 (October 1957):247-260.

addition, “nearer white” mulattoes could vote. Furthermore, no law banned entry into the state. Nor did any legal requirement necessitate expatriation elsewhere, even if various disabilities seemingly were designed to encourage blacks to make such a choice “voluntarily.” Public education was possible, albeit usually on a segregated basis. A state fugitive slave law had come and gone. More ominously, the federal statute still posed a threat, but lawmakers, regardless of party, mostly were seeking to modify or repeal it. The statute against kidnapping, in addition, still was in place. Slavery, of course, was prohibited, too.

Nonetheless, African Americans in Ohio still had outstanding grievances which became increasingly contested issues in the public forum after the mid-1850s. In particular, the push now was to beef up the anti-kidnapping statute, gain more control over segregated schools or preferably attain integrated education, and, most of all, strike the word “white” from the constitution. As a corollary mission, partial mulatto suffrage was to be retained until constitutional change was accomplished.<sup>564</sup>

When Republicans emerged on the scene, a trajectory already was in place which had witnessed a gradual improvement in the legal status of African Americans. Democrats, moreover, rather abruptly were now cast into the minority. Considerable disagreement exists among historians on how to categorize Democrats and Republicans at this time in terms of racist proclivities and how things had changed or stayed the same compared to

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<sup>564</sup> James Horton and Lois Horton, *In Hope of Liberty* (New York: Oxford University Press, 1997); Howard H. Bell, “Some Reform Interests of the Negro During the 1850’s as Reflected in State Conventions,” *Phylon*, 21 (Summer 1960):173-181; Howard H. Bell, “Negro Nationalism: A Factor in Emigration Projects, 1858-1861,” *Journal of Negro History*, 47 (January 1962):42-53.

earlier decades. These considerations and the realignment in politics, in general, is the line-of-inquiry developed in the next chapter.



## CHAPTER VII

### THE REALIGNMENT OF THE 1850s

#### I. Introduction

The politics of race was not exactly the same animal after 1854. Its roar, for one thing, was louder. The amount of legislation considered and roll calls taken also escalated in magnitude. The changes are attributable in many ways to the rise of the Republican Party. Elements in it, often old third party men, made demands at the onset to improve status of free blacks, usually as part of a larger rubric to counter proslavery apologetics. Skeptics claimed self-interested agendas--not humanitarian sentiment--was at the root of this insurgency. Expediency was a factor; rarely do politicians ignore it. Even so, the Republican record in Ohio, overall, even off the Western Reserve, indicates varied attempts to uplift African Americans did not always reflect mere ploys to gain momentary political advantage in some narrow constituent circle.<sup>565</sup>

Democrats, in reaction--and as provocation--began displaying ever more strident racism; whether they suspected "Black Republicans" were racial egalitarians at heart or simply wanted it to seem so by reiterating the same tune over and over is not so clear.

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<sup>565</sup> Journal of the 52nd Ohio Senate, 1<sup>st</sup> Session (1856):84; "Select Committee Report on Memorials from Colored Men," Journal of the 52<sup>nd</sup> Ohio House of Representatives, 1<sup>st</sup> Session (1856):163, 172, 389; Journal of the 52<sup>nd</sup> Ohio Senate, 2<sup>nd</sup> Session (1857), appendix, pp. 528-531; Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):77, 307; American Citizen, August 18, 1855 in "Correspondence of Allen Trimble," p. 226; Newton Schleich to William Medill, August 7, 1855, Medill Papers, Library of Congress, Washington, D. C., Box 5; Vallandigham, "Speech at Dayton," (1855):122-123; "Speech of Samuel Smith," Congressional Globe (1856), appendix, p. 351; "The Negro," Weekly Anglo-African, September 17, 1859.

Perhaps their thinking was that if Republicans had public opinion in their corner on slavery extension issues, Democrats might turn the table by mutating those dialogues into a conversation about local race relations whilst, at the same time, they could hold the national Democratic coalition together using an ideal of white fraternity as a glue.<sup>566</sup>

When allegations of hidden agendas aimed at immediate abolition, political equality, or inviting “Cuffee” into the parlor did take root in the public mind, Republicans did begin readjusting to the heat. In order to expand its voting base, the state party also began to retrench in the push for liberal racial reforms and instead stress primarily free labor principles, conservative economic programs, a Slave Power Conspiracy theory, and an anti-Catholic message. Certain party spokesmen also began saying and doing various racist things, in part, as a disclaimer to charges of neglecting white interests to curry favor of “sable” Americans. Despite possible good intentions, Republicans, in essence, contributed in the short-run to a tightening of caste lines in Ohio, in part by their own racist actions but, more especially, in an indirect manner, by provoking hyperbolic Democrat responses to more liberal-minded initiatives.<sup>567</sup>

Political alignments in Tennessee became altered, too, with a net result of a series of new discriminatory laws. It seems a valid presumption, at least, that phobias generated in

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<sup>566</sup> An East Tennessee Whig editor lampooned the “excess and madness of party spirit” in Ohio politics. Republicans, he alleged, insisted the Democratic candidate for governor favored horse stealing, polygamy, racial amalgamation, and depriving white people of the suffrage. Democrats, in turn, supposedly declared the Republican nominee favored allowing blacks to serve on juries, hold public office, and exercise political privileges of white citizens. Knoxville Register, October 4, 1855. An Ohio Republican, alternatively, later complained it was the local Democracy that had harped so long upon racist strings that it had “lost the capacity to play any other tune.” “At Their Old Tricks,” Ohio State Journal, October 24, 1860.

<sup>567</sup> Messages and Reports to the General Assembly and Governor of the State of Ohio for the Year 1860 (Columbus: Richard Nevins, 1861); William E. Van Horne, “Lewis D. Campbell and the Know Nothing Party in Ohio,” Ohio History 76 (1967):202-221; Daryl Pendergraft, “Thomas Corwin and the Conservative Republican Reaction, 1858-1861,” Ohio Archaeological and Historical Quarterly, 57 (1948):1-23; William E. Gienapp, “The New Political History and the Coming of the Civil War: A Reassessment,” Unpublished Manuscript, Laramie, Wyoming.

a slave society after the emergence of a purely sectional antislavery party did help boost local Democrats into power for the first time in a long while. At a minimum racist activity was on the rise in the 1850s; in Tennessee more so than Ohio but among Democrats in either case. As a result, the cleavage across party lines in each state also grew beyond what had existed during the second party system. In Ohio near straight party line votes appear on a host of roll-call divisions.<sup>568</sup>

A unique dynamic differentiates Tennessee. In this state Whigs essentially persisted under different names--while eschewing association with Republicans—which meant racial politics manifested itself a bit differently in this locality. Voting behavior also suggests rigid categories of consensus or conflict do not adequately depict what was going in terms of two-party alignments. Once bereft of a northern wing after the Know-Nothing tent folded, Tennessee Whigs became isolated as a sectional organization. In a new twist, the party in the legislature soon became a perennial minority. Too few in numbers to derail the Democrat juggernaut, it seems unfair to hold them accountable for much of what transpired. Nonetheless, ample evidence does show Whigs voting for various discriminatory proposals side-by-side with most Democrats. In this sense, perhaps bipartisan racism is an appropriate tag after all.<sup>569</sup>

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<sup>568</sup> Tricano, with some exaggeration, claims that in Tennessee during the 1850s “accusing one’s opponent of being opposed to the institution of slavery was purely an attempt to inject further emotionalism into the campaign.” His contention, however, does seem sound that Tennessee Democrats benefited locally at the polls from the rise of the Republican Party in the North, even as it fueled factionalism within the state party. Tricano, “Tennessee Politics, 1845-1861,” pp. 144, 147-151; Formisano, “The Edge of Caste,” pp. 39-40.

<sup>569</sup> Some debate exists whether Southern Know-Nothings were sincerely nativist or merely seeking a temporary vehicle to continue the contest against Democrats. In Tennessee, it appears the nativist message often was couched in terms of stopping an influx of antislavery immigrants into the North or South. “Welsh Settlements in Tennessee—Abolition Schemes,” Knoxville Register, September 18, 1856; Cooper, The Politics of Slavery, 1828-1856; Holt, The Rise and Fall of the American Whig Party; Donald W. Zacharias, “The Know-Nothing Party and the Oratory of Nativism,” in Waldo W. Braden, ed., Oratory in

Some problems with this interpretation, however, need to be addressed. As a bloc tendency Whigs voted against racist initiatives as much as in support. In doing so, they oftentimes opposed racist bills until resistance was futile and when to vote “nay” on final passage probably would have spawned charges on the stump of covert affinities for abolitionism. Finally, when successfully assembling a coalition of minorities, Whigs at times helped enact admittedly racist legislation, but devoid of harsher features contained in the original proposals. So, then again, in another sense, two-party conflict is an apt description.<sup>570</sup>

The case for bipartisanship in Ohio encounters more imposing obstacles. Disagreement across party lines was not only more frequent it also appeared on all but a few roll-calls. Democrats overwhelmingly supported racist agendas. Republicans instead registered the least racist voting record of any major legislative party under review in this study. Democrats occasionally did break ranks or act collectively in a more liberal manner. Republicans, of course, were not always above aiding racist initiatives either. But, taken as a whole, what is most noteworthy about this period, compared to the second party system, is how vehemently the two parties disagreed on so many topics relating to policies on race relations.<sup>571</sup>

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the Old South, 1828-1860 (Baton Rouge: Louisiana State University Press, 1970):218-233; Bergeron, Antebellum Politics in Tennessee, pp. 126-130.

<sup>570</sup> Whig senators in Tennessee voted ten-to-one in favor of a substitute in lieu of a Democratic bill in the session of 1859 to expel free blacks. They also divided eight-to-one against a proposed amendment to sell free blacks in certain cases rather than incarcerate them in the state penitentiary. Finally, on final passage, 63 percent of Democrats and 77 percent of Whigs joined together in voting favorably. Journal of the 33<sup>rd</sup> Tennessee Senate (1859):458, 522-523; also see Jonathan M. Atkins, “Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860,” Journal of Southern History, 71 (May 2005):256, 260.

<sup>571</sup> Studies which downplay racism as at the core ideology of one party or the other include William E. Gienapp, “The Republican Party and the Slave Power,” and Stephen E. Maizlish, “Race and Politics in the Northern Democracy, 1854-1860,” in Robert H. Abzug and Stephen E. Maizlish, eds., New Perspectives on Race and Slavery in America: Essays in Honor of Kenneth M. Stampp (Lexington: University Press of Kentucky, 1986):69, 79-90. Based on cross-tabulation of voting patterns on racial and nativist issues, it

## II. The African-American Perspective

Given proper qualification, the case for bipartisanship, even in Ohio, does have its merits. Some brief commentary on the subject, therefore, is warranted before developing the line-of-argument about two-party conflict. Simply put, not everyone felt party differentials on framing of racial issues was appropriate emphasis insofar as political handling of the “Negro Question” was concerned. The African-American community mostly saw things this way. By this entity, I mean black activists in Ohio who spoke on its constituents’ behalf.<sup>572</sup>

What Tennessee blacks thought about politics is not so clear. We know some slaves were vaguely aware of events in the public forum. Free blacks were better informed, often more politically astute, but generally had learned to hold their tongues. Regrettably, insufficient testimony survives to make reliable estimates about mass black opinion at the time. In Ohio, while much lamentation was emitted about the inertia in the black community, its leaders not only followed party politics closely but actively lobbied at the state capitol. No one could seriously claim they were uninterested or ill-informed. A decade earlier, in the mid-1840s, moreover, the political scene in many ways looked auspicious to them and inspired hopefulness.<sup>573</sup>

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appears pro-immigrant legislators voted more racist. Within each party, however, nativists were the leading racists. For example, see Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):100, 133-134, 260, 457, 543, 566, 610, 648-649, 676; Journal of the 53<sup>rd</sup> Ohio House of Representatives (1858):71-72, 89, 364-365, 492.

<sup>572</sup> “Charles H. Langston’s Speech on the Oberlin-Wellington Rescue Case, 1858-59,” in Aptheker, A Documentary History of the Negro People in the United States, pp. 423-433.

<sup>573</sup> In the early twentieth century, Quillan wrote that there was “no forcible colored protest against prejudice.” The evidence overwhelmingly refutes this contention. Quillan, The Color Line in Ohio, p. 49; Schweningen, “A Slave Family in the Ante Bellum South,” p. 37; Gatewood, ed., Slave and Freeman, pp. 45-47; “Ohio, Virginia, and Tennessee Narratives,” in Slave Narratives—A Folk History of Slavery in the United States from Interviews with Former Slaves (St. Clair Shores, Michigan: Scholarly Press, 1976), 16:66, 69, 74-75; Herschel Gower and Jack Allen, eds., Pen and Sword: The Life and Journal of Randall

The Whig Party was trying to repeal the black laws, establish schools for black children, and prevent kidnappings. Its judicial and legislative arms also defended the “nearer white” mulatto suffrage. Hence, it seems safe to surmise most of these African-American voters probably cast ballots for Whig candidates. Democrats, at least, repetitiously made the claim. “Colored conventions,” in addition, did express approbation for friendly Whig politicians as individuals. But the Whig Party, as a whole, was considered a lesser of two evils. As a national organization it featured slaveholders as leaders, while the state party endorsed a “white suffrage,” even if with loopholes. As a result, local black leaders recommended the Liberty Party, an organization which welcomed their participation and called for remedial action against prejudicial laws. Granted, third party arguments about constitutional antislavery increasingly failed to satisfy.<sup>574</sup>

Next, the Free Soil insurgency arose and the black response was guarded optimism. African-American leaders did encourage the new third party but also attached a stipulation that candidates for public office must adhere to the higher standards of abolitionism. Although this condition was rarely met in practice, Free Soilers managed to entice Locos into cooperating in enacting a series of liberal reforms to the benefit of

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McGavock (Nashville, 1859):490. On the incomplete nature of black grassroots mobilization, see Minutes of the State Convention of the Colored Citizens of Ohio (1850):7; Proceedings of the Convention of the Colored Freemen of Ohio, Held in Cincinnati, January 14<sup>th</sup>-17<sup>th</sup> and 19<sup>th</sup> (Cincinnati: Dumas and Lawyer, 1852):10.

<sup>574</sup> Smith, Official Reports, p. 1258; “Letters of Frederick Douglass from Austinburg and Cleveland in September, 1847,” in Woodson, ed., The Mind of the Negro as Reflected in Letters Written During the Crisis, 1800-1860 (Washington, D. C., 1926):478-485; Convention of 1843,” in Howard H. Bell, ed., Minutes of the Proceedings of the National Negro Conventions, 1830-1864 (New York: Arno Press, 1969):16-18; Proceedings of the Convention of the Colored Freemen of Ohio (Cincinnati: Dumas and Layer, 1852):5, 24-27. For press reaction to “colored conventions,” see Cincinnati Daily Enquirer, July 31, 1843; “Extracts from Newspapers,” Minutes and Address of the State Convention of Colored Citizens of Ohio (Oberlin: J. M. Fitch’s Power Press, 1849):27-28; “Ohio Colored Convention,” Memphis Daily Appeal, February 4, 1852.

the black community. While much remained to be done to secure a color-blind society, it seemed the general trajectory of reform was now headed in the right direction or at least oriented in such a way.<sup>575</sup>

Over the next few years these high hopes eroded. Suddenly it dawned on black Ohioans no political party was in their corner at all. The local Democracy, erstwhile friend of late, showed signs of reverting to their old ways now that the new state constitution was in place. Whigs, on a national basis, were defending the new fugitive slave law and the “finality” of discussions on slavery, whereas the state party, if more upset about these matters, was on the ropes, fighting for its very existence. Third party men also seemed past their zenith; the influence they formerly wielded was now fading. Furthermore, to add to frustrations, both major parties and the minor one, too, all agreed state founding fathers crafted an organic law which privileged “white liberty.” A prospective crisis was brewing, some feared, in the form of an impending racist backlash.<sup>576</sup>

In the estimation of black leaders, to cite the obvious, the only political associations that might qualify as a genuine “party of freedom” were those with no connection with slaveholders. Of course, if using this gauge, neither Democrats nor Whigs pass muster. In addition, each party, at the state and national level, concurred that the U. S. Constitution permitted slavery to persist in states wherein it currently existed. Frederick

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<sup>575</sup> “Convention of 1848,” in Bell, ed., Minutes of the National Negro Conventions, 1830-1864, pp. 18-20; Wesley, “The Participation of Negroes in Antislavery Political Parties,” pp. 55-56.

<sup>576</sup> “Speech of H. Ford Douglass,” and “Proceedings of a Convention of the Colored Men in Ohio Held in the City of Cincinnati on the 23<sup>rd</sup>-26<sup>th</sup> of November, 1858,” in Aptheker, ed., A Documentary History of the Negro People in the United States, pp. 316-318, 423-433; Proceedings of the State Convention of Colored Men (Columbus: John Geary and Son, 1856):2-3.

Douglass, for instance, told a Warren County audience the major parties were not so different, analogizing them to two serpents thrashing their tails about in the North while their heads laid calmly in the South where the two reptilian creatures gazed placidly into each others' eyes. In short, Democrats and Whigs in Ohio might argue about a lot, but in the end, they took marching orders from southern slaveholders.<sup>577</sup>

Shortly thereafter, with the rise of the Republicans, optimism again revived; positive reform was on the horizon. At least the new party was disassociated from slaveholders. After Republicans seized control of the legislature, too, the black community with eager anticipation requested it to strike the word "white" in the state constitution. The Republican answer disappointed them eventually. In addition, a Republican State Supreme Court made rulings on school and fugitive rendition cases which also proved disquieting. Some African Americans now heaped scorn on Republicans, claiming they basically agreed with Democrats, blacks had no rights that "white men were bound to respect."<sup>578</sup>

In sum, black leaders evidently expected two-party conflict to rage on racial issues, and with Republicans an overwhelmingly majority, the outcome, it was prognosticated, would redound to their benefit. With the passage of time many came to suspect a bipartisan consensus prevailed to do relatively nothing about addressing grievances. Of

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<sup>577</sup> Proceedings of the State Convention of Colored Men (1856):2-3; "Negro Emigration Convention in Cleveland (1854)," in Aptheker, ed., A Documentary History of the Negro People in the United States, pp. 363-366; "Speech of Frederick Douglass in Harveysburg, Warren County in 1852," in Larry Gara, ed., "Brilliant Thoughts and Important Truths: A Speech of Frederick Douglass," Ohio History, 75 (Winter 1966):3-9.

<sup>578</sup> "Address to the Senate and House of the Representatives of the State of Ohio (1856)," in Aptheker, A Documentary History of the Negro People in the United States, pp. 383-387; Proceedings of the State Convention of Colored Men (Columbus: John Geary and Son, 1857):6-7; "Our Maumee Letter" and "Personal Liberty Bill in Ohio," Weekly Anglo-African, November 5, November 26, 1859; Middleton, The Black Laws in the Old Northwest, p. 152.



course, many black activists argued the main entrée was to destroy the Democracy; a goal necessitating Republican aid. The campaign to restrict slavery perhaps took low ground but it ultimately might lead to elevated free black status, too. In certain parts of the country, at least, the new party had done “something” beneficial.<sup>579</sup>

On the other side were men who complained “milk-and-water” speeches against slavery extension or revival of the African slave trade were not enough. Paramount questions about racial equality and black citizenship, it was argued, became obscured in collateral discussions focused on mere retention of “common privileges of humanity” rather than securing racial justice across the board. Some critics even claimed black rights were safer in Democrat hands as the Republican Party, it seemed, aimed inevitably to become a national organization; thereby it was expected to act increasingly conservative on racial issues which, to some degree, happened. Others revived talk of expatriation.<sup>580</sup>

By 1860, a Cleveland correspondent of the Weekly Anglo-African was thoroughly disillusioned. From his perspective the amount of injury done black folk was hardly a Republican concern; its adherents too often proclaimed the organization a “white man’s party.” In this depiction, the primary aim of the free labor party was to promote interests of lower class whites by preventing slavery from concentrating political power in the hands of the “aristocratic few whites.” According to this writer, there was already enough “constitutions, organizations, and parties for the especial benefit of the white

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<sup>579</sup> Proceedings of the Convention of Colored Men of Ohio (Cincinnati: Moore, Wilstach, Keys, and Co., 1858):9-10.

<sup>580</sup> *Ibid.*, p. 9; “Letter from Cleveland—Charlie” and “African Civilization Society,” Weekly Anglo-African, June 9, June 30, 1860.

man.” If Republicans had no higher purpose than to readjust power relations amongst whites, “the sooner the concern is blown to the winds,” this pundit felt, “the better.”<sup>581</sup>

The purpose of this digression is to clarify a few points. First, black testimony shows some ambivalence, too, on how to interpret racial posturing of political parties. Not everything was described as self-evident except for the Democracy, a party that was rarely regarded as friendly. Second, African-American public assessments about the parties, and grassroots mobilization to manipulate legislative outcomes, is yet another thing differentiating scenarios across state lines. Third, it is important to bear in mind what roll-call divisions are measuring. As black witnesses point out, a bipartisan consensus did prevail in the sense that no party was demanding radical reforms to dismantle white privilege in its entirety anytime soon. What we are seeing in voting data are varied responses to proposals for incremental changes.<sup>582</sup>

Given the criterion African Americans established, a verdict of bipartisan white racism is almost inevitable. No major party dismantled institutional racism altogether or even attempted it. For purposes of historical fine tuning, however, it seems that lumping all whites together under this rubric is hazardous; its use by some historians is intended to establish the fact that ideological racist tenets spawned systematic agendas which formally institutionalized white privilege as the organizing principle for the state. When it is understood incremental reform was the order of the day and sweeping reforms usually fell still-born--even if unrelated to racial matters--it does become highly

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<sup>581</sup> “Republican Expediency,” Weekly Anglo-African, January 7, 1860.

<sup>582</sup> For an African-American critic of “colored conventions,” see “Our Cleveland Letter,” Weekly Anglo-African, August 6, 1859.

significant that substantial disagreements existed across the party aisle on the precise status accorded free blacks.

In other words, if denied political rights at present, it makes a difference to determine whether an opportunity to obtain such privileges was still held out as a possibility in the future. Hence, whether free blacks were classified as second-class citizens, denizens, or “strangers” was important to potential chances for elevation as a class in the future or, alternatively, deportation. In a more practical sense, amongst other things, whether protected from kidnapers, allowed access to public education, or permitted to give court testimony all shaped the qualitative daily existence of free blacks for better or worse.<sup>583</sup>

In short, whereas all parties showed racist proclivities, it is a mistake to think of them as interchangeable or that the plight of free blacks was not impacted demonstrably by which direction political winds blew. Still, it seems no party as a whole made racist imperatives the central feature of its program, although Democrats clearly come closest rather late in the day. Finally, central tendencies across party lines suggests any white racist consensus, if in existence, was tenuous at best; bipartisanship was prevalent only on certain select issue niches, albeit sometimes extremely important ones.

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<sup>583</sup> Many African Americans perceived enough of a difference between parties to express a preference. Late in the decade, said one, “proclivities” of black Ohioans, “as a general thing,” leaned to the Republicans. Delegates at the state convention in 1858 indirectly showed a similar tendency when they passed a resolution rejoicing “at the declension of the Democratic Party in the North” as presaging the collapse of slavery, “of which accursed system it has been a firm supporter.” Half-a-decade earlier, convention delegates at that time had welcomed inauguration of the Republican Party although it did “not take so high anti-slavery ground” as desired. Weekly Anglo-African, November 5, 1859; Apteker, A Documentary History of the Negro People in the United States, pp. 411-413; Official Proceedings of the Ohio State Convention of Colored Freemen (1853):2-3.

### III. Democrats, Whig-Americans, and Republicans

Prior to examining party handling of racial issues, session by session, it seems appropriate to begin with an overview of each legislative coalition to compare with its predecessor during the second party system. A few things stand out right away. First, coalition government was absent in Ohio. Second, the shift in the party balance-of-power in the mid-1850s was unprecedented in scale. Democrats went from holding 70 percent of legislative seats to less than half that amount in the course of one election. In the sessions of 1858 and 1859 the Locos again briefly regained the edge for the last time. Republicans soon thereafter were restored to power, although Democrats still formed a respectable minority. In brief, when in power, each party could do largely what it pleased. What is noteworthy is how little was accomplished, one way or the other, at least in terms of reform that was durable.<sup>584</sup>

Although mixed party government continued longer in Tennessee, Democrats swept into power in 1857; a position never subsequently relinquished. The last time Locos unilaterally controlled the legislature had been almost a dozen years previously for a brief stint. Prior to then, one must look back to the late 1830s. Now, the party enjoyed tenure of five years at the state capitol, something never before accomplished. Whigs in the past had always been a serious contender, often more than Democrats could handle. After the

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<sup>584</sup> In the session of 1854, the lower chamber held seventy Democrats, seventeen Whigs, and nine Free Soilers. By 1856, the House contingent now featured seventy-eight Republicans and thirty-three Democrats. The twenty-four Democrats in the Senate, moreover, declined to seven whereas the five Whigs and six Free Soilers were replaced with twenty-eight Republicans. In the session of 1858, Democrats fielded sixty-three representatives and twenty-one senators. Republicans held forty-four seats in the lower house and fourteen in the upper. Finally, in 1860, Republicans held the edge in the House of Representatives, fifty-eight to forty-six and in the Senate, twenty-five to nine.

mid-1850s, the “Opposition” dwindled. In Tennessee, for the first time, one party held dominant sway for an extended length of time.<sup>585</sup>

This period also saw more internal discord amongst legislators as a whole, an indication that the white community--even at this late day--was not monolithic on policy options. Greater saliency also attached to certain issue niches which never received such detailed scrutiny before. In Tennessee, new wrinkles, amongst other things, included proposals to apply the slave criminal code to free blacks, expel them altogether, or permit an option of voluntary re-enslavement. In Ohio, proposals to circumvent kidnapping were at a premium, in part, because overlapping with fugitive rendition debates which flowed, in turn, into national conversations about federal-state relations and slavery. The colonization scheme was back, too. So was the idea of a ban on free black entry into the state and the question of eradicating “nearer white” mulatto voters.<sup>586</sup>

Another crucial development occurring about the same time as Tennessee Democrats ascended into power was the Dred Scott decision. Although the property rights argument, as it pertained to slavery extension, drew the most vocal responses, implications for free black status got some attention, too. Ohio Democrats felt vindicated; blacks were ineligible for U. S. citizenship—the clause inserted in the new state constitution now took on added meaning in the fight for visible admixture laws.

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<sup>585</sup> Tennessee Democrats did not do so well after Andrew Jackson retired, despite a temporary bump in 1839 when James K. Polk ran for governor or in the mid-1840s when Aaron V. Brown was the candidate. By the early 1850s, though, Andrew Johnson brought new accretions into the party before the bolt in many parts of West Tennessee from Whig into Democratic ranks ultimately put the Locos in the ascendancy. Bergeron, Antebellum Politics in Tennessee; Atkins, Parties, Politics, and Sectional Conflict in Tennessee, 1832-1861; Walton, “The Second Party System in Tennessee,” pp. 18-33.

<sup>586</sup> Berwanger, The Frontier Against Slavery, pp. 38-55; Foner, Free Soil, Free Labor, Free Men, pp. 85, 262, 266; Bowen, “Andrew Johnson and the Negro,” pp. 28-49; Atkins, “Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860,” p. 274; “Justice Catron on the Question of Enslaving Free Negroes,” Weekly Anglo-African, January 14, 1860.

Outraged Republicans deemed the ruling mere dictum, basically tried to nullify it, all the while insisting that free blacks were entitled to rights of citizenship. Down in Tennessee the Taney decision upset state judicial interpretation holding that slaves whose masters permitted residence outside slave society that was longer than a sojourn were freed even if returning to the state. Nonetheless, local Democrats mostly were pleased with the ruling in general. Nor were Whigs altogether perturbed although many did suggest the court opinions were nothing more than a sidebar expression of the justices' personal views.<sup>587</sup>

Finally, the Taney decision did not negate state sovereignty on setting voter qualifications. Any state if it chose might award citizenship to free blacks, even the franchise. In the Chief Justice's opinion, however, bestowal of political status did not require other states to recognize it if any such recipients elsewhere relocated in other states. For many Tennesseans, this matter seemingly was settled decades before at the time of the new state constitution. In 1839, in addition, the local high court had determined blacks were not, had never been, and could not be "full-fledged" state citizens. Granted, not everybody concurred. For the next twenty years, for example, some Democrats but more often Whigs insisted free blacks enjoyed constitutional protections and rights even if barred from voting or other citizen activities.<sup>588</sup>

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<sup>587</sup> Knoxville Register, March 19, 1857; White, ed., Messages of the Governors of Tennessee, 5:255-264; Gowen and Allen, eds., Pen and Sword, p. 410; Journal of the 52<sup>nd</sup> Ohio Senate (1857), appendix, pp. 569-571; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860), appendix, pp. 192-194.

<sup>588</sup> Finkleman, Dred Scott v. Sandford, pp. 55-76; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:507-508; Journal Kept by Judge William Bradford During the Extra Session of the General Assembly of the State of Tennessee in 1861 and Other Miscellaneous Material, Tennessee State Library and Archives, Nashville, Tennessee.

The Dred Scott case was seminal in judicial history. It also spawned intense political debate, thereby reshaping context and handling of racial issues thereafter. At the same time we should not overrate its impact nor assume everyone took the ruling to mean the same thing. Despite hyperbole otherwise, African Americans had some rights under state constitutions that white men legally were supposed to respect. What the Taney opinion did accomplish, in the short run, was to intertwine discussion of slavery extension, fugitive slave rendition, and free black rights into a tighter bundle.<sup>589</sup>

Besides the external intrusion, a lot more was going on, too. An overview of racist activity shows a somewhat new configuration emerging. A notable change in Ohio was a sudden flood of petitions for a ban on entry into the state, visible admixture laws, and the like. Democrats finally were in the petitioning business full-fledged. Although few petitions came before Tennessee legislators, the trend which had begun in the late forties featuring racist requests continued apace. Based on this evidence alone it would appear racist forces were surging. But if we examine the full range of racial legislation introduced into each assembly, Ohio begins to peel away. Less than two-fifths of proposed measures sought a racist reform. Committee report content reads the same way. In Tennessee, however, three-fourths of all proposed measures cut in racist ways. It now appears any insinuation of an escalating racist tide is applicable primarily to the Volunteer State.<sup>590</sup>

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<sup>589</sup> See concurring opinion of Justice Catron (a Tennessean) and the dissenting opinion of Justice McLean (an Ohioan) in Finkelman, Dred Scott v. Sandford, pp. 96-107.

<sup>590</sup> A handful of Democrats in Ohio introduced petitions to strike the word “white” in the state constitution but members of their party presented hundreds of memorials to ban black entry into the state. Republicans introduced more of the former than the latter. On “liberal” petitions introduced by Ohio Democrats, see Journal of the 52<sup>nd</sup> Ohio House of Representatives (1857):95, 190; Journal of the 52<sup>nd</sup> Ohio Senate (1857):80. Examples of Tennessee petitions can be located in Journal of the 31<sup>st</sup> Tennessee House of

The central debate amongst Tennesseans, in effect, turned on whether to maintain the racist status quo or augment it. Committee reports, to be sure, did not endorse most racist proposals. At the same time, this finding is not necessarily strong evidence racism was not rampant, only that it perhaps did not have as firm a hold on every Democrat. Insofar as roll-call behavior is concerned, statewide responses, overall, remained similar to what had existed since the late forties. Tennessee lawmakers cast about 56 percent of votes in favor of racist outcomes. In Ohio, the analogous figure comes in lower at 40 percent. Legislative output in the Buckeye State, moreover, was sparse and uneven; much of it was repealed in short order or nullified by the courts. At day's end, then, change in Ohio's racial code was marginal. Some new statutes were discriminatory but, even so, liberal reforms enacted near mid-century stayed intact, too.

In Tennessee, a racist statute or more was enacted every session; however, most new additions came only after Democrats unilaterally controlled the legislature. Rather than a plan to systematize institutional racism, the main impetus initially seems mostly driven by local event history. The flurry of activity, after all, came after a slave revolt panic. Granted; many new racist laws did push in more ideological directions. Most such initiatives failed. About the time of the Harper's Ferry incident, for example, proposals escalated for expelling free blacks altogether. Neighboring Arkansas did so. But, in Tennessee, rather than drawing a firm line between white liberty and black servitude, legislators pulled up short.<sup>591</sup>

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Representatives (1855):300, 359, 571; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):397; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):635; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):279. The sample of legislation introduced into the Ohio legislature between 1854 and 1861 includes 215 bills and resolutions; the Tennessee sample includes 130. Thirty-six committee report recommendations were examined for Ohio; the total number for Tennessee is twenty.



In many ways, Democrat behavior, compared to earlier times, had not changed much. Racist responses, heretofore, had been common. Now, though, about 85 percent of bills and resolutions party members sponsored called for discriminatory laws or policies. Of course, this crowd had been doing the same in Tennessee since the late forties. During the late 1850s in Ohio the trend instead was reminiscent of the Loco stance before the Free Soil upheaval. At any rate, the tendency to present racist proposals built on earlier precedent of some sort in each state.

Voting behavior of the Democracy also shows racist proclivities escalating in its ranks. On an average division in Ohio, 93 percent of Democratic votes endorsed the racist position. In the late 1840s and early 1850s only a bare majority were cast so (see Table 15). As a unit tendency, moreover, Democrats now rejected racist proposals on a mere six percent of divisions. Party discipline was at an all time high. The Tennessee Democracy was not as unified. In the aggregate its members cast two-thirds of their votes in a racist manner. As a unit tendency the state party toed the racist line about three-fifths of the time. Despite the disparity across state lines depicted in arithmetical tabulations, the Tennessee bunch, it bears reiterating, were voting generally on whether to enact extreme racist proposals or go with what already existed.<sup>592</sup>

Given this context, casting two-thirds of a party's votes in a racist manner takes on new meaning, even if it is still highly significant that a third of votes ran counter to what vanguard elements desired. It also is relevant that Rice Cohesion Scores show voting

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<sup>591</sup> Nashville Republican Banner, January 19, 1860; Harvey Wish, "The Slave Insurrection Panic of 1856," Journal of Southern History, 5 (1939):206-222; Lowell H. Harrison, "Recollections of Some Tennessee Slaves," Tennessee Historical Quarterly, 33 (Summer 1974):175-190; Charles B. Dew, "Black Ironworkers and the Slave Insurrection Panic of 1856," Journal of Southern History, 41 (August 1975):321-338.

<sup>592</sup> See Appendix on Roll Call Analysis.

Table 15 Democrats (1854-1861): Voting Scores and Rice Indices of Cohesion		
Scale Cohort	Ohio	Tennessee
0-40	5	18
41-59	1	18
60-100	93	63
Scale Score:	93	66
	Rice Index	
1854	.52	.55
1856	.94	.49
1858	.97	.40
1860	.88	.50

\*The “scale cohort” columns show the percentage of divisions wherein each aggregated party voting score falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for party members across all roll-call divisions. The Rice Score for a consensual vote is 1.00. A response wherein members of the same party are evenly split has a score of 0.00. Explanation of the technique used in this Table is given in Appendix A.

discipline was much tighter on issues relating to regulation of bondsmen than it was on matters involving property rights in slaves or manumission requirements, much less policy towards free blacks. The “loyal opposition” reflects more disparity across state lines. What Ohio Republicans and Tennessee Whigs did have in common was that each acted in a racist manner much less often than did Locos. The Republicans, in particular, amassed an impressively liberal record. Among the legislation such men sponsored, less than a fifth of it called for discriminatory laws or policies.<sup>593</sup>

Committee recommendations were mildly liberal, too. Republicans, in addition, cast racist votes only 17 percent of the time, about half the rate Whigs earlier exhibited (see Table 16). As a unity tendency, the state party tilted in racist directions on a mere five percent of roll-calls. Party discipline, in general, did not match the degree of Democrat cohesion but it was quite high until 1860-1861 when it declined to more modest levels. Tennessee Whigs fall out somewhere in the middle. Altogether, two-thirds of bills and resolutions these men sponsored advocated racist reforms. At the same time, the vast majority of the few ameliorative proposals emitted from their ranks, too. Committee reports contained mild recommendations, as well, although after the party was relegated to the sidelines such documents became rare. Whigs now also cast fewer racist votes, although almost one-half still oriented in favor of discriminatory outputs.<sup>594</sup>

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<sup>593</sup> Slave property and discipline roll calls are located in Journal of the 31<sup>st</sup> Tennessee Senate (1855):295, 452, 532, 543, 655; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):115, 172-173, 505, 551, 567, 633, 670, 722, 728; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):316, 621, 709; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):422, 809, 814-815, 866, 904.

<sup>594</sup> For ameliorative Whigs proposals, see Journal of the 31<sup>st</sup> Tennessee Senate (1855):295, 348, 410. On divisions wherein Ohio Republicans as a bloc voted notably less “liberal” on white suffrage and racial intermarriage issues, see Journal of the 52<sup>nd</sup> Ohio Senate (1857):84; Journal of the 54<sup>th</sup> Ohio Senate, 2<sup>nd</sup> Session (1861):66.

Table 16 Republicans and Whigs (1854-1861): Voting Scores and Rice Indices of Cohesion		
Scale Cohort	Ohio	Tennessee
0-40	83	47
41-59	11	10
60-100	5	42
Scale Score:	17	46
	Rice Cohesion Score	
1854	.72	.18
1856	.78	.62
1858	.91	.78
1860	.51	.53

\*The “scale cohort” column shows the percentage of divisions wherein each aggregated party voting score falls within each category. The “scale score” reflects the estimated frequency of casting “racist” votes for party members across all roll-call divisions. The Rice Score for a consensual vote is 1.00. A response wherein members of the same party are evenly split has a score of 0.00. Explanation of the technique used in this Table is given in Appendix A.

What is novel was not that Whigs vacillated on policy options but they now did so as a group. As a unit tendency, the party tilted notably towards the racist end of the spectrum on two-fifths of roll-calls but leaned demonstrably the other way almost half of the time. In other words, rather than scattering votes as before, a majority of Whigs at times voted racist and at other times did not. Finally, while free black issues generated relatively high rates of intra-party cohesion, Whigs equally were united on slave property matters and questions about regulating slaves. On proposals relating to manumission requirements, however, the party was in disarray.<sup>595</sup>

With regard to themes of consensus and conflict, each legislature exhibits a somewhat distinctive pattern although in both cases Democrats mostly formed the spearhead of the racist camp, more so than ever before. Polarity scores, though, show a gap in Ohio almost five times the size of what existed in Tennessee (see Table 17). In other words, bipartisanship, or something approximating it, still was more common in the Volunteer State. On about one-third of divisions, divergence across party lines was substantial but almost two-fifths of the time both organizations tilted in the same direction.

Despite erratic fluctuations this pattern is a notable change. Between 1848 and 1854, only 13 percent of roll-calls generated pronounced two-party polarity and almost 60 percent generated little divergence or none at all. In Ohio, party conflict was more the rule. By a thin margin a majority of divisions produced this result. In less than five percent of cases was divergence inconsequential or non-existent. Finally, to put things in

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<sup>595</sup> For examples of Whig factionalism on slave discipline, property rights, and manumission policy, see Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):422, 809, 866, 904, 997.

Table 17 Bloc Voting Alignments and Two-Party Polarity (1854-1861)		
Alignment	Ohio	Tennessee
Consensus	4	38
Scatter	44	29
Conflict	52	31
Polarity Score:	Democrat +76	Democrat +20

\*The “consensus” category reflects the percentage of roll-call divisions wherein 60 percent or more of both parties responded the same. The “conflict” category pertains to instances wherein at least 60 percent of each party’s membership, respectively, voted different. The “polarity” score shows the absolute difference between each party’s aggregated voting score on all roll-call divisions. Explanation of the technique used in this Table is given in Appendix A.

broader perspective, three-quarters or more of roll-calls recorded on slavery extension issues produced a significant gap across party lines.<sup>596</sup>

#### IV. Tennessee Legislators in the Late 1850s

While legal reform in Tennessee turned increasingly in racist directions, this trend came rather late in the day and, in the end, had limits. Democrats, once in the saddle, enacted much of this legislation. Nonetheless, party discipline proved difficult to sustain, particularly as racist proposals became ever more extreme. Nor did legislators operate in a vacuum. The governor issued messages to each session which sometimes included recommendations on racial policy. But with no veto power the executive branch lacked clout. The state judiciary, however, interpreted meanings of laws and therefore played a key role in regulating how legal requirements practically played out.<sup>597</sup>

The point is that state government across the board needs to be studied as a whole. Once enough preliminary spadework is done perhaps a better foundation will exist for comparative analysis. Some things, though, are already understood. The State Supreme Court, for example, did little to overturn what Democrat lawmakers were doing, but it did

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<sup>596</sup> Roll calls relating to slavery and federal relations are located in Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):1094-1097; Journal of the 31<sup>st</sup> Tennessee House of Representatives (1855):468, 560; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):404; Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):549; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):943; Journal of the 33<sup>rd</sup> Tennessee House of Representatives, Extra Session (1861):229; Journal of the 51<sup>st</sup> Ohio Senate (1854):167, 234, 250, 253, 279, 283-284, 590, 628; Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):133, 210-211, 349, 365-366, 379-380, 387; Journal of the 52<sup>nd</sup> Ohio Senate (1856):68-69, 120-121, 144, 227, 414, 421; Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):172, 226-228, 248, 337, 350-353, 537-539; Journal of the 52<sup>nd</sup> Ohio Senate, 2<sup>nd</sup> Session (1857):83, 260, 268, 385, 425-426, 454-456; Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):25, 529, 565-566; Journal of the 53<sup>rd</sup> Ohio Senate (1858):28-29, 34-36, 51-52, 90; Journal of the 53<sup>rd</sup> Ohio House of Representatives (1858):41-45, 149, 206, 214, 275, 364-365; Journal of the 53<sup>rd</sup> Ohio Senate, 2<sup>nd</sup> Session (1859):87, 123; Journal of the 53<sup>rd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1859):188, 308-310, 312, 317-319, 624; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):398-399.

<sup>597</sup> White, ed., Messages of the Governors of Tennessee, v. 5.

temper the harshness of some new laws as well as some of the older ones. The state judiciary on numerous occasions did intervene to protect some basic rights of certain African Americans, free and enslaved. Justices never retreated from defending a right to private manumission; granted, they deemed removal clauses constitutional. The legal argument still held sway, additionally, that slaves had a twofold character under the law as both property and human beings, which allowed them to receive an offer of freedom.<sup>598</sup>

The high court, at the time, was less keen about the legal anomaly of quasi-free slaves. As a means to curb the practice, justices ruled that masters were liable for actions of servants living in a state of “inchoate freedom.” While concurring slaves could not hold private property, justices also deemed it appropriate for local courts to safeguard legacies left to individuals promised freedom until that event happened. Incredulous as it may seem from hindsight, given the intensity of racist activity at the time, a member of the State Supreme Court insisted in 1859 that Tennessee had a “liberal” slave and emancipation code, “let others be as they may.” If comparative reference was to South Carolina, though, his comment does make some sense.<sup>599</sup>

Of course, there was little review of fundamental political rights. What was discussed usually involved retention of existing emoluments rather than the resurrection of old ones. Nonetheless, even when expulsion debates created a public sensation, Democrat John Catron of the United States Supreme Court weighed in to express disapproval and argue that free blacks were not bereft of constitutional protections under state organic

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<sup>598</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:559-579.

<sup>599</sup> *Ibid.*, pp. 538, 577-578.



law. Most of the state high court's time, however, was spent dealing with cases concerning valuation of slave property, validity of titles, warranties of soundness, or attempts to hide slave assets from creditors. After all, with repeal of the slave import ban, slavery was booming. The average price per slave unit in 1836 had been \$584. By 1859, it was \$854. About 150,000 slaves resided in the state in the mid-1830s. By the late 1850s, numbers had grown by another 100,000. Free blacks numbered 7,300.<sup>600</sup>

Considerations about slavery thus dwarfed matters relating to free blacks although the subjects increasingly became closely intertwined. As a result courts weighed the rights of African Americans, even if free men and women, against the requirements of slave society. While granting regulations and restraints were needed to preserve social order, judicial oversight aimed, as well, to negate ill-treatment of bondsmen, with especial attention paid to hired-out servants, without undermining the master's property rights. Justices, for example, deemed flogging an acceptable form of discipline (even a humanitarian innovation in some ways). They insisted punishment also must not go beyond bounds of moderate correction. Similarly, the high bench sanctioned slave patrols as essential to the safety and well-being of everybody if functioning properly--which meant not visiting "reckless and wanton" violence on slaves or free blacks. In addition, justices ruled customary gatherings, such as attending funerals, religious

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<sup>600</sup> Ibid., pp. 560-563; Weekly Anglo-African, January 14, 1860; Walker, The Statistics of the Population of the United States (1872):61-63; Robert E. Corlew, "Some Aspects of Slavery in Dickson County," Tennessee Historical Quarterly, 10 (December 1951):232; also see Donald L. Winters, "Plain Folk of the Old South Reexamined: Economic Democracy in Tennessee," Journal of Southern History, 53 (November 1987):565-586; Donald L. Winters, "Farm Size and Production Choices: Tennessee 1850-1860," Tennessee Historical Quarterly, 52 (Winter 1993):212-224.

services, or other “innocent enjoyments,” did not require slaves to have a written pass from a master.<sup>601</sup>

In sum, the State Supreme Court functioned in many ways to buttress the slave system and streamline its mechanisms but, in so doing, also sought to uphold admittedly scanty rights of free blacks and even slaves. While not obstructing the trajectory set down in the legislature, the justices did tone things down a bit. What would be helpful is to know how county court judges acted in cases never making it to the appellate level. Some research has been done on three East Tennessee counties. The findings suggest that judges granted manumission petitions often, dispensed rather even-handed justice in freedom suits, and more often than not granted motions on appeal. What was happening elsewhere, unfortunately, remains murky.<sup>602</sup>

Certain evidence does tell us about local legal settings, at least in terms of city ordinances and the like. How the law was implemented in specific localities, regrettably, is only dimly perceived at present. The bulk of the data available pertains to Nashville or Memphis. Various hamlets and small towns, however, also implemented local restrictions. In 1815, for instance, Greenville enacted a curfew. Nashville had the largest free black community in the state and, not too surprisingly, the most comprehensive regulations. Local restraints appear in early statehood but supplemental ordinances came in two waves later. In 1837 meetings for any purpose were prohibited after ten o'clock at

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<sup>601</sup> Catterall, ed., Judiciary Cases Concerning American Slavery and the Negro, 2:563, 566, 568-570, 573.

<sup>602</sup> Arthur F. Howington, “What Sayeth the Law”: The Treatment of Slaves and Free Blacks in the State and Local Courts of Tennessee (New York: Garland Publishing Co., 1986). On the growth of concepts about legal guardianship or “selling” white men for fines, see Durwood Dunn, “Apprenticeship and Indentured Servitude in Tennessee Before the Civil War,” West Tennessee Historical Society Papers, 36 (October 1982):25-40.

night. Free blacks also had to register with the city recorder or risk being taken up as a slave. If at-large without free papers, a fine of \$3.50 was levied.<sup>603</sup>

In the 1850s, new restrictions emerged although a ban on buying and reselling market goods became a “dead letter.” Nonetheless, the city marshal was required now to ascertain the residence and employment of all free blacks. Those individuals with no visible means of support were taken into custody and treated as vagrants. A ten dollar fine was the penalty if a free black person permitted a slave to remain in his home on the Sabbath or at night between sunset and sunrise without the owner’s permission. Finally, after the slave revolt panic in 1856, city officials banned free blacks from attending church services after sundown, preaching to exclusively black congregations, or establishing schools. One more requirement was added: all resident free blacks found in “suspicious circumstances” faced arrest.<sup>604</sup>

Memphis officials did little before the 1840s other than enact a ten o’clock p.m. curfew. Free blacks on the streets after that time faced a fine of two dollars along with incarceration. The State Supreme Court struck the ordinance down deeming the curfew “oppressive.” Among other things, justices felt it unfair to make free blacks hide in their den, like an animal, when the most viable employment opportunities often involved nighttime work. City officials responded with a new ordinance imposing a ten dollar fine

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<sup>603</sup> Anita S. Goodstein, “Black History on the Nashville Frontier, 1780-1810,” Tennessee Historical Quarterly, 38 (1979):401-420; Imes, “The Legal Status of Free Negroes and Slaves in Tennessee,” p. 270; Schweninger, “The Free-Slave Phenomenon,” pp. 296-299.

<sup>604</sup> Gower and Allen, eds., Pen and Sword, pp. 335, 470, 565; England, “The Free Negro in Ante-Bellum Tennessee,” pp. 55-58; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” p. 68; Schweninger, “A Slave Family in the Ante Bellum South,” p. 42. Also see Mechal Sobel, “‘They Can Never Prosper Together’: Black and White Baptists in Nashville, Tennessee,” Tennessee Historical Quarterly, 38 (Fall 1979):296-307; W. Ridley Wills, III, “Black-White Relations on the Bell Meade Plantation,” Tennessee Historical Quarterly, 50 (Spring 1991):17-32.

and fifteen lashes on any free black away from home after the ten o'clock deadline. The next year a new ordinance banned steamboats from remaining at the landing for more than three hours, if coming from the North and carrying any free black person. A fifty dollar fine for each free black so identified was the penalty for violators. If such free blacks remained more than one hour after city officers informed them to leave, they were sentenced to thirty days in jail, to be repeated if the individual did not depart within two hours after being released.<sup>605</sup>

During the 1850s Memphis officials also enacted an ordinance similar to what Nashville had. A list of free blacks was kept at the recorder's court which identified residence and employment. Free blacks with no visible means of support were deemed vagrants and, if unable to produce free papers, treated as a slave. Police officers received a two dollar fee for every arrest made. The board of alderman also levied fines to prevent congregating in tippling houses and otherwise tried to restrict access to liquor. Later, in response to the slave revolt panic, city officials discouraged "Ebony Schools" which taught blacks to read and write. Ultimately, too, they changed the curfew to nine o'clock p.m. What did not fly was a proposal for the mayor to give free blacks sixty days notice to leave the city. Instead, a committee was appointed to study the problem, including the rising free black arrest rate.<sup>606</sup>

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<sup>605</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 2:537; Marius Carriere, Jr., "Blacks in Pre-Civil War Memphis," Tennessee Historical Quarterly, 48 (Spring 1989):3-14; Bette Tilley, "The Spirit of Improvement: Reformism and Slavery in West Tennessee," West Tennessee Historical Society Papers, 28 (1974):25-42.

<sup>606</sup> Memphis Daily Appeal, May 20, August 15, October 11, 1851, May 29, June 1, 1852; Carriere, "Blacks in Pre-Civil War Memphis," pp. 3-14. Also see Faye T. Davidson, "Ames Plantation, Grand Junction," Tennessee Historical Quarterly, 38 (Fall 1979):267-276; Steve Baker, "Free Blacks in Ante-Bellum Madison County," Tennessee Historical Quarterly, 52 (Spring 1993):56-63.

If the late 1850s judiciary buffered harsher features of the law, while sustaining it overall, and local officials enacted a slew of discriminatory local ordinances, what were legislators doing at roughly the same time? The appropriate answer depends on what exact time frame, specifically, one is talking about. In the sessions of 1855 and 1856, for instance, mixed party government continued. Democrats now had an advantage in the lower house whereas Whigs held an edge in the Senate. The local slave code received much attention. Regulating advertisement of slave sales, costs of slave prosecutions, taxes on hired slaves or slave traders, amongst other things, all came under review.<sup>607</sup>

In bipartisan fashion, the upper chamber also favored a bill for amending the slave criminal code, to include a Whig addendum to restrict slave access to guns. During preliminary proceedings, though, most Whig senators offered ameliorative amendments instead. A Democrat also proposed increasing the liability of masters for actions of slaves, to which some Whigs sarcastically replied with proposals to include oxen and asses, too. At day's end, legislative output was limited to a few new statutes on compensation of patrollers and authorization of plantation patrols without remuneration. Revisions of the free black code, while sparse, perhaps are more noteworthy.<sup>608</sup>

But not necessarily in every case was this so. One legal change precluded bringing free black convicts into the state to sell as slaves. While perhaps an ameliorative reform for these individuals the law also served another purpose; namely, to avoid future quibbling about validity of titles to chattel property. This law also did not impact resident free blacks. Another statute had extremely limited application. It required free blacks in

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<sup>607</sup> Journal of the 31<sup>st</sup> Tennessee Senate (1855):452, 532, 655.

<sup>608</sup> Ibid., pp. 295; Patterson, The Negro in Tennessee, pp. 35, 39; Imes, "The Legal Status of Free Negroes and Slaves in Tennessee," p. 270.

Lauderdale County, in West Tennessee, to perform public roadwork. Yet, in 1850, this county contained six free blacks; a decade later numbers only had grown to twenty-one. In other words, the reach of the new law was quite restricted.<sup>609</sup>

The most significant enactment decreed it illegal for free blacks to make a business of buying up market products and other articles, or bartering for them, and again reselling the same. No roll-calls were recorded on any of these measures, although it is known a Whig introduced the latter measure in the lower house. But, given the distribution of seats across each chamber, elements in both parties had to acquiesce in passage at some point. On a more ameliorative note, legislators granted exemption from the removal clause for freedmen who enjoyed that status prior to 1854. A Whig sponsored the bill in the lower chamber and a Whig judiciary committee reported favorably in the Senate. Ultimately, once replaced with a substitute version, this measure passed with the support of 80 percent of the Whigs but only about 25 percent of Democrats.<sup>610</sup>

Little else transpired besides a debate on paying for services of “boy George,” perhaps a free black but possibly a hired slave; the Democrat vote on it was scattered. In addition, a division was recorded on a bill to restrict the business of shaving. Four-fifths of Whigs favored passage of what seems to have been a measure to give black barbers preference in this labor market. Three-fourths of Democrats voted against it.<sup>611</sup>

Finally, it is important to factor in the various racial proposals that made little headway. A House Democrat, for instance, presented a bill to prevent abduction of white

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<sup>609</sup> DeBow, The Seventh Census, p. 573; Kennedy, The Eighth Census, p. 466 Patterson, The Negro In Tennessee, p. 44; Tilley, “The Spirit of Improvement,” pp. 25-42.

<sup>610</sup> Journal of the 31<sup>st</sup> Tennessee Senate (1855):348, 410; Journal of the 31<sup>st</sup> Tennessee House of Representatives (1855):300;

<sup>611</sup> Journal of the 31<sup>st</sup> Tennessee Senate (1855):204, 686.

females that fits this class. A similar fate awaited a Whig measure to repeal part of the act of 1842. Of especial significance, another Whig vetted the issue of expelling free blacks from the state. This initiative made it to a second reading and then was buried after reference to the judiciary committee. In sum, when Democrats surged to the fore in 1857 recent legislative trends already were tilting in racist directions. But, generally speaking, the laws enacted were rather scanty and not very systematic in design. Some of the more extreme proposals, in addition, bit the dust.<sup>612</sup>

In the sessions between 1857 and 1861 Democrats held a constant advantage in the lower house, forty-two to thirty-three. Initially, they controlled eighteen seats in the Senate. Whigs only had seven. By 1859 the differential declined to fourteen to eleven. Most laws enacted came in 1858 when Democrats were at high tide. Many revisions in the slave code, of course, probably came in response to the recent insurrection scare. One change, for example, allowed only one slave per plantation to hunt during planting or harvesting seasons with a dog and gun, and only if a court certificate was granted. Masters were liable for any financial damages of slaves who hunted; guilty slaves lashed less than thirty times. A fine also was assessed on a master if a slave was found hunting at night by firelight with a gun.<sup>613</sup>

Other new statutes abbreviated existing patrol laws or required slaves--unless a domestic house servant--to have a court pass if traveling abroad. Violators were sold as runaways. Debate continued, too, on matters involving hiring slaves and payment of taxes, regulation of advertisements of slave sales, compensation for slaves executed by

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<sup>612</sup> Journal of the 31<sup>st</sup> Tennessee House of Representatives (1855):416, 470, 571.

<sup>613</sup> Patterson, The Negro in Tennessee, pp. 25-26.

the State, or securing titles to slave property. Some new discussions arose, too, on protecting slave property of married women while securing the rights of a spouse's creditors, or whether female slaves met slaveholder public roadwork requirements. A novel proposal was the idea of joint ownership of slaves. House members across party lines favored this plan; a bipartisan senate opposed it.<sup>614</sup>

The most commonly addressed aspect of the slave code, above all else, was what to do about runaways. Both parties favored prompt rendition but disagreed on mechanics of how to achieve that end and other particulars. Nobody opposed a patrol law, although a Democrat senator did try to repeal certain recent accretions to it. The Senate, in addition, unanimously passed a Whig proposal to stiffen penalties for harboring fugitives. Parties were not entirely likeminded on another bill for safekeeping of runaways in the state penitentiary, possibly a measure to prevent abuse in collection of bounty fees in local neighborhoods where slaves resided.<sup>615</sup>

Every Whig senator voted for it against a bare majority of Democrats. By final passage Democrat had amended the bill to provide for sale of runaways after three years. Two-thirds of Democrats backed up their colleague; a mere fifth of Whigs did. In a later session, however, bipartisanship resurfaced on a bill to repeal a part of the runaway code, which in some way was related to a counterproposal about abolitionist documents.

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<sup>614</sup> Wish, "The Slave Insurrection Panic of 1856," pp. 206-222; Dew, "Black Ironworkers and the Slave Insurrection Panic of 1856," pp. 335-338; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):172-173, 567, 633; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):316. Roll calls on joint ownership of slave property are located in Journal of the 33<sup>rd</sup> Tennessee Senate (1859):709; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):904.

<sup>615</sup> Journal of the 32<sup>nd</sup> Tennessee Senate (1857):670, 772.



Despite a Democratic committee recommendation against it, the bill passed the lower house, 54 to 2. Senators concurred, 16 to 4.<sup>616</sup>

Runaways sometimes did make it outside state borders whereby jurisdictional authority passed to the federal government. As such, debates over local rendition policy often became intertwined with dialogue about the federal fugitive slave law. Of course, collateral connections to debates about treatment of local free blacks, at the same time, eroded, too. In any case, both state parties called consistently for rigid enforcement of the federal law. What divided the two coalitions was the proper response to attempts in the North to nullify its operation. Democrats acted more stridently, demanding strict compliance in bombastic, uncompromising language.<sup>617</sup>

Whigs wanted the same outcome; one suggested making a formal request for Canadians to return runaways, too. As a rule, though, Whigs spoke in milder tones to cool inflamed passions across the sectional chasm. Ultimately, on the eve of the Civil War, a Whig resolution, probably too palliative for Democrat taste, was shot down. Nine-tenths of Locos voted to table it against two-thirds of Whigs. But it was Democrats who earlier scattered, while Whigs stood united, on an unsuccessful motion to table reconsideration. A bare majority of Democrats voted “yea.” Only a tenth of Whigs did.<sup>618</sup>

More germane to the central line of inquiry, the Democratic legislature also revisited the free black code. The flurry of new statutes enacted was a marked departure from the

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<sup>616</sup> *Ibid.*, p. 540; *Journal of the 33<sup>rd</sup> Tennessee Senate* (1859):621; *Journal of the 33<sup>rd</sup> Tennessee House of Representatives* (1859):866.

<sup>617</sup> Braden, ed., *Oratory of the Old South, 1828-1860*; “Speeches of John Bell, Felix Zollicoffer, and J. V. Wright,” *Congressional Globe* (1856):137, 357, 785, appendix, p. 1065; Gowen and Allen, eds., *Pen and Sword*, p. 410.

<sup>618</sup> *Journal of the 33<sup>rd</sup> Tennessee House of Representatives*, Extra Session (1861):229.

normative pattern over the past few decades. The bulk of legislative output came in 1858 but new laws appeared in 1860, too. All promoted racist ends. Nonetheless, this slave society still permitted at least some African Americans not to live in bondage. Nor were both parties always agreed on outcomes. Of particular significance, the most blatant attempts at demarcating freedom and enslavement through exclusive use of the “color line” did not succeed. Finally, the timing of many reforms, chronologically speaking, coincides closely with fallout from the slave revolt panic in 1856. A House Whig sponsored a bill explicitly dealing with free blacks and slave insurrections. In addition, later racist initiatives often followed on the heels of the Harper’s Ferry Raid.<sup>619</sup>

It seems reasonable to surmise enactment of a new law on detecting “Negro plots” was in response to recent local hysteria about a possible slave uprising, although many observers doubted any alleged conspiracy really existed. In any case, the new law made it a capital offense for a free black person, or slave, to aid, abet, or advise insurrectionary activity. The law also reverted to an earlier method of indictment. Circuit court judges were empowered to empanel a grand jury and call a special session upon allegation of five responsible persons of a slave revolt in the making.<sup>620</sup>

Regrettably, no division was recorded on the issue. The same lacuna existed with regard to a couple of new statutes which also seem to have been instigated by concerns about possible slave militancy. First, the fine assessed on free blacks for entertaining

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<sup>619</sup> Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):252. Atkins notes that several proposals for expulsion in 1859 were introduced prior to the Harper’s Ferry affair. Actually, some efforts came in the preceding session. Atkins, “Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860,” p. 253.

<sup>620</sup> Nashville Democrat Randall McGavock made note in his journal of the “great” excitement over the slave revolt panic but was “inclined to think that much of it is without cause.” Gowen and Allen, eds., Pen and Sword, p. 385; Patterson, The Negro in Tennessee, p. 30.

slaves without a permit from their master was bolstered. Second, an employment ban was placed on working as an engineer for railroad companies. An unsuccessful initiative to ban blacks from retailing liquor probably falls in this class, too. A division was taken on this issue. Some Whigs abstained but among colleagues voting, everyone responded “nay.” A bare majority of Democrats answered the same.<sup>621</sup>

The Democratic legislature enacted another law which also was probably connected in some way to the unsettled state of the public mind. In this instance, however, we begin to see legal reforms strain more visibly towards ideological racist outcomes. This law subjected free blacks to the slave criminal code in capital cases. In other words, the law in this area was now reduced to simple categories of white and black. Specific crimes enumerated included murder, intent to murder a white person, accessory to murder, or preparing poison or medicine with an intent to kill someone. Rape of a free white female also warranted a death sentence as did intent to commit such a rape and attempting or having sexual intercourse with a free white female less than twelve years of age. Finally, robbery, arson, and burglary merited hanging.<sup>622</sup>

Not too much is known about where parties stood. A roll call in the Senate on the arson provision was taken. By a narrow margin, a bare majority in each party passed it. Official journals also show the original bill for amending the slave criminal code included nothing about free blacks at all. The judiciary committee made the addition. On third reading bipartisanship then prevailed. The final tally was 17 to 2.<sup>623</sup>

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<sup>621</sup> Journal of the 32<sup>nd</sup> Tennessee Senate (1857):505; Wish, “The Insurrection Panic of 1856,” pp. 206-222.

<sup>622</sup> Imes, “The Legal Status of Free Negroes and Slaves in Tennessee,” p. 270.

<sup>623</sup> Journal of the 32<sup>nd</sup> Tennessee Senate (1857):115, 551.

Another new statute on voluntary enslavement also implies ideological racism was on the rise. Few free blacks responded to this opportunity. To request such status under a particular master, one had to be at least eighteen years old and file a petition with two witnesses in circuit or chancery court. Petitioner and chosen master then went to court together to post bond for securing title. A commission assessed a slave's value whereupon the prospective owner paid one-tenth of the amount into the public school fund. A child of a person exercising this "privilege" was not enslaved.<sup>624</sup>

No division was recorded on final passage. What was documented is that it was a Whig in each chamber that proposed the reforms. In the House a Democrat did try to raise the minimum age requirement to twenty-one but this motion failed. A Whig amendment to provide the right to pick a new master after death of a current one was tabled, 41 to 26. Two-thirds of Whigs voted for derailment, whereas barely half the Democrats acted likewise. A proposal did pass in the Senate, 15 to 7, to recede from an amendment to exempt the voluntarily enslaved from execution sales. Two-thirds of the Democrats voted to discard this ameliorative provision. Quite a few Whigs abstained. Amongst those Whigs responding, three-fourths agreed.<sup>625</sup>

The capstone to collapsing free black and slave distinctions was the initiative to drive free blacks out of the state. Freshly-minted black freedmen caused little worry due to the removal clause. A main undertaking initially focused more narrowly on measures to

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<sup>624</sup> Trabue claims few Tennessee free blacks opted for the voluntary enslavement option. Trabue, "The Voluntary Emancipation of Slaves in Tennessee as Reflected in the State's Legislation and Judicial Decisions," pp. 63-68. The law later was altered to require payment of one-half the assessed value of a voluntary slave instead of one-tenth. Atkins, "Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860," p. 256.

<sup>625</sup> Journal of the 32<sup>nd</sup> Tennessee Senate (1857):669; Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):389.

prevent ex-felons, if African-Americans, from going at-large. It was not successful. It is relevant that a Whig senator also introduced a bill to retain free blacks in the state, as well as the fact that he later withdrew it. In the Senate the judiciary committee modified the ex-felon bill; next a Democrat offered an amendment to hire such persons out to raise funds for transportation to Africa. A fellow Democrat then tried unsuccessfully to table the proposal. Every Whig but two voted for this motion. Two-thirds of Democrats did not. Later, the amendment was adopted, 13 to 11. Less than a third of Locos voted against it; almost 90 percent of Whigs did the same.<sup>626</sup>

An intramural exchange then occurred amongst Democrats. One wanted to reconsider the amendment again but another moved to table the idea, which lost, 9 to 13. The only favorable votes came from two-fifths of Democrats. What happened next is not clear although the bill ultimately passed, 15 to 4. Dissenters now featured even fewer Democrats. In the end it made scant difference. In bipartisan fashion, House members tabled the bill, 48 to 8. More than four-fifths of each party favored this result. The initial attempt at evicting free blacks had fizzled.<sup>627</sup>

When legislators reconvened in 1859 the militant racist wing of the Democracy resumed the crusade. The internal balance-of-power within the state party, it should be noted, had been changing in recent years. Early in the decade electoral gains came from backcountry yeomanry in northwest East Tennessee, where Andrew Johnson's tirades against elite slaveholders made him popular, as did his reputed preference for a "free white basis" in congressional apportionment counts. By the late 1850s accretions to the

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<sup>626</sup> Journal of the 32<sup>nd</sup> Tennessee Senate (1857):357.

<sup>627</sup> Ibid., pp. 357, 588; Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):882.

party more often were West Tennesseans. A more militant Southern Rights faction, as a result, surged towards the forefront--Governor Isham Harris was prominent in its ranks.<sup>628</sup>

The campaign targeting free blacks now resumed. Divergent behavior across party lines became quite visibly pronounced, too. Many initiatives still related to concerns about potential slave unrest and free blacks as provocateurs, distempered further by recent events at Harper's Ferry. Both parties were appalled at this affair but disagreed on a proper reaction. Democrats wanted to raise hell. Whigs preferred a measured response. A possible consequence, too, was enactment of a statute making it a capital crime for a free black person or slave to obstruct railroads.<sup>629</sup>

At the same time it is also the case that much proposed legislation tried to advance ideologically racist ends by collapsing the differences between free blacks and slaves indiscriminately in specific legal provisions. A Democrat, for instance, sponsored a bill to further restrain "colored" people from assembling in larger than small groups. A committee of fellow party members, however, was unimpressed. Ultimately, a Democrat moved to strike out the enacting clause. What happened next is unclear. In the end, no new statute appeared.<sup>630</sup>

Several other racist initiatives failed, too. Hence, while the Tennessee Democracy was at its racist high tide, and the meter potentially could have gone still higher, yet an

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<sup>628</sup> Knoxville Register, June 21, June 28, July 12, 1855; Bergeron, Antebellum Politics in Tennessee, pp. 124-128.

<sup>629</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):284, 290; White, ed., Messages of the Governors of Tennessee, 5:168, 253-254; Imes, "The Legal Status of Free Negroes and Slaves in Tennessee," pp. 268-272.

<sup>630</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859).

important consideration emerges when talking about consensual outlooks and alignments. Numerous proposals, for example, met with disapproval from Democrats on the “Negro Committee,” although in some ways this occurred due to desires to focus on pet projects. A petition to ban black mechanics, in any case, was shelved this way. In the other chamber, however, a committee also rejected a bill for relief of “colored heirs.” Its report insisted legacies belonged to the school fund. A minority protest, though, was issued.<sup>631</sup>

Certain proposals came to a vote. One bill, for example, which lost, 15 to 36, aimed to ban educating free blacks or slaves. Whigs, with rare exceptions, rebuffed it. So did two-thirds of Democrats. A similar yet less enthusiastic greeting met a bill to ban black preaching. It was shot down, 43 to 13. Bipartisanship was most pronounced on a division in which every Whig and three-fourths of Democrats rejected a bill to allow blacks to testify in court in certain cases. Given its Democrat sponsor and the types of legislators that supported the measure, it seems probable this proposal aimed at providing more effective means to detect illegal trade, tampering with slaves, and the like.<sup>632</sup>

The main debate involved proposals to expel free blacks from the state. Historians have aptly described proceedings elsewhere and appropriately noted heightened polarity across party lines on this matter; therefore, my coverage will be somewhat abbreviated. Freshmen Democrats at the onset introduced three bills relating to the topic. The “Barksdale” bill would ban free blacks between the ages of twenty-one and fifty after 1861 and provide for selling violators at public auction as slaves. The “Bayless” bill would re-enslave all free blacks between eighteen and fifty years old that did not remove

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<sup>631</sup> Ibid., p. 635; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):279.

<sup>632</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):809, 814-815.

from the state. The “Vaughan” bill called for public auctions to sell all free blacks into slavery. Revenues generated, moreover, would go to the school fund to aid poor white children. The bill reported from committee, in the end, proposed to encourage free blacks to expatriate to Liberia or voluntarily enter slavery by making it mandatory that all free blacks, except minors, leave the state by May 1, 1861, or be sold into bondage.<sup>633</sup>

The proposal drew criticism from various quarters. Democrat proponents of the bill insisted free blacks had no rights except what was granted in statutory law, which could be repealed. A few members of the party, to be sure, pled instead that free blacks were fellow church communicants, who had always lived in freedom, and such shabby treatment violated principles of humanity. A few Whigs argued vested rights of blacks could not be so easily taken away; it would be an impairment of contract. One went further to claim free blacks were citizens under the state constitution even if denied the franchise. Still another simply felt this class of inhabitants served as valuable intermediaries between white society and the slave population, as well as occupied an important niche in the local economy. According to certain Democrats, alternatively, foreign immigrants or slaves could fill the void.<sup>634</sup>

Ultimately, the “Barksdale” Bill passed third reading in the lower house by a margin of 40 to 29. Four-fifths of Democrats voted for it. Almost three-fourths of Whigs did

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<sup>633</sup> The roll calls examined by Atkins mostly indicate pronounced two-party divergence. Not all divisions taken in this session, of course, produced this cleavage. This article is the most solid review of the expulsion debates, see Jonathan M. Atkins, “Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860,” *Journal of Southern History*, 71 (May 2005):245-278.

<sup>634</sup> “Justice Catron on the Question of Enslaving Free Negroes,” *Weekly Anglo-African*, January 14, 1860; *Nashville Republican Banner*, December 21, 1859, January 5, January 15, January 19, 1860; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” pp. 172-174; Ira Berlin and Herbert G. Gutman, “Natives and Immigrants, Free Men and Slaves: Urban Workingmen in the Antebellum South,” *American Historical Review*, 88 (1993):1175-1200.



not. Party divergence appeared on several other divisions, too. A proposal to imprison certain free blacks rather than remove them, for example, drew support from 56 percent of Whigs but only 20 percent of Democrats. Three-fifths of Whigs, in addition, voted for a proposal to ban only “undesirable” free blacks. Less than a fifth of Democrats agreed. Polarity was even more pronounced on divisions which replaced the committee bill with a second “Barksdale” Bill for deporting free blacks. The House also approved a Whig amendment to allocate any revenues generated from the sale of free blacks to the school fund. Fourth-fifths of Whigs approved; three-fifths of Democrats did not. A Democrat suggestion to move up the departure time, though, met defeat, 18 to 42. This time bipartisanship was more on display. Only two-fifths of Democrats and a fifth of the Whigs voted favorably. Finally, an attempt to lower the minimum age requirement lost more narrowly, 28 to 33. Democrats split almost right down the middle. Whigs tilted against the proposed amendment.<sup>635</sup>

The debate in the Senate was cantankerous. A new bill in lieu ultimately was adopted with support from almost 90 percent of Whigs but only 30 percent of Democrats. Final passage of the “Free Negro Bill,” in diluted form, though, did garner bipartisan support. Two-thirds of Democrats voted “yea”; so did three-fourths of Whigs. Various divisions taken during the course of proceedings almost merit attention, too. Agreement across party lines, for the most part, appeared on roll calls relating to special orders or rejection of a proposed referendum.<sup>636</sup>

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<sup>635</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):327.

<sup>636</sup> Journal of the 33<sup>rd</sup> Tennessee Senate (1859):458, 467, 522-523.

Most divisions instead reflect divergent party reactions. For example, an unsuccessful Whig amendment to permit free blacks to remain in the state, if five credible white persons testified to their upstanding character, drew support exclusively from 72 percent of the Whigs. A Democrat proposal to substitute expulsion with provisions for white guardians and bond requirements also was rebuffed. Barely one-half of Democrats voted for it. Only a tenth of Whigs did. The point is that the racist campaign failed to attain its full objectives, and party jousting was intense along the way. In the end, the two chambers could not reconcile the two bills each respectively had passed. The House measure called for eradicating free blacks within several decades. The Senate initiative provided for various exemptions and special acts. For the moment, as a result, free blacks would remain.<sup>637</sup>

During proceedings the topic of manumission laws was broached, too. These proposals usually came from Whigs as an alternative to expelling free blacks. A House Whig sponsored a bill, for example, to regulate manumission but later withdrew it. A bill to prevent emancipation also was dismissed. A Whig suggestion to table a motion for referring it to the “Negro Committee” prevailed with support of four-fifths of Democrats and one-half of the Whigs. Despite attempts to revive it, nothing resulted in the end. But, before all was said and done, Democrats would put yet another racist statute on the books.<sup>638</sup>

This law provided that slaves set free, for whom masters provided no funds for transportation to Africa, had a “privilege” of choosing a master and re-entering slavery.

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<sup>637</sup> Ibid., pp. 459, 523; Atkins, “Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860,” p. 271.

<sup>638</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):997.

In this case, black mothers acted on behalf of children under six years of age. In both chambers the bill passed with party alignments about the same. The measure received support of 75 to 87 percent of Democrats and 55 to 57 percent of Whigs, depending on the chamber under review. Bipartisan also was present but just barely.<sup>639</sup>

Thus, party conflict is more visible in this session, compared to earlier times, but it also is important to note its limitations, too. At times the two parties were basically in close agreement. When voting on routine matters, such as providing for official enumeration of white males, both parties acted almost identically. A Democrat proposal to permit use of the assembly hall for delivering lectures on racist theories also met little resistance. Finally, a resolution condemning “Black Republicans” received unanimous endorsement. Granted, Whigs unilaterally and unsuccessfully tried to amend it to read “and any other sectional party.”<sup>640</sup>

The session of 1861 was dominated by angst about the secession crisis. Tennessee held aloof for quite some time but, after Fort Sumter and Lincoln’s call for troops, she exercised a right of revolution and declared her independence. A bevy of proposed resolutions appeared which alluded to, among other things, slave property rights, constitutional protections, blessings of the master-slave relation, or sinister designs of “Black Republicans” to undermine slavery through such measures as the homestead bill. No new laws pertaining to free blacks appeared besides a provision allowing them to form military units to serve the Confederacy. Six Democrats and three Whigs did issue an address on rights of white men of the South. Of course, while laced with racist

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<sup>639</sup> Ibid., p. 1174; Journal of the 33<sup>rd</sup> Tennessee Senate (1859):699.

<sup>640</sup> Journal of the 33<sup>rd</sup> Tennessee Senate (1859):290, 328; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):1129.

content, the manifesto on its face calls into question the extent of white solidarity across sectional lines. A Whig, in addition, offered his own counter-address in protest.<sup>641</sup>

In sum, after a period of mixed party government Democrats roared into power and began revising the law code in ways suggestive of an ideological predisposition to systematize institutional racism. More than ever, Tennessee Democrats fit the mold of a party built on racist dogmas. But, then again, evidence shows they were not a unit, some plotted a “white republic” while others seemed content with the mere existence of some discriminatory laws. In the end, the outcome fell somewhere in-between. Whigs, importantly, behaved in a distinctive enough manner to cast doubt on simplistic notions of two-party consensus.

## V. Ohio Legislators in the Late 1850s

In Ohio, unlike Tennessee, Democrats most often were a minority element in the legislature. Republicans except for a brief interlude were in the ascendant. When the new party first swept into power in the sessions of 1856-1857, moreover, it enacted several ameliorative measures; much of this yield, it must be conceded, was wiped out shortly thereafter. The primary racist law that the Democrats next enacted was almost immediately invalidated by the courts. Republicans acted more subdued once back in power, and, ultimately, as civil war was brewing, they made their own racist contribution to the legal code of the state.<sup>642</sup>

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<sup>641</sup> Journal of the 33<sup>rd</sup> Tennessee House of Representatives, Extra Session (1861); Daniel Crofts, Reluctant Confederates: Upper South Unionists in the Secession Crisis (Chapel Hill: University of North Carolina Press, 1989); Charles Wesley, “The Employment of Negroes as Soldiers in the Confederate Army,” Journal of Negro History, 4 (July 1919):244-245.

Over the long haul, however, Republicans were mildly liberal on race questions. Much debate, of course, centered instead on issues pertaining to slavery extension. Discussion of fugitive slaves, abolitionists, and kidnapping of free blacks, nonetheless, intertwined with this dialogue, which riveted attention more closely on state racial policy. Other related free black matters, such as public school access or political status, were broached but not deeply probed. Hence, blacks complained that Republicans were not serious about substantial reform. Democrats called again for a ban on entry into the state. The colonization issue was under review, too, including emigration schemes involving Haiti.<sup>643</sup>

Liberal posturing among Republicans, it should be noted, was not limited to the Western Reserve, although this element did consider itself to be the vanguard to secure African-American rights and often held in contempt proslavery “ignoramuses” in the party from southern counties. The “ignoramuses,” in turn, showed disdain for Western Reserve peacocks who estimated themselves better Republicans than everyone else. An African-American pundit satirically lampooned Republicans from central Ohio as caught between extremes, therefore, having to pray good God and good Devil at the same time. While such hyperbole does tell us something about internal dissensions in Republican

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<sup>642</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:26-27; Middleton, The Black Laws in the Old Northwest, pp. 12, 30-32, 130, 135-136.

<sup>643</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):163; Journal of the 53<sup>rd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1859):307; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):467; Emmett D. Preston, Jr., “The Fugitive Slave Acts in Ohio,” Journal of Negro History, 28 (October 1943):422-477; Eric J. Cardinal, “Antislavery Sentiment and Political Transformation in the 1850’s: Portage County, Ohio,” The Old Northwest, 3 (September 1975):223-238; Bell, “Negro Nationalism: A Factor in Emigration Projects, 1858-1861,” p. 46.

ranks, voting data shows the southern Ohio Republican crowd rarely cast racist votes, relatively speaking, unless directly compared to Western Reserve Radicals.<sup>644</sup>

Republicans dominated each chamber in the session of 1856-1857. The main debate on local race relations involved the federal fugitive slave law. Among other things the State Supreme Court became ensnared in slave rescue cases because of instances of state officials seizing U. S. marshals and disputes over a right of sojourn. Republican justices agreed that the federal law must be enforced but also sometimes implied they might look the other way as private citizens if encountering a slave in flight. What created disagreement was the proper status of a slave allowed to reside in Ohio, who was thereby made freed, if he returned voluntarily to slave society.<sup>645</sup>

The Republican legislature struck a more radical pose, enacting several new statutes to obstruct execution of the federal fugitive slave law and thwart the kidnapping of free blacks. One law prohibited the use of state jails to incarcerate persons if the only charge against them was being a fugitive from labor. The penalty for violation was \$500 and thirty to ninety days in jail. This measure passed in the lower house, 56 to 38. Four-fifths of Republicans voted for it. Every Democrat was against it. On a division to adopt the recommendation of a Republican select committee to endorse a senate amendment to the bill, the vote again was along nearly straight party lines. Among Republicans, 93 percent responded favorably; only 3 percent of Democrats did, too.<sup>646</sup>

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<sup>644</sup> “Democrat State Convention” and “The Western Reserve,” in Ohio State Journal, January 7, January 24, 1861; “Letter from Cleveland—Charlie,” Weekly Anglo-African, June 30, 1860.

<sup>645</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:17-22.

<sup>646</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):262, 519; Middleton, The Black Laws of the Old Northwest, p. 130.

Another law pertained to preventing kidnapping and banning slaveholding. Its provisions did not extend to officials acting under the federal constitution. This statute made the detainment of free blacks under false pretenses a crime. Conviction for intending to detain carried a penalty of a \$200 to \$500 fine and three to nine months in prison. To do the deed raised the lower end of the minimum fine to \$300. The sentence for intending to kidnap and enslave was three-to-seven years of hard labor at the state prison. This act was approved, 26 to 7. In the Senate every Republican voted “yea” but one; Democrats—and there were not many—aligned against it. House parties polarized, too, when the bill passed, 62 to 28. About nine-tenths of Republicans, but only one Democrat, favored this result. On preliminary roll calls, moreover, Democrats in unanimous fashion often had tried to obstruct the bill’s progress.<sup>647</sup>

Republicans were not quite done on this topic. Yet another statute replaced the old law of 1831. The minimum penalty of three years in prison for decoying away free blacks was retained. What changed was the upper ceiling rose from seven to eight years and, if convicted, defendants were liable for the costs of prosecuting their case. Senate parties diverged on this issue but so few Democrats were involved that their influence, overall, was negligible. Three of five opposed the bill. It passed, 22 to 5, with support from nine-tenths of Republicans. Bipartisanship prevailed in the House, however, which passed the bill, 90 to 3. Every Republican and 85 percent of Democrats voted in the affirmative.<sup>648</sup>

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<sup>647</sup> *Ibid.*, pp. 528, 563, 567; Journal of the 52<sup>nd</sup> Ohio Senate, 2<sup>nd</sup> Session (1857):408; Middleton, The Black Laws in the Old Northwest, pp. 30-31.

<sup>648</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):544; Middleton, The Black Laws in the Old Northwest, pp. 31-32.

Of course, much of the urgency about kidnapping free blacks had to do with broader debates about the federal fugitive rendition law. In some ways Republicans used these discussions to generate political capital, but the fact remains some black Ohioans were kidnapped into slavery. The famous Garner case in which a runaway slave mother killed her own child prior to recapture, drew a response, too. Resolutions urging remedial action to prevent a recurrence of such a tragedy passed over opposition from Democrats and a tenth of Republicans.<sup>649</sup>

Two-party polarity also was the norm on divisions relating to instructing Ohio congressmen to seek repeal of the federal fugitive law. House Democrats tried unsuccessfully to thwart the resolution's progress. One offered an amendment to re-enact a state rendition law if the federal statute was repealed. Only one Republican favored it. Four-fifths of Democrats did. Senators endorsed a preamble deeming the slave-catcher law unconstitutional in a straight party vote except for two Republicans. In the end, senators softened instructions to urge repeal as early as practical. Republicans voted for this proposal. No Democrat did. The lower house passed this version, 65 to 34, with support from 90 percent of Republicans and a handful of Democrats.<sup>650</sup>

Various other aspects of the fugitive question also spawned polarized party responses, including bills on valuation of slaves in connection with chartering bridge companies spanning the Ohio River into Kentucky. A new statute to better organize and discipline the "white" militia also was enacted, which similarly divided the parties. In this case,

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<sup>649</sup> Journal of the 52<sup>nd</sup> Ohio Senate (1856):120; Julius Yanuck, "The Garner Fugitive Slave Case," Mississippi Valley Historical Review, 40 (June 1953):47-66.

<sup>650</sup> Journal of the 52<sup>nd</sup> Ohio Senate (1856):421; Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):537-539.



though, the “white” aspect was not at issue. The measure had more to do, as a threatening gesture, with clashes between state and federal authorities over rendition of fugitives. Republicans also enlarged the governor’s fund for legal counsel in such cases.<sup>651</sup>

Unsuccessful initiatives abounded. These Republican proposals sought either to prevent state officials from aiding U. S. marshals, force local sheriffs to arrest anyone enforcing the federal law, or launch an inquiry into securing jury trials for runaways or “outraged” free blacks. A bill to punish individuals assisting fugitive slaves also went nowhere. The intensity of racial debates intensified with issuance of the Dred Scott ruling. A House Republican even tried to amend a colleague’s proposal to denounce Prussian encroachments in Central Europe with a rider analogizing progress in despotism abroad to similar developments at home. Along near straight party lines the lower chamber ultimately passed a measure calling for reform of the U. S. Supreme Court. An earlier division on tabling it actually did pit every Republican against every Democrat. A Republican Senate committee reported the anti-Dred Scott resolutions. Democrats answered with two minority protests.<sup>652</sup>

Polarity across party lines appeared on almost every roll call although Democrats were too weak to derail anything. Among deviations from this pattern was a Republican substitute proposal pertaining to rights of U. S. citizens of other states under the Constitution; it lost, three to fourteen. Only two Democrats sided with the measure’s sponsor. Fourteen Republicans did not. Everybody else abstained. A Republican

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<sup>651</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):392; Middleton, The Black Laws in the Old Northwest, p. 14; Matthew Oyos, “The Mobilization of the Ohio Militia in the Civil War,” Ohio History, 98 (Summer-Autumn 1989):151.

<sup>652</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):316, 529, 565.

initiative to express dissent from the decision while regarding it as binding--as long as Ohio stayed in the Union--also met defeat, five to sixteen. A third of Republicans voted for it. Democrats probably did not like the “dissent” feature. The “binding” concession more likely disturbed erstwhile Republican allies. In the end, twenty-five Republicans passed the original protest resolutions over opposition of six Democrats.<sup>653</sup>

Most Republican angst about Taney’s ruling, to be certain, stressed its extra judicial; allegedly unconstitutional, nature, in particular in relation to property rights in slaves and congressional power to ban slavery in the territories. Much hyperbole also ensued about the chattel doctrine making future inroads into the “free” states. Worries about kidnapping escalated, too. Along straight party lines, in addition, Republicans passed a resolution declaring the right to sue extended to all citizens, black or white. African Americans did have some rights, at least so said many Ohio Republicans.<sup>654</sup>

Discussions about black status had been ongoing since the session of 1856. Of course, proceedings on enumerating white males had become a routine matter, although not every such proposal passed. More noteworthy, a Republican senator introduced a memorial from a “colored convention.” It requested lawmakers strike the word “white” in the state constitution so that the black community would be enfranchised and it would also eradicate other racial disabilities. Now, Republicans were befuddled. When a Republican moved to table and print, senators answered “no,” 12 to 16. All four Democrats responded so, as did twelve Republicans. Four others abstained.<sup>655</sup>

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<sup>653</sup> Journal of the 52<sup>nd</sup> Ohio Senate, 2<sup>nd</sup> Session (1857):260, 425-426, 454-456; appendix, p. 572-576

<sup>654</sup> *Ibid.*, pp. 425-426. On the “encroachment” of slavery into the North without explicit sanction for the “chattel” principle, see James L. Huston, “Property Rights in Slavery and the Coming of the Civil War,” Journal of Southern History, 65 (May 1999):249-286.

A similar issue was raised in the House, although things were more convoluted as the proposal to change the constitution came bundled together in a petition calling for Ohio to withdraw from the Union. In some ways this tied Republican hands. They were leery about the taint of abolitionism attaching but could not push black rights at this moment without brushing up against it. A Republican ultimately tried to table the matter, which lost, 40 to 57. Two-thirds of Republicans voted favorably but enough others crossed over to help Democrats defeat the motion. Three-fourths of Republicans then prevailed against everybody else to refer the petition to the Federal Relations Committee. The only report issued dealt with a suggestion that no one be elected to the U. S. Senate if “indifferent” to the Union. A Republican moved to table. Three-fourths of Democrats and almost half of his party concurred. The Federal Relations Committee, for its part, deemed the petitioners’ request unconstitutional.<sup>656</sup>

Senators dealt with this issue separately after receiving a petition from the Garrisonian Western Antislavery Society, based in Salem, urging Ohio secede from the United States. When a Republican moved to refer it to the Federal Relations Committee, a party colleague suggested instructions to reject the “insane” request. Democrats agreed but Republicans did not. Despite opposition from Democrats and three Republicans the reference was made. In the end, the Republican committee deemed the petitioners’ object as “treasonous.” Democrats probably approved but just wished Republicans were not the ones saying it.<sup>657</sup>

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<sup>655</sup> Journal of the 52<sup>nd</sup> Ohio Senate (1856):84.

<sup>656</sup> Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):172, 248-249, 268.

<sup>657</sup> Journal of the 52<sup>nd</sup> Ohio Senate (1856):144.

In the next session, a Republican presented another disunion petition. Every Democrat voted to table a Republican effort to refer it to a select committee, but four-fifths of the Republicans kept it alive. Again, Republicans used the occasion to contradict their popular image as being radical. Committeemen, for example, expressed regret at efforts to destroy the Union and recommended a conciliatory resolution instead, which was adopted. A proposal to print the report for broader dissemination, moreover, passed when twenty-two Republicans overrode objections of three Democrats.<sup>658</sup>

It perhaps is no coincidence that the Taney ruling chronologically paralleled a renewed push to ban any person of African descent whatsoever from exercising the suffrage. Democrats in both chambers introduced such measures which were then derailed after second reading. Senators did little in response to a memorial from a “colored convention” either. It was referred to a select committee of three Republicans which reported two resolutions. In the end, the documents were tabled and printed. So, Republicans thwarted efforts to denude certain mulattoes of the franchise but also proved reluctant to do much about extending the vote to the black community.<sup>659</sup>

Still, the Republican legislature did lean in ameliorative directions on some other things. A joint resolution was adopted calling on Congress to recognize Liberian independence. Republicans now were in the colonization business. Democrats still had no problem with expatriation but were reluctant to extend official sanction to black

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<sup>658</sup> Journal of the 52<sup>nd</sup> Ohio Senate, 2<sup>nd</sup> Session (1857):83, 268; appendix, pp. 562-566.

<sup>659</sup> Ibid., appendix, pp. 528-531; Journal of the 52<sup>nd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1857):183, 307.

republics. What especially upset them was a Republican attempt to amend a proposal for acquiring Cuba by adding Haiti.<sup>660</sup>

Finally, Republicans, almost right off the bat, had revisited the Cincinnati school law and extended greater autonomy to the black community in terms of overseeing “colored” districts. Under its provisions black property was listed and taxed; teachers were to be competent and of moral character. After due public notice, in addition, adult, male African-American residents in each district would annually elect three school directors. These men, in turn, would manage the school system and control school funds without much white oversight other than wrangling over annual proposed budgets. Directors, rather than the white school board, also filled vacancies. One more thing, the law defined the word “colored” to mean “reputed” to be whole or in part African descent. Perhaps this explains why the measure received unanimous support of both parties.<sup>661</sup>

Before awarding excessive kudos to Republicans it is important to appreciate the party seemed satisfied to leave current arrangements in place, which meant most black children, if attending school, went to segregated facilities. A few years later, in 1859, the Republican State Supreme Court issued a ruling which baffled and outraged African Americans, some white lawmakers, and dissenting Republican justices, too. In Van Camp vs. Logan the high court declared segregated schools were constitutional; the school law of 1853 was one of classification and, allegedly, not exclusion. Separate instruction was proper and sanctioned under the state organic law. This case involves

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<sup>660</sup> Journal of the 54<sup>th</sup> Ohio Senate, 2<sup>nd</sup> Session (1861):172-173; “Legislative Proceedings,” Ohio State Journal, January 14, 1861.

<sup>661</sup> Journal of the 52<sup>nd</sup> Ohio Senate (1856):244; Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):494; Middleton, The Black Laws in the Old Northwest, pp. 42-43.

children of a mixed-blood couple, who despite being five-eighths “white,” were denied admission to public schools.<sup>662</sup>

The county concerned had too few black children to warrant a separate facility. The children in a legal sense, moreover, were “white,” but not in ordinary signification among local inhabitants. A majority of justices decided it was proper constitutional construction to call an individual with an admixture of African blood a “colored person.” Hence, given public repugnance at common association, it supposedly did no violence to past lawgivers’ intent to deny these particular children admission into “white” schools.<sup>663</sup>

In careful legal language justices explained how this ruling did not conflict with earlier “nearer white” decisions. The statutes that old rulings addressed, it was said, had been repealed. The law of 1853 was implemented in the aftermath of constitutional revision. Thus, from this perspective, the “old decisions” had their day and did not apply in this case. African Americans were bewildered. Future voters were denied public education. Said one African American, the Republican justices certainly would not be accused of consistency.<sup>664</sup>

Later, in the House session of 1860, a petition from Cincinnati blacks for more autonomy in managing separate schools stalled after a Republican School Committee requested discharge and the lower chamber agreed. In the interim Democrats controlled the legislature in 1858 and 1859 and undid some of what Republicans had just done. The ban on using state jails to detain fugitives was repealed. In each chamber the vote on

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<sup>662</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:24-26; “Courts of Ohio—Charlie,” Weekly Anglo-African, March 10, 1860.

<sup>663</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:24-26.

<sup>664</sup> *Ibid.*; “Courts of Ohio—Charlie,” Weekly Anglo-African, March 10, 1860.

final passage, as well as earlier divisions, was along almost straight party lines. This alignment also surfaced on a bill to repeal the ban on kidnapping and slaveholding. Some attention also was paid to the recent kidnapping law but it was left in place.<sup>665</sup>

The idea of colonization also received favorable commentary across party lines but this topic was not deeply plumbed. The ban on entry was revived, too, only now Democrats avoided the subject. Along nearly straight party lines Democrats tried to prevent Republicans from reporting on reasons why it should not be enacted. What Democrats did enact was a visible admixture statute denying “nearer white” mulattoes the right to vote. The alignment in the House is uncertain but Senators approved by a margin of 21 to 11. Nine-tenths of Republicans disagreed.<sup>666</sup>

Democrats finally got their way, or so it seemed, before the Republican State Supreme Court shot the act down in the case of Anderson vs. Milliken, et al. In this instance, a twenty-five year old son of a white man and “nearer white” mulatto mother was denied access to the polls in Butler County, “without malice” due to his racial ancestry but because election judges simply thought they followed the law. The Republican justices ruled unanimously for the plaintiff. Judicial precedent had firmly established the rule that white blood must predominate. In addition, it was argued, the framers of the Constitution of 1851 knew of this judicial construction and did not upset it. Hence, justices now had no intention of changing longstanding practice.<sup>667</sup>

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<sup>665</sup> Journal of the 53<sup>rd</sup> Ohio Senate (1858):128-129; Journal of the 53<sup>rd</sup> Ohio House of Representatives (1858):89, 364-365; Journal of the 53<sup>rd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1859):271; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):467.

<sup>666</sup> Journal of the 53<sup>rd</sup> Ohio Senate (1858):124, 205, 266, 382; 2<sup>nd</sup> Session (1859):280; Journal of the 53<sup>rd</sup> Ohio House of Representatives, 2<sup>nd</sup> Session (1859), appendix, pp. 52-71, 135-138; “The Beacon of the African Coast,” Ohio State Journal, January 14, 1861.

The Democrats' disappointment was not simply about this court ruling but from their ouster from control of the legislature, too. Republicans returned to power in 1860 but not with the overwhelming numbers enjoyed earlier. Excitement ran high about the Oberlin-Wellington rescuers, John Brown's foray at Harper's Ferry, and the escalating sectional crisis in general. Democrats still demanded compliance with the federal fugitive law but were not positioned to do too much about anything. They also howled about Republican complicity in the Harper's Ferry Raid, too. Republicans tried to disassociate themselves from the plot without seeming to backpedal in their avowed resistance to the Slave Power.<sup>668</sup>

Republicans especially were divided over the state high court ruling in the Wellington case. Justices offered contrasting opinions. One expressed sympathy for runaways but determined fugitives must be remanded; would-be slave rescuers had engaged in illegal activity. His view prevailed. Another Republican justice, however, felt police powers belonged exclusively to state governments; therefore, the federal rendition law was unconstitutional. Most Republican editors in the state liked this perspective better.<sup>669</sup>

In the session of 1860 legislators talked a lot about fugitive slaves but did little besides repeal an old statute dating back to the early 1830s. Attempts to revive a ban on state jails failed. A Republican House committee reported on a petition not to deliver up runaways and the petitions was discharged. The two parties also bickered over a bill to

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<sup>667</sup> Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:26-27; "Cleveland Herald—Ohio Black Law Unconstitutional," Weekly Anglo-African, July 30, 1859.

<sup>668</sup> Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):398-399; "Letter on the Invasion of Harper's Ferry (1859), in Clement L. Vallandigham, Speeches, Arguments, Addresses, and Letters of Clement L. Vallandigham (New York: J. Walter and Co., 1864):202-205.

<sup>669</sup> "C. H. Langston on the Oberlin-Wellington Rescue," Weekly Anglo-African, July 23, 1859; Catterall, ed., Judicial Cases Concerning American Slavery and the Negro, 5:22-24; Nat Brandt, The Town That Started the Civil War (New York: Syracuse University Press, 1990).



punish anyone who aided fugitives but nothing came of it. An effort to resurrect the ban on kidnapping and slaveholding also came to naught in the House. Republicans, though, had passed the measure in the Senate along near straight party lines.<sup>670</sup>

Republicans did adopt a protest resolution on kidnapping of the “Polly family.” A special governor’s message also had prodded lawmakers to act. Republican committees in both chambers recommended passage, too. On final passage, at least in the Senate, almost every Republican voted favorably. Four-fifths of Democrats did not. This legislation also provided for a governor’s contingency fund to defray litigation costs in securing their release. Although perhaps mostly symbolic, Republicans had gone on record as favoring official state recognition of a duty to protect black citizens.<sup>671</sup>

Once displaced from power Democrats resumed the drive for a ban on free black entry into the state. This initiative fell flat in the Senate but sparked some House debate. A Democrat introduced the bill; later the judiciary committee urged a postponement. Its report condemned levying a fine as cruel and instead suggested colonization as an alternative. The governor also urged consideration of this idea. In the end Republicans postponed Democrat amendments, 40 to 35. This outcome reflected nearly a straight party line vote. The House then passed a Democrat proposal to reconsider and table the bill, 48 to 37. Almost every Republican endorsed the motion. Nine-tenths of Democrats did not.<sup>672</sup>

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<sup>670</sup> Journal of the 54<sup>th</sup> Ohio Senate (1860):228; “Legislative Proceedings,” Ohio State Journal, January 9, January 28, 1861.

<sup>671</sup> *Ibid.*, (1860):259; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860), appendix, pp. 173-176; Middleton, The Black Laws in the Old Northwest, p. 32.

Debate over voting rights was not yet over although Republicans attained little on this front beyond barely holding the line on a “nearer white” suffrage. A Republican did introduce a petition to strike the word “white” in the state constitution. A Democrat judiciary committee reported against it, requested discharge from further consideration, which was granted. More attention was paid to various proposals instead to ban black voting altogether. A Democrat attempt to hold a referendum on visible admixture laws lost, 43 to 47. On this division, and an earlier one, Democrats to a man voted against 90 percent of Republicans. A Democrat judiciary committee also recommended postponing a bill delineating the duties of election judges; the Republican minority disagreed.<sup>673</sup>

The bill to exclude mixed-blood voters, in the end, was narrowly defeated. The House took it up by a margin of 46 to 40. A Republican attempt to refer the measure to the judiciary committee then lost, 30 to 54. A Democrat next successfully amended the bill to read “distinct and visible admixture.” On the third reading, the outcome was 55 to 32, but this margin was short of the two-thirds needed. On a related topic, legislators also considered legislation to define the precise meanings of the terms, “white” and “colored,” under state law. The parties polarized on an unsuccessful motion to table but on the previous question, a third of Republicans peeled off to join Democrats in opposition. Finally, it seems, the measure was postponed.<sup>674</sup>

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<sup>672</sup> Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):138-139, 167, 324; Messages and Reports to the General Assembly and Governor of the State of Ohio For the Year 1860 (Columbus: Richard Nevins, 1861).

<sup>673</sup> Journal of the 54<sup>th</sup> Ohio Senate (1860):124; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):449; “Legislative Proceedings,” Ohio State Journal, April 9, 1861.

<sup>674</sup> Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):326; “Legislative Proceedings,” Ohio State Journal, April 9, 1861.

Although the Senate delayed action until the next session, House members also pushed through a bill to ban interracial marriage. Republicans, it seems, now were acting more racist or at least trying to counteract their image as advocates of race mixing. A Democrat sponsored the bill although a Democratic judiciary committee modified its contents a bit. Along nearly straight party lines Republicans then blocked Democrat efforts to take it up. Much debate followed; a few Republicans denied their party was a peculiar champion of blacks. The Western Reserve faction instead argued against the bill. By a margin of 49 to 44, though, it passed. Engrossment was secured, 52 to 45. A Republican now recommitted the bill to add a fine as a penalty. This feature later was recommitted, 56 to 41. In the interim, a call for the previous question lost, 38 to 48. An amendment to ban cohabitation did pass, 54 to 43. In the end, however, it remained to be seen what the Senate would do.<sup>675</sup>

In the session of 1861 senators registered approval. Across a series of roll-call divisions between 85 and 100 percent of Democrats favored the bill. One-half to three-fifths of Republicans, depending on the precise framing of the question, concurred. Western Reserve men, once again, overwhelmingly stood in opposition, only now they did so almost alone. In final form this law made it illegal for a person of “pure” white blood to marry or have illicit carnal intercourse with any person with a distinct and visible admixture of African ancestry, or vice versa. In addition, any minister solemnizing the coupling, or clerk who issued a marriage license, faced a fine up to \$100 and maybe a jail term of less than three months, perhaps both.<sup>676</sup>

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<sup>675</sup> Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):542.

It is unclear why most Republicans agreed to enact this law at this time. Besides image building perhaps it was a long-term solution to the “mulatto” problem. Critics inside the Republican Party claimed the statute aimed at pandering to southern slaveholders. What is clear is that this action was aberrational in terms of the party’s past record. Certain defenders of the law, to explain the discrepancy, insisted it was not racist as it applied to whites and blacks alike. Nonetheless, for many Ohioans, especially African Americans, such arguments rang hollow.<sup>677</sup>

The same accusation of sycophancy to the Slave Power also permeated discussion of other matters, too. When House Republicans tried to revive the ban on kidnapping and slaveholding only to then shelve it, certain party editors pitched a fit that the entire exercise resulted from a calculated decision to bring the bill up again, give it a final kick, and thereby win plaudits from southern slaveholders. Some discussion along these lines also surfaced on bills to prevent aiding runaways or prevent slave stealing. A Republican select committee also recommended postponing a bill to repeal part of the 1857 law against kidnapping. In the end, this report was tabled and printed. Republicans, with rare exception, approved. Only half of the Democrats did.<sup>678</sup>

Democrats did push the ban on entry again, calling it a means to benefit white labor, while also claiming that certain African-American residents wanted to keep alien black competitors out, too. The issue died there. The subject of Liberia was revisited as well. A Republican Federal Relations Committee in the Senate recommended not only

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<sup>676</sup> Journal of the 54<sup>th</sup> Ohio Senate, 2<sup>nd</sup> Session (1861):62, 65-66; Middleton, The Black Laws in the Old Northwest, pp. 135-136.

<sup>677</sup> “Legislative Proceedings,” Ohio State Journal, January 16, February 6, 1861.

<sup>678</sup> “Legislative Summary,” Ohio State Journal, January 11, 1861; Journal of 54<sup>th</sup> Ohio Senate, 2<sup>nd</sup> Session (1861):111.

recognizing the independence of Liberia but that of Haiti, too. When a Republican moved to strike out Haiti, his motion narrowly lost, 15 to 16. Almost 90 percent of Democrats favored the exorcism but only 25 percent of Republicans agreed. On third reading, the resolution passed, 19 to 13. Almost nine-tenths of Republicans were on board. Democrats all voted “nay.” So, while Republicans showed increasing enthusiasm for colonization, it also seems fair to classify calls for recognizing black republics as fellow members in the family of nations as not very racist at all.<sup>679</sup>

With the secession crisis looming, to be certain, attention increasingly turned to other matters. Party lines, in a way, began to bend and reorient in reaction to attitudes about disunion. War Democrats, it should be noted, though, voted equally as racist as old Loco colleagues. At any rate, war bills now dominated debate. In the process, as well, lawmakers scornfully rejected compromise resolutions from the Tennessee legislature which its members viewed as conciliatory. But, despite this rebuff, Republicans at this late day still insisted they had no intention of directly encroaching on slavery in the South.<sup>680</sup>

An invitation went out, originating from Republicans, to the Tennessee and Kentucky legislatures to pay Ohio a fraternal visit which they did. Although much oratory at the conclave praised white brotherhood, specific policies regarding race relations were largely ignored. The legislature also endorsed a commission the governor had selected to attend the Washington Conference. Another measured response was the passage of a

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<sup>679</sup> Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):523, 536; “Legislative Proceedings,” Ohio State Journal, April 9, 1861.

<sup>680</sup> “Tennessee Resolutions” and “Legislative Proceedings,” Ohio State Journal, January 8, January 28, January 30, 1861. Based on cross-tabulating voting response patterns on War Bills and racial issues in the session of 1860, thirteen War Democrats sat in the lower chamber. Three-fourths of them were from counties in northern Ohio. Ten voted as racists. Three voted as moderates.

proposed Thirteenth Amendment to secure slave property in the states where it existed. Republicans were still the most viable radical contender in the political arena and the most likely to respect black rights. At the same time strident calls for racial egalitarian laws which had been emitted more vociferously from the party half-a-decade earlier had dissipated.<sup>681</sup>

Despite divisions amongst Republicans on abolitionism, “white” suffrage, common education, and racial amalgamation, collective posturing on most racial issues was so distinct as to render suspect unqualified claims of bipartisan consensus existing in Ohio. Even so, Democrats did not oppose every liberal reform. Locos repealed Republican laws to ban kidnapping and slaveholding or prohibit use of state jails for detaining alleged fugitives. Blacks, nevertheless, were not left bereft of legal protection. In other words, every anti-kidnapping statute was not repealed. Given this context, it perhaps is possible that Democrats dismantled the other laws as a form of posturing in sectional political debates rather than from callous disregard about abduction of black Ohioans alone.<sup>682</sup>

## VI. Conclusion

The decade of the 1850s brought important changes. Despite continuities with the past, legislative party politics turned in a rather novel direction. Based on this finding, it seems erroneous to regard the antebellum era as a monolithic period, or that escalating

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<sup>681</sup> “Legislative Proceedings,” Ohio State Journal, January 30, 1861; Report of the Excursion Made by the Executive and Legislatures of the States of Kentucky and Tennessee to the State of Ohio, January 26<sup>th</sup>-28<sup>th</sup>, 1860 (Cincinnati: Robert Clarke and Co., 1860).

<sup>682</sup> Middleton, The Black Laws in the Old Northwest, pp. 31-32.

political salience of the “Negro Question” followed a linear path. The precise nature of racial politics was different across state lines, too, much more so than before mid-century.

Bipartisanship, on occasion, was present but the utility of this descriptive category is limited. Admittedly, neither party in Ohio overturned a “white” constitution but, then again, no earlier major organization had such a liberal record on racial issues as did the Republicans. To think of them as analogous to Democrats, or even as approximating Loco racism, seems a stretch. As for Tennessee, the case for bipartisanship perhaps rests on a more solid foundation. For instance, neither Democrats nor Whigs ever proposed restoring the franchise to free blacks. As a forlorn minority, however, Whigs also tried to derail or dilute many racist initiatives. In other words, while not as liberal-minded as Ohio Republicans, they look a lot more so compared to local Democrats.

Roll-call evidence clearly shows two-party polarity became more prominent in the 1850s, especially in Ohio. In this sense, a model of two-party conflict makes sense. But, before resting analysis there, it must be conceded that this scenario has its shortcomings, too. Tennessee Whigs, for instance, occasionally aided Democrats in enacting racist statutes. A majority of Locos themselves at times coalesced with local Whigs to block certain racist initiatives. In Ohio a Republican legislature enacted the ban on racial intermarriage. The Democrat minority in the sessions of 1856 and 1857, moreover, was vocal but too small in numbers to do much else. In other words, two-party conflict, in this instance, takes on new connotations once it is learned one party outnumbered the other two-to-one in the House and four-to-one in the Senate.

One thing is certain. Democrats across state lines acted more racist than ever. If a tag of ideological racism is applicable to anyone the safest bet is to pin it on the Locos. In

Ohio, Democrats repealed liberal statutes, tried to ban the “nearer white” franchise, and claimed to want a ban on entry into the state. Down in Tennessee their counterparts, now in power at the state capitol, enacted laws for voluntary enslavement, amongst other things, and pushed to expel free blacks from the state altogether. But, then again, the expulsion plan did not happen and a bunch of proposed restrictions were shot down; opponents of such measures, moreover, often turned out to include a majority of the Democrat legislators. In Ohio, when given the opportunity, Democrats did not enact a ban on free black entry into the state and, among other things, chose to allow a new kidnapping law to stay on the books. Compared to the second party system, the politics of race in the late 1850s had moved closer to center stage. In many ways this period provides the best evidence of surging racism in the antebellum era. Still, while no party was immune, Democrats primarily fit the bill. But, even then, numerous reservations and stipulations must attach.

At day’s end, Whigs in Tennessee and, especially, Republicans in Ohio can be differentiated clearly in their racial behaviors from Democrats. As a consequence, once the saliency of racial issues rose, and certain of these measures became mainstreamed to party programs, or bundled with other stuff, two-party polarity increased to unprecedented levels. At the same time enough similarity existed across the aisle that divergence between parties on various non-racial issues, and the slavery extension question, almost always was more pronounced. Given these findings, it seems other things may have been more central to party self-identity or at the core of negative references as compared to opponents across the aisle, than concerns about white privilege alone. If this inference is solid, it would seem the primary basis for an argument



postulating an ideological white racist consensus must be sought in sources conveying insights into private thoughts and attitudes. Or, if behaviorally based, the case needs to rest not on the trajectory of activity which took place but on what was not done.

## CHAPTER VIII

### CONCLUSION

#### I. Introduction

The “Negro Question” was an important dimension of antebellum political affairs but not because it served as the fulcrum for two-party competition, either in terms of an underlying bipartisan consensus or as focal point of ideological conflict. Over time, naturally, all did not stay the same. In early times, for example, racial issues often functioned in cross-cutting ways even as bipartisan outcomes were common. Later many issue niches became more mainstreamed to party warfare and it becomes increasingly easier to predict racial behaviors based on party affiliation alone. Democrats, in particular, pushed a more systematic racist agenda in the late fifties. But the relationship between party politics and racial issues at this late day still was not entirely stable. Even Democrat racism, ultimately, had its outer bounds and limits.

What is missing from analysis thus far is consideration of the broader matrix of issue niches which lawmakers confronted at the same time. Politics involves trade-offs; therefore, to establish the priority given racial agendas, we need to know something about two-party alignments on other topics, too. If racial essentialist imperatives dealt at the core of a party’s program, it seems reasonable to expect to find solidarity on those issues tighter than when encountering other subject matter. In addition, if racial posturing was a

key means of differentiating the alleged mission of each party, the degree of two-party polarity one might surmise would be quite pronounced.<sup>683</sup>

## II. The Slavery Extension Issue

Consider the slavery extension question. It generated intense discussion about instructing resolutions for congressmen. Racial proclivities were involved, as were a lot of other things, the strands of which are nearly impossible to unravel sufficiently so as to ascertain the relative importance of each. What is understood is that these issues generated cleavages across party lines after the mid-1840s, more so than free black topics, although in Ohio the differential is slight (see Table 18). Simply put, as parties increasingly diverged in late antebellum times on free black issues, the gap was more pronounced on slavery extension. Perhaps the free black question was a mere tail to this kite.<sup>684</sup>

Another aspect of this subject warrants closer examination, too. What exactly was the connection between racist posturing and stances taken on slavery extension issues? Let us be clear what is being measured. Every party in Ohio disapproved of slavery, especially the “positive good” defense; none championed slavery’s ingress into federal territories. Disagreement centered on the proper mechanism for arresting its spread. Tennesseans in every party opposed a government ban on taking slaves into the western public domain unless an equitable compromise was involved. Thus, with the exception

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<sup>683</sup> A common complaint registered amongst party politicians was the “monomania” of modern abolitionists. According to a Whig legislator in Ohio the “Negro Question” was “a difficult one” upon which he had “struggled much” to “appreciate motives on both sides” with the ultimate intent of improving the “whole aggregate mass of mankind.” “Legislative Proceedings,” Columbus Ohio State Journal, January 18, 1839.

<sup>684</sup> For examples of instructing resolution debates, see “Legislative Proceedings,” Ohio State Journal, December 20, 1843; “Speech of John Bell,” Knoxville Register, March 11, 1858.

Table 18 Two-Party Polarity: Racial and Slavery Extension Roll Calls				
Sessions	Ohio		Tennessee	
	Free Blacks and Fugitive Slaves	Slavery Extension	Free Blacks and Manumission	Slavery Extension
1827-1836	21	-	14	-
1837-1840	61	40	14	1
1841-1847	51	71	17	27
1848-1854	29	42	21	80
1855-1861	66	76	20	81

\*The “polarity score” shows the absolute difference between each party’s aggregated voting score on all roll-call divisions relating to respective subsets. Explanation of the technique used in this Table is given in Appendix A.

of certain Ohio Democrats, generally it was Ohio Whigs, third party men, and Republicans who vociferously championed the Wilmot Proviso. On the flip side of the coin, the only advocates of a federal territorial slave code were certain Tennessee Democrats. Given that roll calls do not reflect pure “up” and “down” responses to slavery in the abstract, the terms “proslavery” and “antislavery,” for purposes of discussion, will have more restricted meanings. In other words, cohorts reflect reactions to proposals for using federal governmental power to achieve desired outcomes.<sup>685</sup>

By cross-tabulating voting patterns between 1837 and 1859 wherein Tennessee legislators reacted to free black and slavery extension issues in the same session, it was possible to detect whether zealous proslavery men responded in a more or less racist manner than other assemblymen (see Table 19). Not too surprisingly, lawmakers less strident about pushing slavery expansion also voted towards the milder end of the racist scale. Lawmakers that vacillated on slavery extension pretty much did the same on free black issues, too. But so did the militant proslavery crowd. In short, a “proslavery” voting record was not a reliable marker of where a legislator stood on free black issues.

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<sup>685</sup> Ohio Democrats did splinter in the late 1840s for awhile on roll calls pertaining explicitly to extending the antislavery provisions of the Ordinance of 1787 into western territories. Early support for the Wilmot Proviso (or “Brinkerhoff” Proviso as local Locos had it) was not sustained for long, however, even though certain anti-proviso Democrats protested their sincere opposition to slavery. In the session of 1847 Loco House members divided nine to seven on applying the ban to Oregon Territory. Democratic senators in the next session split eight to nine against requesting that Congress apply the prohibition throughout federal territories. “Legislative Proceedings,” *Ohio State Journal*, March 1, 1848, February 17, 1849; “Majority and Minority Reports,” *Journal of the 43<sup>rd</sup> Ohio House of Representatives* (1844):17-22, 32; Waldo W. Braden, “The Campaign for Memphis, 1860,” in J. Jeffrey Auer, ed., *Antislavery and Disunion, 1858-1861: Studies in the Rhetoric of Compromise and Conflict* (New York: Harper and Row, 1963):225-241; Harry V. Jaffa and Robert W. Johannsen, eds., *In the Name of the People: Speeches and Writings of Lincoln and Douglas in the Ohio Campaign of 1859* (Columbus: Ohio State University Press, 1959); Clark E. Persinger, “‘The Bargain of 1844’ as the Origin of the Wilmot Proviso,” *Annual Report of the American Historical Association for the Year 1911* (Washington, D. C.: Government Printing Office, 1913):184-195.

Table 19 National Slavery and Free Black Issues in Tennessee Compared (1837-1859)			
Free Blacks	Slavery Extension		
	Expand	Moderate	Restrained
Racist	24	28	16
Moderate	47	43	40
Mild	27	27	42

\*Each column indicates the percentile distribution of each racial cohort. Explanation of the technique used in this Table is given in Appendix A.

A less strident stance on the territorial slavery question, though, did increase the odds an individual would vote more liberal on local racial policy, too.<sup>686</sup>

These findings, of course, can be explained, in part, as a function of party, given the extent of two-party polarity on slavery extension roll calls. Democrats, in general, split between “proslavery racists” and moderates, with a smaller contingent of “proslavery” types who were more liberal-minded on free black issues. Most Whigs voted as moderates, and this faction grew. With more regularity a third of the party voted towards the bottom of the proslavery and racist scales. Finally, a sizeable minority of racists, also critics of the proslavery camp, dwindled into insignificance by late antebellum times. Among assemblymen, as a whole, then, if we exclude the moderate majority, the ratio before mid-century between polarized factions on either set of issues was about one-to-one. By the 1850s this trend persisted on free black roll calls but the proslavery forces now outnumbered critics more than three-to-one.<sup>687</sup>

The same exercise, if repeated for Ohio, shows again local setting and context is important. This data also allows us to test the widespread presumption in modern scholarship that much of the northern antislavery crusade was predicated on racist

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<sup>686</sup> For slavery extension roll calls in Tennessee, see Stanley F. Horn, “Isham G. Harris in the Pre-War Years,” Tennessee Historical Quarterly, 19 (September 1960):195-207; White, ed., Messages of the Governors of Tennessee, 4:251; Journal of the 22<sup>nd</sup> Tennessee Senate (1837):444; Journal of the 22<sup>nd</sup> Tennessee House of Representatives (1837):509; Journal of the 25<sup>th</sup> Tennessee House of Representatives (1844):331; Journal of the 28<sup>th</sup> Tennessee Senate (1849):761-767; Journal of the 29<sup>th</sup> Tennessee House of Representatives (1852):440, 469-471, 477-478; Journal of the 30<sup>th</sup> Tennessee House of Representatives (1853):1094-1097; Journal of the 31<sup>st</sup> Tennessee House of Representatives (1855):468, 560; Journal of the 32<sup>nd</sup> Tennessee Senate (1857):404; Journal of the 32<sup>nd</sup> Tennessee House of Representatives (1857):549; Journal of the 33<sup>rd</sup> Tennessee House of Representatives (1859):284, 290, 943; Journal of the 33<sup>rd</sup> Tennessee House of Representatives, Extra Session, (1861):229.

<sup>687</sup> For a proslavery Democrat in the 1850s, see “Speech of J. H. Savage,” Congressional Globe, 35<sup>th</sup> Congress, 2<sup>nd</sup> Session (1856), appendix, pp. 1035-1036. This congressman’s brother served in the legislature.

foundations. The evidence for the second party system, at least, reads similar to what was seen in Tennessee (see Table 20). Critics, as well as moderates, of a congressional ban on slavery extension often scattered on free black divisions, although in each case the racist element was the least numerous. Among legislators most determined to arrest slavery's spread, three-fifths took a more liberal position on free black issues, whereas a mere thirteen percent voted in the racist camp. In short, the more advanced antislavery posture associated with resistance to local racist agendas. But antipathy towards the Wilmot Proviso or similar measures provides little clue as to where a lawmaker stood on the racial code.<sup>688</sup>

By the late 1850s interplay between the two sets of issues had increased in Ohio (see Table 21). Moderate voting did not change except it became a bit more ameliorative on free black issues. Strident antislavery men still tilted in the same direction, too, although now more than four-fifths of them did so. The most dramatic shift was amongst critics of a congressional ban. Almost nine-tenths of them aligned with the racist camp. In other words, an intertwining of racial and slavery issues became more visible in late antebellum times. It was not entirely absent earlier but it was much murkier.<sup>689</sup>

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<sup>688</sup> For slavery extension roll calls in Ohio prior to 1850, see Journal of the 36<sup>th</sup> Ohio Senate (1837):290-291; "Legislative Proceedings," Ohio State Journal, December 20, 1843, January 1, 1845, January 27, December 29, 1847, January 12, January 26, February 23, March 1, 1848, January 27, February 17, March 24, March 28, 1849; Journal of the 43<sup>rd</sup> Ohio House of Representatives (1844):43, 120-123, 127, 305; Journal of the 45<sup>th</sup> Ohio House of Representatives (1846):35, 70, 74, 241, 247-248, 254, 288-295, 322, 578, 588; Journal of the 46<sup>th</sup> Ohio House of Representatives (1847):207, 283, 295, 297-299, 328, 356, 612, 664, 668-669, 676, 679; Journal of the 47<sup>th</sup> Ohio House of Representatives (1848):34, 129, 319, 711-713, 718, 780-782, 793; Journal of the 48<sup>th</sup> Ohio House of Representatives (1849):218, 930.

<sup>689</sup> For slavery extension roll calls in Ohio during the 1850s, see Journal of the 51<sup>st</sup> Ohio Senate (1854):167, 234, 250, 253, 279, 283-284, 590, 628; Journal of the 51<sup>st</sup> Ohio House of Representatives (1854):133, 210-211, 349, 365-366, 379-380; Journal of the 52<sup>nd</sup> Ohio Senate (1856):68-69, 121, 227, 414; 2<sup>nd</sup> Session (1857):385, 425, 454-456; Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856):266-228, 337, 350-353; 2<sup>nd</sup> Session (1857):25, 565-566; Journal of the 53<sup>rd</sup> Ohio Senate (1858):28-29, 34-36, 51-52; 2<sup>nd</sup> Session (1859):87, 123; Journal of the 53<sup>rd</sup> Ohio House of Representatives (1858):41-45, 206, 214, 275; 2<sup>nd</sup> Session (1859):188, 308-310, 312, 317-319; Journal of the 54<sup>th</sup> Ohio House of Representatives (1860):398-399.



Table 20 National Slavery and Local Racial Issues in Ohio Compared (1837-1851)			
Free Blacks	Slavery Extension		
	No Restrict	Moderate	Restrict
Racist	24	27	13
Moderate	37	32	25
Mild	37	40	60

\*Each column indicates the percentile distribution of each racial cohort. Explanation of the technique used in this Table is given in Appendix A.

Table 21 National Slavery and Local Racial Issues in Ohio Compared (1854-1861)			
Free Blacks	Slavery Extension		
	No Restrict	Moderate	Restrict
Racist	86	25	2
Moderate	11	25	16
Mild	2	49	82

\*Each column indicates the percentile distribution of each racial cohort. Explanation of the technique used in this Table is given in Appendix A.

Of particular interest is that less than 15 percent of the antislavery faction voted racist on free black issues and this figure dropped seven-fold by the late fifties. It thus appears that while racist militants did exist in antislavery ranks, their presence was so marginal it hardly seems appropriate to give them such prominent notice. Of course, the argument for antislavery racism looks better if we include moderate legislators, too, or use a more elastic definition that classifies men as opposed to the spread of slavery who insisted it be done without congressional interference. But, in so doing, not much support is added to the case for a white racist consensus as the foundation for politics.<sup>690</sup>

If evidence is reconfigured to examine the breakdown among racial cohorts, the argument hardly improves for rampant racism in antislavery ranks. Taking the period 1837 to 1861, as a whole, about three-fifths of racist legislators voted against a congressional ban while an equivalent proportion of the more liberal-minded on racial issues favored such a prohibition. Moderates scattered but tilted in the antislavery directions. Only eight percent of racists, though, voted with the antislavery faction. A mere five percent of legislators that voted mild on free black topics embraced the anti-proviso position. So, once again, it appears racist antislavery forces were miniscule unless combined with moderates, whereupon this contingent increases to about two-fifths of the racist camp. But with some validity, it seems, legislators that scattered votes might be classed with the other side, too.<sup>691</sup>

Factional alignments inside each party also suggest militantly racist antislavery men were rather uncommon. During antebellum times, for example, this group constituted

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<sup>690</sup> Ibid.

<sup>691</sup> Ibid.

one percent of Ohio Democrat legislators. A similar sized clique that opposed the Wilmot Proviso but acted liberal on free black issues disappeared completely. So did the eight percent of the party that voted “softer” on local racial policy while favoring restraints on slavery expansion. What changed was that moderates declined from three-fifths of Democrats to slightly less than half, whereas the racist anti-proviso faction increased from a third of the party to a bare majority. Within each party, however, the most visible change in the 1850s was that Democrats became both more racist and resistant to Congress prohibiting slavery extension while Republicans surpassed the Whigs in the frequency of their support for such a ban. In sum, it seems the argument for racist underpinnings of northern antislavery, at least in Ohio, warrants considerable nuance and qualification.<sup>692</sup>

### III. “Other Pressing Business”

The slavery extension controversy was not the only set of questions which generated starker negative reference across party lines compared to local issues about race relations. Other issue niches provide apt comparisons, too. As such, it seems unlikely debates on racial essentialist propositions served as the primary fulcrum for two-party politics, even if these considerations were becoming more important. It may be granted that bipartisanship existed on some subjects (generally to keep them off the radar) but, as we have seen, the case for a racist consensus has its pitfalls and limitations.

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<sup>692</sup> Democrat Jacob Brinkerhoff is an example of a racist Democrat congressman that also protested the spread of slavery. Along with many of his ilk, however, he moved into Free Soil ranks prior to becoming a Republican in the 1850s. “Speech of J. Brinkerhoff,” Congressional Globe, 28<sup>th</sup> Congress, 1<sup>st</sup> Session, appendix, p. 121.

It bears mentioning that major party state platforms almost never referenced local racial policy. Whigs in Ohio, to be sure, made a campaign issue of black law repeal in 1846 but this was not normative. Even then, racial issues often became bundled with other things. An editor on the *Western Reserve*, for example, complained at the time that the *Loco* retort to pressing inquiries about economic reforms merely featured the trope, “black laws, niggers, and abolition.” Various Whigs elsewhere also repeatedly emphasized the main issues at stake were currency reform, banking charters, and taxation policy. Republicans later often argued that the slavery issue was paramount. For Democrats, “Sambo” was a perennial issue but rarely discussed on the stump without reference to high taxes, privileged money-mongers, or, ultimately, “Uncle Sams.”<sup>693</sup>

A similar pattern emerges in the Tennessee data. Democrats frequently insisted “Bank or No Bank” was “The Issue,” as part of a larger campaign to scotch the aristocratic, neo-federalist Whig Party. In response Whigs pushed their economic agenda although they were rather belated arrivals on the question of a protective tariff. Nonetheless, like their counterparts in Ohio, they raged against neo-Jacobin Democrats trying to pit the poor against the rich; in one instance, they denounced the Sub-Treasury System as, among other things, a plot “to enslave the Anglo-Saxon race.” By the late forties, though,

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<sup>693</sup> Columbus *Daily Ohio Statesman*, September 22, September 25, 1855; *Cleveland Daily Plain Dealer*, September 25, 1847; *Ashtabula Sentinel*, September 21, 1844, September 28, 1846, March 22, 1847; *Toledo Blade*, July 20, 1848, September 20, 1850; *Dayton Journal*, July 22, 1850; *Lebanon Western Star*, July 14, 1843; *Ohio State Journal*, November 1, 1843. The platforms of Ohio parties are located in Thomas W. Kremm, “The Old Order Trembles: The Formation of the Republican Party in Ohio,” *Cincinnati Historical Society Bulletin*, 36 (Fall 1978):193-215. State platforms for major parties otherwise are taken from newspaper sources; also see Kirk H. Porter and Donald B. Johnson, comps., *National Party Platforms, 1840-1956* (Urbana: University of Illinois Press, 1956). Of course, at times, racial issues were pushed even in Whig newspapers; see “Judge Wood the Nigger Candidate,” *Scioto Gazette*, October 7, 1850.

editorial comment now was claiming slavery extension was the “great and all-absorbing question.”<sup>694</sup>

While media outlets undoubtedly skew reporting in efforts to reshape public opinion, this evidence does show how the public forum played host simultaneously to a wide array of policy areas. While the mere volume of legislation does not inform us about the amount of time consumed in debating each proposal individually, such measurements do provide a rough gauge of the extent to which racial issues dominated legislators’ time in a relative sense. What is found is that racial issues, while increasingly prevalent, were not all that common overall. Less than five percent of all bills and resolutions introduced in the Ohio or Tennessee legislatures and, for that matter, roll-call divisions, pertain to local race relations.<sup>695</sup>

In addition, a mere one percent of petitions presented in the Tennessee legislature between 1849 and 1853 addressed racial matters. In the Ohio legislative session of 1846, as black law debates raged, or in the conclave of 1851, when the fugitive slave law was causing squabbles, numerous petitions poured in containing several thousands of signatures. By comparison, names listed on memorials relating to temperance reform

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<sup>694</sup> Nashville Union and American, August 18, September 7, 1837, October 24, December 21, 1838; Clarksville Jeffersonian, May 25, 1844, January 15, 1845, August 8, 1848; Memphis Daily Appeal, September 3, 1851; Knoxville Register, January 15, March 18, October 14, 1840, June 21, 1843, January 17, May 30, 1849, January 8, September 3, 1857.

<sup>695</sup> On worries about the amount of other business before the assembly or relating to jaded legislators working long hours and subjected to intense lobbyist activity, see “Legislative Proceedings,” Ohio State Journal, December 20, 1843, March 24, 1847. In Tennessee, 125 of 5,530 bills and resolutions introduced between 1847 and 1859, or about 2.2 percent, pertained to racial issues. Between 1815 and 1839, legislators voted on 5,561 roll calls; 136 dealt with racial matters (or 2.4 percent). During the late 1850s in Ohio, less than four percent of all bills and resolutions had explicit racial content. In contrast, over one-half of proposed legislation related to the state judiciary, acts of incorporation (especially railroads), common schools, local government, or taxes. Between 1850 and 1860, about 3,200 roll calls were taken of which less than four percent involved race issues.

numbered in excess of 30,000. Petitions addressing changes in county boundaries or transportation improvements held the signatures of almost as many Ohioans.<sup>696</sup>

Examination of polarity scores across issue niches also shows racial issues did not head the list of matters primarily distinguishing parties, although Democrats and their foes were distinct in many ways. The data, which is reported shortly in tabular form, is restricted to issues for which a sample of fifty or more roll calls was analyzed, although some of my comments extend to other topics for which longitudinal continuity in coverage was not possible. What the evidence reveals is that local racial issues rarely produced two-party polarity compared to many of the issue niches held up for comparison.<sup>697</sup>

In Tennessee local racial policy, initially, did not divide the parties much but neither did banking or currency issues (see Table 22). What generated the most disagreement across party lines were questions relating to patronage and spoils or Indian affairs. Cross-tabulation of voting responses on the latter issue with free black roll calls, moreover, complicates easy generalizations about parallels in discriminatory actions taken against African Americans and Native Americans. In other words, racist voting behavior on one issue did not always carry over to the other although the existence of tribal government and a land base make head-to-head comparisons problematic.<sup>698</sup>

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<sup>696</sup> Even petitions relating to licensing of dogs sometimes produced as many petition signatures as memorials relating to race relations. For the intertwined discussion of this topic with abolitionism, see R. Douglas Hurt, "The Sheep Industry in Ohio, 1807-1900," *The Old Northwest*, 7 (Fall 1981):250.

<sup>697</sup> Holt reported two-party "polarity" scores for various issues in his works. My findings on similar issue niches are roughly equivalent. Michael F. Holt, *The Political Crisis of the 1850s* (New York: John Wiley and Sons, 1978):115-116; Holt, *The Rise and Fall of the American Whig Party*. The roll-call sample for non-racial issues approximates almost 1,000 divisions which were extracted from session journals or legislative coverage in the state party press.

Table 22 Tennessee Legislators: Polarity Scores on Various Issue Niches					
Issue Niche	Sessions				
	1827-1836	1837-1840	1841-1847	1848-1854	1855-1861
Free Blacks/ Manumission	14	14	17	21	20
Banks and Currency	11	69	62	33	17
Internal Improvements	17	29	28	28	56
Temperance/ Liquor	14	24	-	7	28
Woman's Rights	4	29	39	23	16

\*The “polarity score” shows the absolute difference between each party’s aggregated voting score on all roll-call divisions examined within each issue subset. Explanation of the technique used in this Table is given in Appendix A.

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<sup>698</sup> The “Indian Affairs” roll calls primarily pertain to applying state laws to whites residing in the Cherokee Nation, removal from lands, or the Seminole War. Party divergence was more evident on the Cherokee Question than the Florida War. Press accounts at the time also suggest the parties were not entirely likeminded on the all Native American issues. See Nashville Republican, December 4, December 18, 1830, June 16, 1835; National Banner and Nashville Whig, November 20, 1833; Archibald Yell to James K. Polk, January 10, 1831, Samuel G. Smith to James K. Polk, September 6, 1834, in Weaver, et. al., Correspondence of James K. Polk, 1:380-381, 2:476.



Later, in the decade after 1837, the most divisive issues in Tennessee involved banking, currency reform, or free trade; patronage and spoils was in the mix, too. By the late forties and early fifties banking and currency issues became less polarizing although still producing more divergence across party lines than did free black roll calls. It was the slavery extension issue that now surged to the fore and stayed there. In the late 1850s, while the gap grew between parties on local racial policy, the extent of two-party polarity on free black issues was still lower than what exists on divisions relating to internal improvements or free trade.<sup>699</sup>

The Ohio data reflects a remarkably similar pattern which, seemingly, indicates reactions to the spread of the market economy cleaved legislative parties in both states to a greater extent than did most other things. The slavery extension issue, of course, ultimately was right up there, too (see Table 23). When proto-parties were forming, prior to the panic of 1837, internal improvements, banking and currency reform, and public land policy more clearly differentiated parties than anything else. Immediately afterwards, in the late thirties, party divergence on racial issues did escalate but polarity on banking and currency measures (as well as patronage and spoils matters), was greater still.<sup>700</sup>

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<sup>699</sup> In the House Session of 1839, Tennessee legislators voted on ten roll calls relating to the B.U.S., the Sub-Treasury, state banks, or currency regulation. The Rice Score was .61 for Democrats and .64 for Whigs. By comparison, the Rice Score on racial issues was .39 for Democrats and .38 for Whigs. Banking and currency divisions for this session are located in Journal of the 23<sup>rd</sup> Tennessee House of Representatives (1839):132-133, 350, 428-429, 526-527. For “rioting on spoils at the capital,” see Knoxville Register, December 5, 1839.

<sup>700</sup> Ohio legislators also voted on a variety of banking and currency issues in the session of 1839. The Rice Score was .73 for Democrats and .85 for Whigs. The scores on black law issues were .87 for Democrats and .62 for Whigs. On divisions relating to fugitive slaves or abolitionism, however, the Democrats score increased to .96 whereas the Whig score declined to .20. Banking and currency roll calls for this session are located in “Legislative Proceedings,” Ohio State Journal, January 8, January 25, February 1, February 5, February 12, March 8, 1839.

Table 23 Ohio Legislators: Two-Party Polarity on Various Issue Niches					
Issue Niche	Sessions				
	1827-1836	1837-1840	1841-1847	1848-1854	1855-1861
Free Blacks/ Fugitives	21	61	51	29	66
Banks and Currency	58	78	76	81	72
Internal Improvements	62	31	91	48	-
Temperance/ Liquor	35	29	67	37	-
Immigrants/ Nativism	28	43	62	54	65
Woman's Rights	21	20	38	1	-

\*The “polarity score” shows the absolute difference between each party’s aggregated voting score on all roll-call divisions examined within each issue subset. Explanation of the technique used in this Table is given in Appendix A.

This pattern continued thereafter except parties moved closer together on racial issues for a while near mid-century. In addition, throughout the forties, issues pertaining to internal improvements or certain cultural issues, such as temperance, also became more divisive than the local racial code. Issues relating to immigrant policy generated more polarity at this time, too, although by the late 1850s divisions on nativism or free blacks now produced a comparable chasm across party lines. In sum, if two-party conflict on racial issues often seems a better choice than a model of bipartisanship, insofar as core party programs go, racial policy does not seem the primary organizing principle.<sup>701</sup>

Granted; such a finding does not jeopardize the inference that one party or the other put racial initiatives at the top of their agenda. If such was the case, though, it seems logical to suppose intra-party cohesion on free black divisions would equal or surpass analogous measurements on other issue niches. Such a result, though, almost never was the case. Amongst National Republicans, for example, what brought them closest together was reacting to measures on internal improvements, banking and currency, or other economic issues.<sup>702</sup>

Later Whigs coalesced tightest on banking and currency issues. Slavery restriction divisions did not generate as much unity but it was increasing; then again, no more so than on internal improvement issues or immigrant policy. Finally, in the late 1850s,

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<sup>701</sup> On nativism in Ohio, see William A. Baughman, "The Development of Nativism in Cincinnati," Bulletin of the Historical and Philosophical Society of Ohio, 22 (October 1964):240-255; John B. Weaver, "Ohio Republican Attitudes Towards Nativism, 1854-1855," The Old Northwest, 9 (Winter 1983-1984):289-305; Van Horne, "Lewis D. Campbell and the Know-Nothing Party in Ohio," pp. 202-221; William E. Gienapp, "Salmon P. Chase, Nativism, and the Foundation of the Republican Party in Ohio," Ohio History, 93 (Winter-Spring 1984):5-39; Tyler Anbinder, Nativism and Slavery: The Northern Know-Nothings and the Politics of the 1850s (New York: Oxford University Press, 1992).

<sup>702</sup> The finding on National Republicans is consistent with what certain other scholars have discerned from other types of sources, see Stegemoeller, "'That Contemptible Bauble': The Birth of the Cincinnati Whig Party, 1834-1836," pp. 201-223.

Republican solidarity was most prevalent on patronage and spoils matters or the fugitive slave law issue. Slavery restriction and certain economic subjects generated high levels of cohesion but not to the same magnitude. Free black issues, however, did bring Republicans closer together than did the immigrant or banking questions. But, in the end, none of the “Opposition” parties seemingly put local racial agendas near the top of its list.<sup>703</sup>

Of course, it is amongst Democrats one would expect more so to find strict party discipline on racial matters. Critics certainly made this the case. What is somewhat surprising is to find how seldom this was the case. Prior to the mid-1830s internal improvements, banking, and currency issues, while not generating high levels of solidarity, still show tighter cohesion than what existed on racial issues. Afterwards, until the mid-1840s, Democrats became rather unified on local racial policy but the anti-banking orientation still brought them together to a greater extent. Soft-money Democrats, it bears noting, did vote a wee bit less racist than hard-money colleagues.<sup>704</sup>

Thereafter, throughout the rest of the antebellum era, reactions to banking and currency issues, along with patronage and spoils concerns, are the best markers for estimating high levels of unity amongst Locos. At certain times, moreover, proposals relating to internal improvements or immigrant policy also generated tighter cohesion than did free black issues. In other words, it seems curious Democrats were not in closer

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<sup>703</sup> Foner writes that Republicans often deemed national honor and prosperity more important to party policies than “interest in Negro rights,” but also notes their more “liberal” stand on race relations than political foes was a “political liability in racist society.” Foner, Free Soil, Free Labor, Free Men, pp. 260-262.

<sup>704</sup> Maizlish examines hard vs. soft currency factions within the Ohio Democracy but does not detail divergence over racial issues. Granted, my findings show the differential to have been slight but nonetheless consistent over time. Maizlish, The Triumph of Sectionalism, pp. 40-50.

agreement on free black policies if systematic institutional racism was a primary purpose for their association. And if ideological racism cannot be fully attributed to the Ohio Democracy at this time, then the notion of a bipartisan consensus on racial essentialist programs becomes that much harder to swallow.<sup>705</sup>

#### IV. Conclusion

Historians cannot agree on how to describe the dynamic between party politics and white racial prejudice before the Civil War. Some see a scenario in which the white community was bound tightly together in defense of its special privileges while varying slightly in specifics from one locality to the next. All major parties pandered to this interest, and, increasingly, quite possibly, racial consciousness came to infiltrate and then dominate the political culture as a whole. Other scholars suggest that white society was not so monolithic in its outlook or actions.<sup>706</sup>

Not everyone was agreed, in this equation, on exactly how to interpret political racism, much equivocation occurred and it was hard to judge the importance of political trade-offs. In comparative terms, Democrats headline the racist bill most of the time and, as a central tendency, Whigs and Republicans played a smaller part in such productions, often tilting in more liberal ways. A model of two-party conflict, rather than bipartisan consensus, from this vantage point, is a more apt description of what transpired.

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<sup>705</sup> For a study that attempts to integrate racial matters into the broader ideology of the Democratic Party and place it near the core of the organization's agenda over the course of the nineteenth century, see John Gering, "A Chapter in the History of American Party Ideology: The Nineteenth-Century Democratic Party (1828-1892)," *Polity*, 26 (1994):729-768.

<sup>706</sup> On the one hand, see Cooper, *Liberty and Slavery*; Saxton, *The Rise and Fall of the White Republic*. On the other hand, see Feller, "A Brother in Arms," pp. 48-74; Watson, "Conflict and Collaboration," pp. 273-298.

Questions about chronological timing remain outstanding. Many studies set the benchmark for demarcating time periods when new ideological racist currents became dominant in the public forum in the decade of the 1850s. Others have the transition occurring decades earlier when the second party system emerged. Still others identify substantive change as not happening until the post-emancipation period.<sup>707</sup>

Regrettably, historians to some degree talk past one another on this subject due to a lack of clear agreement on definition of terms. Some scholars employ a more rigid classification scheme, one which allows for precious little divergence from a standard of absolute racial egalitarian posturing; almost everyone is therefore tossed in the “racist” bin. Alternatively, others invoke a relative perspective that emphasizes more or less racism, deeming this approach a preferable measurement, given the nature of institutional constraints. Yet, in doing so, they sometimes neglect to pay adequate attention to what was not put on the table or inadvertently sublimate the extent to which rabid race-baiters and the mildly prejudiced, at day’s end, both discriminated against African Americans at some level.<sup>708</sup>

At the root of the problem in trying to solve this puzzle is a lack of scientific polling data of public opinion from these now dated times. Some states did hold referendums on certain framings of racial issues which provide insightful data. But this evidence has

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<sup>707</sup> Baker, Affairs of Party; Stewart, “Modernizing ‘Difference’: The Political Meanings of Color in the Free States, 1776-1840,” pp. 691-712; Davis, “The Culmination of Racial Polarities and Prejudice,” pp. 757-776; Eric Foner, “The Meaning of Freedom in the Age of Emancipation,” Journal of American History, 81 (September 1994):435-460.

<sup>708</sup> Part of the semantic confusion ensues from uncritical replication of contemporary usage of terms which varied across localities. Emerson Etheridge, for instance, was a Tennessee Whig that argued the protection of slave property rose above the Constitution, yet in his western district he often was denounced as an “abolitionist.” Certain Western Reserve Whigs that would have earned the label “abolitionist” in Tennessee instead were deemed “proslavery men” by third party types in home districts. “Legislative Proceedings,” Ohio State Journal, February 5, 1845; “Speech of E. Etheridge,” Congressional Globe (1856), appendix, p. 58; “Speech of E. Etheridge,” Congressional Globe (1857), appendix, pp. 365-368.

various limitations as source material, beyond the fact that most states did not hold such an event; among those which did, all we possess are momentary still-shots of mass white opinion at random points in time.<sup>709</sup> As a general source of information most historians draw instead on rhetorical evidence, usually in anecdotal fashion, which, of course, raises all kinds of red flags about sampling techniques, proper interpretation of words, and a priori theoretical assumptions about what underlying motives to ascribe for linguistic choices made.<sup>710</sup>

This inquiry turned to the study of legislative proceedings, in particular, analysis of roll-call voting behavior as a means to supplement more traditional sources and methods of investigation. Findings suggest a more complex scenario existed which is not susceptible to any one simplistic model over the long haul. Based on configurations detected in the Ohio and Tennessee general assemblies, historians are on safe grounds when contending overt racial prejudice was prevalent, legal settings retained discriminatory laws that became augmented, and that it was the Democracy that spearheaded the racist vanguard.

Democrats, however, did not always act uniformly on racial policy. Of course, all parties from the very start had racist-inclined elements in the ranks. But, prior to the 1850s, racial issues often were more cross-cutting than an integral part of any party's program. Democrats strained in this direction but it was not really until the final antebellum decade that ideological racist imperatives begin to become more widespread.

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<sup>709</sup> McLaughlin, "Popular Reactions to the Idea of Negro Equality in Twelve Nonslaveholding States, 1846-1869: A Quantitative Analysis."

<sup>710</sup> For a study of linguistic style, see Harold P. Sampson, "The Anti-Slavery Speakings of Joshua R. Giddings," (Ph.d. dissertation, Southern Illinois University, 1966).

But, even then, there were limits. In Ohio, for instance, no ban on entry into the state was enacted. In Tennessee, free blacks were not forcibly expelled.<sup>711</sup>

Still, political foes did act differently. While not above supporting racist agendas, Whigs and Republicans were more prone to take liberal stances. While a case for bipartisanship can--and should--be made, in the sense that no major party made elevating free black status its lead agendas, what stands out, given contemporary context, was how much parties disagreed about so much relating to racial policy. In the final analysis, it seemingly did make a difference to the quality of life and future expectations of African Americans which party exercised stewardship over the law. Granted, attaining social and political equality anytime soon was highly improbable.<sup>712</sup>

Hence, the case for bipartisan racism has its merits but also requires considerable hedging. As a consequence, the argument for a white racist consensus falls down a peg in credibility, too. As we have seen, white lawmakers were not monolithic in reactions to policy recommendations for regulating free blacks. Some cohorts in each party, for one thing, acted more or less racist than others, which can be correlated to common past life experiences, personal traits, or certain characteristics of distinctive constituency bases. With the passage of time, moreover, party attachment, generally speaking, became a

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<sup>711</sup> For similar findings, see Maizlish, "Race and Politics in the Northern Democracy, 1854-1860," pp. 76-90; Atkins, "Party Politics and the Debate over the Tennessee Free Negro Bill, 1859-1860," pp. 245-278.

<sup>712</sup> A Democrat and Republican in Ohio co-authored a committee report in 1856 which claimed local citizens were "not indifferent to the great question of human liberty." Nonetheless, the people allegedly believed it "the part of wisdom to retain in their purity, the political, religious, educational, and social privileges" which they already held and "extend those privileges to the whole human family as fast as a due regard to the rights of all parts of the confederacy will permit." Journal of the 52<sup>nd</sup> Ohio House of Representatives (1856), appendix, pp. 81-84.



more reliable indicator of what type of racial response to expect from an individual, especially by the late 1850s.<sup>713</sup>

But, ultimately, racist agendas do not seem to have been at the top of the heap of concerns of any major party based on comparisons to alignments discerned on other issue niches. So, even in the 1850s, when party cleavages are most evident and Democratic racism most strident, it is not altogether clear that the heightened saliency accorded free black issues was not collateral baggage of national debates about slavery. In addition, while antislavery men often did harbor severe racist stereotypes, in terms of actions taken on free black issues, this group registered a much less discriminatory voting record compared to the more proslavery types.<sup>714</sup>

If two-party alignments in the 1850s do not fit dichotomous themes neatly of consensus versus conflict the second party system presents an even more ambiguous case. Depending on which stage of party development is considered a different verdict seems warranted. In other words, during proto-party times bipartisanship was most pronounced, although no party in either state was all that unified on racial issues. In the

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<sup>713</sup> Despite its rising importance, even in late antebellum times, the “partisan imperative” still was not always operative, especially compared to certain other non-racial issue niches. An Ohio Republican, for instance, professed to be “a genuine live Republican,” but not of that class “who follow the dictation of either majorities or minorities in this General Assembly or any other convocation.” His intent was to represent and advocate the interests of his constituents by exercising his right “to examine the facts, the circumstances, and the conditions in various bearings,” and thereupon to act according to the convictions of his own judgment.” Many state lawmakers in both Ohio and Tennessee made similar claims but, unlike our man, their personal judgment, on increasing occasion, just happened to coincide neatly with the dictates of the “tin-pan” caucus. “Legislative Proceedings,” Ohio State Journal, February 1, 1861; Joel H. Silbey, The American Political Nation, 1838-1893 (Stanford: Stanford University Press, 1991).

<sup>714</sup> My findings suggest Litwack and Berwanger overstated the case many decades ago; nevertheless, each of their studies was a valuable corrective—and supplement to Woodward—at the time against simplistic notions that antislavery sentiment was an adequate proxy for measuring racial egalitarian attitudes. Berwanger, The Frontier Against Slavery; Litwack, North of Slavery; Woodward, “The Antislavery Myth,” pp. 312-327.

late 1830s, parties still acted in harmony on occasion, but divergence across the aisle was increasingly becoming a more normative exercise.<sup>715</sup>

During the 1840s this pattern continued in Ohio whereas Tennessee entered its so-called “liberal interlude.” With the approach of mid-century alignments changed again. Tennesseans, especially Democrats, escalated racist posturing, the gap between parties grew more visible, and new racist laws began to appear again. At the same time, mixed party government prevailed and, when not the case, the Whigs while in power also enacted some ameliorative legislation, too. In Ohio, the Free Soil insurgency knocked local politics into a loop for a while. In the process, Democrats retrenched though not abandoning all racist agendas by any means. Whigs, bereft of the Western Reserve wing, continued to maintain a distinctive stance but also inched closer to the political center.<sup>716</sup>

In sum, depending on the precise roll-call division or series of sessions that is subjected to scrutiny, a case for bipartisan consensus or two-party conflict can be made. Based on longitudinal examination of the two-party system across several decades, as

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<sup>715</sup> In the early twentieth century Imes wrote that the status of black persons in Tennessee, “once free,” was “precarious in some respects” and, overall, the tendency over time was to degrade them as a class towards the level of slaves. A few years later Patterson deemed their condition as “never promising.” Near mid-century England aligned closer to Imes but also suggested free blacks, beyond “self-effacing habits,” had “a substantial degree of freedom” within slave society. Van Dyke decades later took issue, suggesting “self-effacing habits” were a form of psychological abuse and not an indicator of “happiness.” Each writer, based on my research, seems to have provided an accurate insight, given the somewhat different question specifically posed across their studies. With regard to white lawmakers, Mooney suggested in the late 1950s that public officials in antebellum Tennessee, for the most part, acted pragmatically. Earlier, in a vague manner, Patterson had contended “liberal forces” in the state during the early 1830s “were stronger than history has usually acknowledged.” My findings suggest pragmatic-minded legislators were common, too; moreover, I also detected many moderates and quite a few “liberals” in the 1820s and 1830s. Imes, “The Legal Status of Free Negroes and Slaves in Tennessee,” pp. 254-272; Patterson, The Negro in Tennessee, p. 173; England, “The Free Negro in Ante-Bellum Tennessee,” pp. 37-58; Mooney, Slavery in Tennessee; Van Dyke, “The Free Negro in Tennessee, 1790-1860,” p. v.

<sup>716</sup> Salmon P. Chase felt it only logical for Ohio Democrats in the 1840s to retrench in their racist posturing. From his perspective, the black laws were “in clear violation of fundamental democratic principles” and the “self-imposed burden” of sustaining the statutes, allegedly, had been “a millstone about the neck” of the party for years which had proved “neither useful or ornamental.” Salmon P. Chase to Stanley Matthews, January 24, 1849, in Nunnis, ed., “Some Letters of Salmon P. Chase, 1848-1865,” pp. 541-543.

well as the nature of incremental reforms made in the legal setting, it appears the relationship between party affiliation and racial prejudice was unstable most of the time. Rather than an organizing principle—although hints of its appearance are evident--it seems racial issues, as one historian expressed it, attached “barnacle-like” to party programs rather than primarily informed them. Democrats, of course, are the most likely exception to the rule. Yet in their case, evidence still is not clear whether the party just contained a bunch of prejudiced individuals or was littered with race-conscious ideologues.<sup>717</sup>

This study suggests a need for further study of disagreements amongst the white community on racial policy and issues. What is needed is more empirical testing of assumption and theory. Once enough work has been done perhaps historians will be able to distinguish better where racist agendas fit into the value hierarchy predominant in each political party. At a minimum it can be established with greater clarity exactly what outlooks were held in common from what was contested, and perhaps why. After ascertaining a rough typology of how local legislative parties reacted to various framings of racial issues, moreover, scholars can return to the rhetorical evidence to re-examine it with fresh eyes, now that a behavioral backdrop is in place to help determine when words spoken or written seemingly reflect strategic calculations or more sincere reflections on possible motives for actions taken.<sup>718</sup>

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<sup>717</sup> Shade, “Parties and Politics in Jacksonian America,” p. 487.

<sup>718</sup> For example, an Ohio legislator once made severe racist remarks about preferring to see his offspring burned rather than wed across the color line. On examination of the full content of his speeches and voting behavior, however, it becomes evident he was a leading “liberal” on racial issues. Hence, in the aforementioned case, it seems probable language was strategic and should not be taken at face value. A reasonable hypothesis is this legislator was trying to convince racist legislators that one could hold prejudicial views but still oppose a proposed ban on racial intermarriage on constitutional grounds. “Legislative Proceedings,” Ohio State Journal, January 18, 1840.

By applying similar methods to the study of other times and places broader regional and national configurations may become more apparent, too. Perhaps then historians can speak with more certitude about whether late nineteenth-century Americans initiated a new departure with the embrace of “scientific racism” or simply built upon a legacy handed down from previous generations. In addition, it might prove possible to determine with a heightened sense of confidence how much the appearance and persistence of new forms of “modern” two-party politics was predicated on concerns about white privilege or rooted instead in considerations pertaining more closely to the spread of the market economy and religious revivalism. In the interim, of course, much investigating remains to be done.

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## APPENDIX A

### ROLL-CALL ANALYSIS

A decided advantage of using roll-call divisions as source material for the study of legislative two-party politics is that a broad cross-section of lawmakers are susceptible to comparative analysis both as individuals and as larger groups. Among other things, we can learn about the amount of cohesion within party ranks, whether one coalition was more or less unified than the other, and whether this pattern stayed constant over time. It is also possible to estimate the frequency with which a lawmaker might be expected to cast racist votes based on past behavior compared to assemblymen as a whole. Once aggregated for each coalition, moreover, these “response scores” can be compared across the party aisle and the differential used as a comparative measure of degrees of two-party polarity. Thus, through a variety of techniques, we can discern better whether members of each party voted primarily as racists or not, stood in solidarity or disarray, and whether this stance differed from party foes and to what extent.

An invaluable tool was the Rice Index used to assess intra-party cohesion rates. A Rice Score was computed for each division list, initially, in a vacuum; it equals the absolute difference between percentages of a cohort voting “yea” and “nay,” respectively. Unanimous responses, therefore, will reflect a score of 1.00 whereas an equally divided legislature would come in at 0.00. In the Tennessee House Session of 1839, for example,

Whigs voted almost two-to-one to pass a bill on third reading to ban slaves acting as if free men (see Table 24). To be precise, 62 percent of them responded affirmatively while the other 37 percent did not; hence, a Rice Score resulted of 0.25. By comparison, Whigs were less united than Democrats or, for that matter, intra-regional cohorts throughout the state except in the eastern grand division. For purposes of assessing sessions as a whole or across time, moreover, an average index for multiple roll calls was calculated by dividing the sum of all indices by the total number of divisions.

Many studies rely merely on a few key votes for interpretative purposes. This study also isolated and examined roll calls pertaining to specific proposals unattached to other collateral topics. Generally speaking, however, assessment of multiple divisions taken during the same session provides more explanatory power than does single vote analysis so, whenever possible, I applied scalogram techniques, too. As a guide for how to employ Guttman Scaling, see Lee F. Anderson, Meredith W. Watts, and Allen R. Wilcox, Legislative Roll-Call Analysis (Evanston, Illinois: Northwestern University Press, 1966):89-121. I also compared their techniques to those in more recent studies.

Guttman Scaling as one scholar explains it “is an attempt to measure and analyze attitudinal response patterns along one dimension” while considering several roll calls on a particular issue simultaneously. As a result, findings clarify the voting behavior of individual legislators and larger groups over the course of an entire session. This procedure involves three steps. First, roll calls are chosen for consideration based on specific overlapping content (or sometimes based on suggestive context) dealing somehow with racial issues. The titles of bills sometimes indicate such a topic is

Table 24			
Rice Index of Cohesion: Tennessee House of Representatives (1839)			
Legislative Cohort	Yea	Nay	Score
House of Representatives	49	21	0.40
Democrat	29	9	0.52
Whig	20	12	0.25
East Tennessee	13	10	0.13
Middle Tennessee	26	9	0.48
West Tennessee	10	2	0.66

\*Third reading of bill to ban practice of permitting slaves to act as if free blacks.

involved but much of the time deeper reading into sources is required to detect the full range of legislation that warrants inclusion.

Although certain authorities suggest a minimum of ten votes is needed for proper scaling, not all agree nothing is better than something. William Aydelotte, for instance, adopted this approach in his pioneering studies of the English Parliament. At any rate, constraints in the source material dictated scalograms constructed for many sessions of the Ohio and Tennessee legislatures that contain fewer than ten. A sample for the Forty-fifth Ohio House of Representatives, for example, contains twenty-three roll calls on black law issues whereas its equivalent dealing with the same issues during the next session includes only three. The margin of error from using less than ten divisions in various sessions, however, is somewhat mitigated by the examination of so many sessions across more than three decades which swelled the entire roll-call universe on racial issues to almost 1,000 cases.

The next step was to determine the scalability of the roll calls, i.e. the extent to which roughly similar response patterns emerged across the board. This is done by cross-tabulating the roll calls and constructing a series of tables showing groups of legislators in each of four response categories: a (++) , b (+-) , c (-+) , d (--). For example, in Ohio's constitutional convention at mid-century delegates voted on ten racial roll calls. Votes #2 and #3 of the scalogram based on the broader subset shows legislator reactions were not always congruent across these issue framings [see Table 25].

Vote #2 involved a motion to ban blacks from serving in the state militia. Vote #3 pertained to restricting black access to public education. Fourteen "liberal" delegates

Table 25			
Cross-tabulated Roll Calls: Ohio Constitutional Convention (1850-1851)			
Roll Call	Vote #2--Yea	Vote #2—Nay	Total
Vote #3—Yea	(45) a	(2) b	(47) 65
Vote #3—Nay	(11) c	(14) d	(25) 34
Total	(56) 77	(16) 22	(72) 100

Yule's Q = 0.93

Number of Missing Observations = 25.



opposed both motions. Forty-five “racist” delegates favored each exclusionary measure. Thirteen delegates were outliers. Eleven voted to prohibit militia service but not to preclude educational access. Two delegates voted inconsistently with what the marginal frequencies of the roll calls suggest should be normative. They had no problem with black militiamen. What they resisted was entry into public schools. Yet, when we learn that the specific proposal involved segregated facilities, the possibility must be considered that perhaps these two men really were advocates of integration in the end.

For a roll call to make the cut for inclusion in a scalogram it needs to correlate closely with other votes in the same subset. A correlation matrix, therefore, is constructed that exhibits the Yule’s Q value [ $Q=(ad-bc)/(ad+bc)$ ] of each pair of roll calls. The value of the Yule’s Q score ranges from -1.0 to 1.0, with a higher absolute value indicating greater scalability. For the purposes of this study the minimum value for the Yule’s Q score was established at +/- 0.7. In the example above, votes #2 and #3 correlated at .933 or well above the required absolute value [for a matrix of an entire session, see Table 26].

Some practitioners of Guttman Scaling recommend excluding roll-call divisions from analysis wherein overall disagreement amongst legislators is less than ten percent. After all, near unanimous votes artificially inflate the “coefficient of reproducibility,” which indicates whether the scalogram reliably estimates behavioral responses in cases of missing data. In order that party consensus on issues might not be unduly stripped away, leaving a skewed emphasis on party conflict, I did not initially eliminate such roll calls. After scalograms were constructed and analyzed using all voting divisions, unanimous or near unanimous roll calls were removed to examine more closely those votes creating cleavages and recalculate the coefficient of reproducibility.

Vote	1	2	3	4	5	6	7	8	9	10	11
1	X	.99	-.95	-.82	-.92	-.86	.92	.90	.95	.94	-.96
2	X	X	-.99	-.90	-.98	-.85	.95	.97	.98	.98	-1.0
3	X	X	X	.92	1.0	-1.0	-.96	-.97	.98	-.99	1.0
4	X	X	X	X	.95	.99	-.99	-.99	-.99	-.98	1.0
5	X	X	X	X	X	.97	-.98	-.98	-.99	-.99	1.0
6	X	X	X	X	X	X	-.99	-.99	.95	-.99	.99
7	X	X	X	X	X	X	X	.99	.99	.99	-.94
8	X	X	X	X	X	X	X	X	.99	.98	-.99
9	X	X	X	X	X	X	X	X	X	.99	-.99
10	X	X	X	X	X	X	X	X	X	X	-1.0
11	X	X	X	X	X	X	X	X	X	X	X

\*Slavery Extension Issue (Gamma)

A third step was to assign a positive or negative value to “yea” and “nay” responses. A negative value (-) identifies responses as favorable towards racist policies. A positive value (+) indicates a less favorable reaction. In cases of ambiguity I defined the “racist” position as the one that most “colored convention” delegates at the time perceived things. In short, a “yea” vote is not always assigned a positive value nor is a “nay” vote necessarily given a negative value. A “nay” response to a motion to reject a black petition, for instance, is coded as a positive response. [A response of (\*) indicates a division which lists the same legislator voting on opposite sides of the question.]

After converting “yeas” and “nays” into positive and negative responses, marginal frequencies were calculated for each individual roll call which is a measure of the percentage of legislators casting positive votes. Divisions were then rank ordered in terms of marginal frequencies from lowest to highest rather than retained in their original chronological sequencing. Those divisions receiving the least enthusiastic support appear towards the left side of the scalogram; roll calls towards the right increasingly indicate a larger percentage of lawmakers voting favorably. For example, in the two votes mentioned in the Table 25, vote #2 is to the left of vote #3 as the marginal frequency of the former division was 26 percent whereas that of the latter came in higher at 30 percent. The assumption involved here is that in most cases if a legislator voted positively on vote #2, he should also be found voting the same on vote #3.

After recoding the roll calls and calculating marginal frequencies, individual legislators were assigned a scale position. Each of their votes was identified as positive (+), negative (-), or, in cases of abstention or absence (o). As the roll calls now are ordered in terms of marginal frequencies, voting records usually reveal a somewhat

consistent pattern. Clement Vallandigham of Columbiana County, Ohio, for example, served in the Ohio House of Representatives in the mid-1840s. His voting record on five roll calls [----+] indicates this Democrat was no proponent of African-American rights, yet at a certain point, between votes #4 and #5, his resistance on that front began to soften. Examination of the content involved in these divisions shows he opposed efforts to repeal discriminatory laws. But the intensity of his racism, evidently, was not enough to prompt him to vote against the reception of a Quaker petition protesting those same laws.

Legislators with perfect or near perfect negative scale patterns (meaning casting similar votes more than 80 percent of the time) were labeled as “racists.” Colleagues with perfect or near perfect positive scale patterns were classified as “liberals.” Another category includes “moderates” located along the voting response spectrum somewhere in-between its polar extremes. These legislators were subdivided further into three cohorts to distinguish which men tilted one way or another.

Errors and absences were then accounted for and corrections made in placing lawmakers in their proper scale positions. In correcting for errors/absences, I employed the Guttman-Suchman technique (identify the fewest errors to place the legislator in a perfect scale position and in ambiguous cases to correct toward the middle of the scale). The scalogram on the black laws from the Forty-fifth Ohio House of Representatives, for example, has Whig Representative Corwin’s absence on vote #14 coded as positive because his voting record on all thirteen votes with lesser marginal frequencies fits that category [see Table 27].

Table 27 Black Laws Scalogram: 45 <sup>th</sup> Ohio House of Representatives (1846)						
Legislator	Party	County	RC 1-6	RC 7-12	RC 13-18	RC 19-23
Backus	Whig	Cuyahoga	++++++	++++++	++++++	+++++
Beatty	Whig	Carroll	++++++	++++++	++++++	+++++
Bennett	Whig	Tuscarawas	++++++	++++++	++++++	++++
Blake	Whig	Medina	++++++	++++++	++++++	+++++
Breck	Whig	Cuyahoga	++++++	++++++	++++++	+++++
Brown	Whig	Montgomery	++++++	++++++	++++++	++++
Corwin	Whig	Clinton/Fayette	++++++	++++++	+o++++	+++++
Curtiss	Whig	Erie/Huron	++++++	++++++	++++++	+++++
Harsh	Whig	Stark	++++++	++++++	++++++	+++++
Hogue	Whig	Belmont	++++++	++++++	++++++	+++++
Johnston	Whig	Summit	++++++	++++++	++++++	+++++
Kiler	Whig	Greene	++++++	++++++	++++++	++++
Matthews	Whig	Geauga	++++++	++++++	++++++	+++++
McGrew	Whig	Jefferson	++++++	++++++	++++++	+++++
Moore	Whig	Lake	++++++	++++++	++++++	+++++
Owen	Whig	Ashtabula	++++++	++++++	++++++	+++++
Park	Whig	Lorain	++++++	++++++	++++++	+++++
Potter	Whig	Miami	++++++	++++++	++++++	+++o+
Russell, S.	Whig	Harrison	++++++	++++++	++++++	+++++
Trimble, J.	Whig	Muskingum	++++++	++++++	++++++	+++++
Truesdale	Whig	Trumbull	++++++	++++++	++++o+	+++++
White	Whig	Morgan	++++++	++++++	++++++	++++
Clark, J.	Whig	Franklin/Madison	-+++++	++++++	+++o+	++++
Horton	Whig	Athens/Meigs	o+++++	++++++	+++o++	+++o+
Tallman	Whig	Pickaway	-+++++	++++++	o+++++	++++
Turley	Whig	Scioto/Lawrence	o++o++	++++++	--+o+	++oo+
Whitridge	Whig	Preble	o+++++	++++++	+++o++	+++o+
Wilson	Whig	Warren	-+++++	++++++	++++++	+++o+
Cutler	Whig	Washington	-+++++	-++++o	-o++++	+++++
Hibberd	Whig	Montgomery	++++++	-+++++	++++++	+++++
Lawrence	Whig	Hardin/Logan	+oo++	-+o++	++++++	oo+++
Russell, L.	Democrat	Portage	++-o-	++++++	++++++	-+--
Sharp	Democrat	Holmes	++----	++-+-	++-+-	----+
Vallandigham	Democrat	Columbiana	-+----	+----	-+o-o	+--+
Smith, W.	Democrat	Hamilton	-----	----o	---oo	+o+o
Abernathy	Democrat	Richland	-----	-----	---o-o	oo+o
Bloomhuff	Democrat	Adams/Pike	o-----	-----	-+o--	+o+
Cotton	Democrat	Knox	--oo--	o--o-	-----	o+o+o
McMakin	Democrat	Hamilton	-----	----o	-----	+o+o
Warren	Democrat	Hamilton	-----	-o---	-*---	ooo+o
Berry	Democrat	Butler	-----	-----	-----	-oo+
Clark, J.	Democrat	Butler	-----	-----	-----	-o+++
Coe	Democrat	Sandusky	-----	----o	---oo	-o++o
Donnenwirth	Democrat	Crawford/Wyandot	-----	-----	+-----	-o++
Ellison	Democrat	Brown	-----	-----	-----	+o+
Emery	Independent	Wayne	--o--	-----	---o-	+o+
McMahan, J.	Democrat	Hancock, etc.	-----	-----	-+---o	-oo+o
Musgrave	Democrat	Richland	-----	-----	-----	-oo+
Cock	Democrat	Stark	-----	-----	-----	--+++
Converse	Democrat	Hamilton	-----	-----	-----	--+++
Hines	Democrat	Allen, etc.	-----	-----	-----	--+o-
Larimer	Democrat	Perry	-----	-----	+-----	--+++
Lyle	Democrat	Fairfield	-----	-----	+-----	--+++
McMahan, J.	Democrat	Cochocton/Guernsey	o-----	+-----	-+---o	--ooo

(Table 27 – continued)						
Noble, W.	Democrat	Seneca	-----	-----	-----	--0-+
Shaw	Democrat	Fairfield	-----	-----	-----	--+++
McFarland	Democrat	Knox	0-----	-----0	0--0--	--0+
Metcalfe	Democrat	Defiance, etc.	0-----	-----	0--0--	--0+
Purviance	Democrat	Darke/Shelby	-----	-----	-----	00-++
Smith, J.	Democrat	Licking	-----	-----	-----	--0+
Yost	Democrat	Monroe	-----	-----	-----	-0-0+
Kennon	Democrat	Guernsey	-----	-----	-----	--+-
Williams, J.	Democrat	Coshocton	0-----	0-----	-+-0--	--0-

Coefficient of Reproducibility = .96

RC = roll-call number

Legislators Scaled: 64 of 72

45<sup>th</sup> House of Representatives: Black Law Scalogram Divisions

Vote #1 – Yea to reconsider the vote upon striking out all after the enacting clause and inserting a substitute for H. B. Number 2; January 21, 1847; Yea- 28, Nay- 32.

Vote #2 – Yea to engross H. B. Number 204; February 2, 1847; Yea- 31, Nay- 37.

Vote #3 – Nay to read H. B. Number 204 for the third time tomorrow; February 4, 1847; Yea- 31, Nay- 31.

Vote #4 – Nay to table H. B. Number 204; February 4, 1847; Yea- 29, Nay- 30.

Vote #5 – Nay to adjourn during debate on H. B. Number 204; Yea- 32, Nay- 32.

Vote #6 – Nay to adjourn during debate following passage of H. B. Number 204. February 4, 1847; Yea- 32, Nay- 32.

Vote #7 – Nay to postpone further consideration of H. B. Number 204 indefinitely; February 2, 1847; Yea- 33; Nay- 34.

Vote #8 – Yea to insert the second amendment reported by the committee to H. B. Number 204; February 4, 1847; Yea- 32, Nay- 31.

Vote #9 – Yea to engross H. B. Number 204; February 4, 1847; Yea- 32, Nay- 31.

Vote #10 – Yea to put forward the main question on H. B. Number 204; February 4, 1847; Yea- 33, Nay- 31.

Vote #11 – Yea to read H. B. Number 204 for the third time now; February 4, 1847; Yea- 32, Nay- 30.

Vote #12 – Yea to reconsider the vote which failed to table H. B. Number 204: to repeal certain acts therein named regulating blacks; February 4, 1847; Yea- 32, Nay- 30.

Vote #13 – Nay to table H. B. Number 204; February 2, 1847; Yea- 31, Nay- 34.

Vote #14 – Nay to postpone further consideration of H. B. Number 204 until next December 1<sup>st</sup>; February 2, 1847, Yea- 32, Nay- 36.

Vote #15 – Yea to pass H. B. Number 204; February 4, 1847; Yea- 34, Nay- 30.

Vote #16 – Yea to recommit to a select committee of two H. B. Number 2 and amendment to strike out “repealed” and insert “declared to have no application and be of no force and effect in the counties of Ashtabula, Geauga, Lake, Cuyahoga, Lorain, Medina, Portage, Trumbull, Summit, and Mahoning; January 21, 1847, Yea- 33, Nay- 29.

Vote #17 – Nay to table H. B. Number 204 and pending amendment; February 4, 1847; Yea- 28, Nay- 32.

Vote #18 – Yea to put forward the main question reconsidering the vote on the passage of H. B. Number 204; February 4, 1847; Yea- 32, Nay- 25.

Vote #19 – Yea to dispense with all proceedings under the call (H. B. Number 204); February 4, 1847; Yea- 36, Nay- 23.

Vote #20 – Nay to amend H. B. Number 204 with the following proviso: provided, that any township in this State, a majority of the voters of which shall at said election declare in favor of the repeal of said laws, said laws shall no longer operate in said township, but be repealed, so far as said township is concerned, but in all townships, a majority of the votes of which shall vote against the repeal of said laws, said laws shall not be repealed nor cease to operate in said townships; February 4, 1847; Yea- 17, Nay- 36.

Vote #21 – Nay to reconsider the vote on the passage of H. B. Number 204; February 4, 1847; Yea- 12, Nay- 43.

Vote #22 – Nay to strike out all after the enacting clause and insert a substitute for H. B. Number 2: to repeal certain acts therein named; January 21, 1847; Yea- 14, Nay- 42.

Vote #23 – Yea to strike out sections two and three of H. B. Number 204; February 4, 1847; Yea- 44, Nay- 10.

Source: Journal of the House of Representatives of the State of Ohio (Columbus: State Printer, 1848), 45<sup>th</sup> Assembly, pp. 286-287, 450-452, 498-499, 518-519, 521-525.

Whig Representative Turley, though, voted negatively on votes #13 and #14. Both responses are identified as “errors” due to his positive reactions on roll calls #5 through #12. Turley’s absence on vote #1 was treated, however, as a negative response, as were the votes of fellow party members Horton and Whitridge on that same division. The absence of Representative Vallandigham on votes #16 and #18 are coded positive because of his voting on roll calls #14 and #15. This Democrat’s positive vote on roll call #2 was “corrected,” however, due to his negative response pattern on votes #3 through #6.

Several legislators failed to record a vote on at least half of the roll calls. I did examine what was left in the records to estimate where these men stood. In some cases, a response on a key division does prove enlightening about their racial posturing. As a rule of thumb, though, it was impossible to make adequate corrections to scale properly those legislators with an absence rate of over 50 percent, so these cases, therefore, are not included in aggregated scores either.

Each scalogram was next appraised to ascertain whether it was statistically acceptable and if it approximated the proportion of responses that could be predicted accurately based on a legislator’s scaled voting pattern. By dividing the number of correct responses into the total number, a coefficient of reproducibility (C. R.) is determined. Normally the scalogram is considered valid if the C. R. value is above 0.90. Not every scalogram met this criterion but the vast majority did and the others were generally above 0.86. Inferences drawn from scalograms with low C. R. values were viewed as more tentative in nature.

Guttman Scaling was employed to analyze the extent of racist voting across party lines on multiple votes within the same legislative sessions. As a means of comparing response patterns over larger periods of time, I also calculated a racist “voting score” for each session. This score estimates the predicted frequency of a legislator casting his votes in discriminatory ways. Session scores are calculated by dividing the inverted Guttman scale scores of individual legislators into the maximum possible score; aggregate sums are then divided by the number of legislators that recorded votes on those divisions [see Table 28].

These results allow for comparisons across time periods although it needs to be constantly borne in mind that precise content of the issue niches is almost always different. The “voting score” is a relative, not an absolute gauge. It measures the tendency to respond toward a certain end of a spectrum when confronted by a specific set of proposals. In sessions where scalograms were not possible, single roll call scores reflect a simple percentage of legislators voting in favor of exclusion. Finally, two-party “polarity” scores then were derived from the absolute difference in the aggregated “voting scores” as a means to measure party divergence on specific issues over time and to compare divergence levels to other issues concurrently before the legislature.



Table 28								
Racial Voting Scores: Tennessee Senate (1835)								
Scale Score	Whigs				Democrats			
	East	Middle	West	Total	East	Middle	West	Total
Racist								
0	(2) 66	(2) 33	-	(4) 33	-	(4) 57	(1) 100	(5) 50
1	-	(4) 66	(2) 66	(6) 50	(1) 50	(3) 42	-	(4) 40
2	(1) 33	-	(1) 33	(2) 16	(1) 50	-	-	(1) 10
Mild								
Total	(3)	(6)	(3)	(12)	(2)	(7)	(1)	(10)
Score:	66	66	33	58	25	78	100	70

\*Seditious Pamphlet Scalogram

APPENDIX B

ROLL CALL SAMPLE

	Ohio Constitutional Convention 1850-1851		Tennessee Constitutional Convention 1834	
	10		19	
	Ohio Legislature		Tennessee Legislature	
	House	Senate	House	Senate
1815				2
1817	3		3	2
1819	4	5	1	2
1821		1	2	6
1822	1		1	4
1823			5	
1824			3	5
1825			10	4
1826			1	
1827	8	1	12	7
1828	2			
1829	4		9	2
1830	2			
1831				16
1832		3	9	1
1833				16
1834	2			
1835		2		6
1836		7		
1837		11	3	7
1838	16	4		
1839	2	1	7	6
1840	7			
1841	6		7	
1842	13	4		1
1843	1		3	
1844	20	3		
1845	6		4	
1846	46	1		
1847	12	6	5	4
1848	29	8		
1849	6		4	24
1850	28	20		
1851			16	
1853	2	3	10	4
1854	16	16		
1855			1	9
1856	25	15		
1857	11	15	4	18
1858	17	23		
1859	14	3	22	16
1860	10	2		
1861		10	2	
Total	323	164	163	162

APPENDIX C

COEFFICIENTS OF REPRODUCIBILITY

	Ohio Constitutional Convention 1850-1851		Tennessee Constitutional Convention 1834	
	.93-.99		.87-.91	
	Ohio Legislature		Tennessee Legislature	
	House	Senate	House	Senate
1815				.94
1817	.98		.91	.97
1819	.92	.99	x	.97
1821		x	.97	.89
1822	x		x	.97
1823			.93-.98	
1824			.93	1.0
1825			.92	.89
1826			x	
1827	.93-.96	x	.87-.94	.95-.97
1828	.98			
1829	.98		.90	.97
1830	.91			
1831				.93-.94
1832		.99	.91-.99	x
1833				.89
1834	.94			
1835		.99		.94
1836		.96		
1837		.92	.98	.96-.97
1838	.97	.98		
1839	.99	x	.92-.96	.92-.93
1840	.93			
1841	.96		.88-.97	
1842	.95	.99		x
1843	x		.96	
1844	.98-.99	.90		
1845	.93-.97		.93	
1846	.93-.98	x		
1847	.93-.99	.99	.95	.96
1848	.91-.95	.94-.96		
1849	.93		.98	.93-1.0
1850	.86	.87		
1851			.92-1.0	
1853	.97	1.0	.90-.97	.94
1854	.87-.92	.90		
1855			x	.88-.98
1856	.91	.96		
1857	.96	.97	.96-.99	.86-.96
1858	.97	.97-.98		
1859	.95-.99	.90-1.0	.89-.92	.92-.99
1860	.95	.99		
1861		.97	.99	

X: single roll-call division

APPENDIX D

NUMBER OF LEGISLATORS SCALED

	Ohio Constitutional Convention 1850-1851		Tennessee Constitutional Convention 1834	
	81-100/113		52-53/60	
	Ohio Legislature		Tennessee Legislature	
	House	Senate	House	Senate
1815				19/20
1817	60/63		38/40	18/20
1819	61-62/63	28/29	29/40	20/20
1821		21/29	40/40	20/20
1822	67/69		39/39	20/20
1823			38/40	
1824			38/40	20/20
1825			38/39	20/20
1826			37/40	
1827	68-70/73	35/36	38-40/42	20/20
1828	68/73			
1829	68/72		40/40	20/20
1830	70/72			
1831				20/20
1832		30/36	37/40	20/20
1833				20/20
1834	71/72			
1835		35/36		17-20/20
1836		33/36		
1837		35-36/36	65/77	23-24/25
1838	64-68/72	36/37		
1839	68/74	31/37	80/80	20-25/25
1840	59-72/72			
1841	66/72		73-74/75	
1842	65-72/73	36/36		24/25
1843	67/72		67/76	
1844	58-71/73	28-33/36		
1845	58/74		62-74/75	
1846	64-70/72	32/37		
1847	64-67/73	35/36	71/75	25/25
1848	51-65/78	29-36/36		
1849	56-68/75		70/76	20-25/25
1850	65/73	32/38		
1851			68-73/75	
1853	74/96	25/33	55-75/75	25/25
1854	84-85/98	34/35		
1855			71/75	25/26
1856	104/111	35/35		
1857	98/112	30/35	65-70/76	23/25
1858	105/108	34/37		
1859	62-72/107	30/35	61-64/75	18-21/25
1860	99/104	35/35		
1861		29/36	51/74	

## VITA

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FREE BLACK ISSUES IN THE LEGISLATURES

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