

RECKONING WITH A VIOLENT AND LAWLESS PAST:

A STUDY OF RACE, VIOLENCE AND  
RECONCILIATION IN TENNESSEE

By

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Dissertation

Submitted to the Faculty of the  
Graduate School of Vanderbilt University  
in partial fulfillment of the requirements

for the degree of

DOCTOR OF PHILOSOPHY

in

Political Science

August, 2010

Nashville, Tennessee

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To the people of the great state of Tennessee

## ACKNOWLEDGEMENTS

I am grateful to all of those with whom I have had the pleasure to work during this dissertation journey. Every member of my dissertation committee has provided me with guidance and support.

I am thankful to my dissertation advisor Dr. Carol Swain, who has been a teacher and mentor to me, for her patience and determination to see this project through.

I am grateful to the people of Tennessee who spoke with me about my dissertation and to the members of the Tennessee State and Local Government Committee who are each to be commended for their public service.

And lastly, I am so grateful to my family. To David and Patti Archie, who have always been loving parents and encouraging role models; to my husband, Jonathan Russell, who has been so patient throughout my graduate school journey and without whose love, kindness and support I would be utterly lost; to my brother Patrick Archie, a compassionate doctor of whom I am so proud; and to my Tennessee ancestors whose lives have inspired me to dig deeper into my state's history and build bridges for brighter futures.

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## PROLOGUE

We cannot escape our personal histories. The totality of one's life experiences shapes how one interprets one's world, the questions one chooses to ask and answer and how one writes about them. This project is inspired by my personal history and the fact that I am a seventh generation Tennessean who cares about the past and future of my home state.

My ancestors were property owners in West and Middle Tennessee dating back to the early 1800s. When Tennessee seceded from the Union in 1861 the majority of my Tennessee ancestors enlisted to fight for the Confederacy with the Army of Tennessee; but my family recently learned that one of my father's ancestors also fought for the Union, joining a regiment of Kentuckians in 1862.

My paternal great-grandmother (whom I knew and loved) and her sisters, whose grandfather fought for the Army of Northern Virginia, maintained life-long hatreds of Abraham Lincoln and were active members of the United Daughters of the Confederacy (UDC), an organization that profoundly shaped Southern History after the Civil War. The UDC was instrumental in ensuring school history books portrayed antebellum Southerners and "the cause" as noble, slavery as beneficent and Southern refusal to succumb to Reconstruction as understandable and legitimate (Blight 2001). The UDC is responsible for erecting the lion's share of the Confederate soldier memorials found in town squares throughout the South and it also provided my father with a college scholarship in the late 1960s. Several of my male relatives are members of the Tennessee chapter of the Sons of Confederate Veterans. I do not know if any of my relatives were

members of the Ku Klux Klan; efforts to talk to my older relatives about race relations in Tennessee before the Civil Rights movement have overwhelmingly been met with silence.

My father grew up in rural West Tennessee and spent his childhood picking cotton with his mother, father, and five brothers and sisters alongside Black families who were his neighbors. In addition to subsistence farming, and picking cotton and other seasonal crops for larger land owners, my father, his father and grandfather were all concrete finishers and members of the ultimately integrated West Tennessee Concrete Finishers Union who helped construct the “new” Mississippi river, Interstate 40, bridge that crosses into Arkansas in 1972.<sup>1</sup>

My mother has fewer memories of Black families living near her childhood home, a dairy farm in Middle Tennessee. But she does remember a Black sharecropping family who rented land from my grandfather and whose wife helped do the laundry for my mother’s family of nine. My parents and their siblings remember the days of Jim Crow when Black people had to sit in the balcony at movie theaters, drink from separate water fountains and step off the sidewalk for White people. They remember how travelling tent revivals in their home towns were the only venues where White and Black people gathered together socially. They remember signs in neighboring towns, posted at the county or community line that said “Don’t let the sun set on you” in this community or county; signs that were not-so-subtle reminders to Black people that they were not welcome in that locality after dark. They remember the disdain voiced in their

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<sup>1</sup> Memphians call this bridge the “new” bridge as compared to the “old bridge” which carries Interstate 55 into Mississippi.

communities over school integration, but they don't remember ever really talking with their parents or grandparents about why racial segregation was the norm.

My maternal great-aunt Nora spoke out for the rights of Black men and women in Birmingham, Alabama through poetry and protest. She participated in the Birmingham campaign of 1963, writing her local leaders and protesting segregation in public places. She watched with horror when Birmingham Police Chief Bull Connor unleashed dogs and fire hoses on children who were marching for integration in downtown Birmingham. I keep a copy of her poem, "These Our Children" on the wall in my office. We think she wrote the poem around 1963. Three of the stanzas state,

Lift your sights high," we say to those who are of fairer hue. Achieve! Attain!  
You are the ones who are superior, the very best of everything for you! Nothing at  
all can stop you if you try.

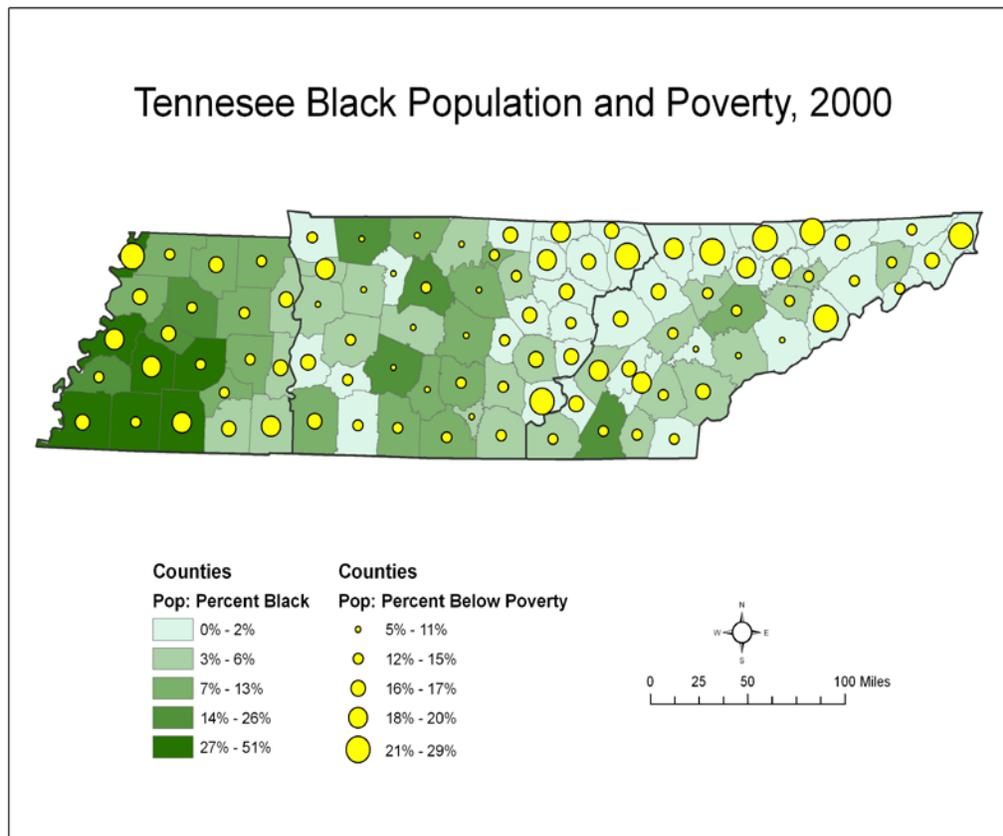
While to the darker ones we say a thousand ways, "Stand back and wait. The  
back seat, the back gate. Don't mind the heavy door slammed in your face. Keep  
in your place. Don't get ideas. Why try? Let them walk over you if they insist.  
It's better to be stepped upon than...dead!

Thus do we feed our children stunting fare which leads them to believe that purity  
and honesty and wholesome moral worth somehow depend upon the pigmentation  
in one's skin.

I read this poem often to remind myself that my project is as much about the generations of Southern children to come as it is about generations of Southerners past. She and all of my other family members are part of my legacy and inform the way I look at race relations in the South.

I was raised in Johnson City, in mountainous East Tennessee, and went to public schools where I played basketball, played in the band and sang in the choir alongside

many Black schoolmates. Washington County, where Johnson City is located, has a larger Black population than most Northeast Tennessee Counties, at 6% (U.S. Census 2000). The poorest counties in the state (with the exception of Lake County in the Northwest corner of the state) are all in East Tennessee: Campbell, Cocke, Fentress, Grundy, Hancock, Hardeman, Johnson and Scott all have poverty rates well above the state average of 15% (U.S. Census 2000). In these communities, counties delineated by the largest yellow circles in the map below, the populations are 95 to 98% White and poverty has an overwhelmingly White face.



*Erwin, Tennessee*



Growing up in East Tennessee, in addition to consciously or subconsciously knowing that the Black community in any given county is going to be small, you also learn that there are certain towns in East Tennessee where, for decades, Black people have not been welcome. One of these places was Erwin, Tennessee. As a teenager, I remember being told that Black people did not live in Erwin, but I never knew why.<sup>2</sup> At athletic events when our high-school, the Hill Toppers would travel to Erwin’s high-school, the Rebels (complete with Confederate flag), our coaches often seemed on edge and would brace our Black athletes and students for the use of racial epithets. I always assumed that Black people had never lived there in the past and did not want to live there in the present, because of this environment.

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<sup>2</sup> The United States Census for 2000 found 12 Black people living in Unicoi County (total population = 17,740); Johnson City is home to 4,000+ Black residents, out of 59,866 total population. Website accessed December 1, 2009: <http://quickfacts.census.gov/qfd/states/47/4738320.html>

It wasn't until I saw the Independent Lens documentary *Banished* (2007) that I began to truly understand why Black people did not live in Erwin. The trailer for the film states,

From the 1860s to the 1920s, towns across the United States violently expelled African American residents. Today these communities remain virtually all white...As black descendants return to demand justice, BANISHED exposes the hidden history of racial cleansing in America.<sup>3</sup>

The film details two communities: Forsyth County, Georgia and Pierce City Missouri, where White mobs forced substantial Black communities to leave at gunpoint. Blacks were not given a chance to gather their belongings or secure their homes or farms. They were told they had to leave immediately or they would be killed. These communities remain virtually all-White today. The documentary also asks questions that stem from this racially violent history: should and how would an all-White community address a racist past in a thoughtful way? What would a meaningful form of redress look like?

On the film's website, there is a map of communities in the United States that banished their Black citizens. The map's caption states that between 1890 and 1930, more than 4,000 Black residents were banished from communities in eight states along the Mason-Dixon line. Two counties in Tennessee are among the twelve counties identified. The first, Polk County, where banishment occurred in 1894, is in the far southeastern corner of the state near Chattanooga. The other locale pinpointed on the map was Erwin with a banishment taking place in May 1918. The website explains that

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<sup>3</sup> "Banished: American Ethnic Cleansings," website accessed May 1, 2008: <http://www.pbs.org/independentlens/banished/>

journalist Elliot Jaspin wrote a series of newspaper articles about these banishments in 2006 and eventually compiled these articles into a book *Buried in the Bitter Waters: The Hidden History of Racial Cleansing in America* (2007).<sup>4</sup> The book was the basis for the *Banished* documentary.

I wrote Mr. Jaspin and asked if he could tell me more about what he discovered about Erwin and his research regarding Tennessee specifically. I wanted to know where the Black families went, what happened to the homes they left behind and was anyone ever punished for these acts of injustice. He told me that besides what he had written in his book about the incidents, there was little he could add. However, what he told me at the end of our conversation pointed to a gap in his research that I thought I could fill. I hoped to uncover much more, and decided to look into these stories for myself.

He said that when he was doing his field research in Erwin, he was told of an old-timer, a local White “community historian” that might be willing to talk to him about the incident. He made arrangements to meet the man at his home. When Jaspin arrived, the man met him on the front porch and asked him point blank “Are you a Jew?” When Jaspin asked him what difference that would make, the old timer replied “I won’t be talking to a Jew” and shut the door in Mr. Jaspin’s face. I was embarrassed that someone who held themselves out to be a Tennessee historian would speak to Mr. Jaspin that way. I decided I would have to go see what I could dig up for myself. Surely White Tennesseans would be more comfortable talking to another White Tennessean. If I

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<sup>4</sup> “Leave or die: America's hidden history of racial expulsions” website accessed May 1, 2008: <http://www.journal-news.com/hp/content/news/stories/2006/07/09/hjn070906Expulsions.html>

ramped up my East Tennessee accent, smiled politely, said yes maam and no sir, I could get people to talk to me about the incidents.

I began my investigation in the library of East Tennessee State University (ETSU), in Johnson City, in June 2008, ninety years and one month after the banishment in Erwin occurred. The staff-person in charge of the local newspaper archives spoke softly when I asked him if he had ever heard of an incident in Erwin in May of 1918 where the White residents forced all of the Black residents to leave. I expected him to say no and that I would be scrolling through every Erwin or Johnson City paper from May, 1918 by myself. However, that was not the case.<sup>5</sup> He said that he believed there were two newspaper reports: one from the *Johnson City Staff* and one from the *Bristol Herald Courier* that were virtually identical chronicling the incident.<sup>6</sup> There were no reports in the 1918 Erwin newspaper, *The Erwin Magnet*. He helped me find the relevant rolls of microfilm. I asked him how he knew about the stories and he said that someone from out of town needed help finding the stories the year before; that he thought the man (presumably Jaspin) was writing a book. The librarian had never heard of the incident before then.

The headline on the first page of the May 20, 1918 edition of the *Johnson City Staff* read: “Triple Tragedy at Erwin on Sunday When Negro Runs Wild.” The blurb beneath the headline stated

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<sup>5</sup> As I will describe later in the dissertation, I spent many hours systematically scrolling through newspaper archives from the *New York Times*, *Chicago Tribune*, *Washington Post* and other Tennessee newspapers in order to fully understand the breadth and depth of racially motivated violence in Tennessee.

<sup>6</sup> I later found references in May 1918 editions of the *Washington Post*, the *Indiana Star* and the *Knoxville Journal and Tribune*.

Fiend commits usual outrage and tries to swim river with his victim when rifleman shot him in head, killing him. Little child rescued, having been drowned or strangled. Body of brute brought to town and burned. All Negroes told to clear out of city.

According to the article, a Black man had abducted a 15 year-old White girl, Georgia Collins. In an attempt to apprehend the assailant and save the girl, unidentified White men shot the assailant and the girl drowned. The Black man's body was brought back to the Erwin town square and the Black community was forcibly summoned and commanded to watch the burning of the man's body. The Black community was then told to leave Erwin immediately.

Throughout the initial reports three names are mentioned: the victim Georgia Collins, L.H Phettaplace, General Manager of the C.C. and O. Railroad who "sought to stop those who threatened to burn the negro quarters from their acts" and the alleged assailant Tom Devert, "a negro about thirty-five years of age ... [who] is said to have been a negro of good character, having lived in Erwin several years." With these names and copies of the articles, I set out to find if anyone in Erwin would be willing to talk with me about what happened.

My first stop in Erwin was the Unicoi County Cultural Heritage Museum. The museum is housed in a two story Victorian home in a park-like setting on the banks of the Doe River and also serves as the headquarters of the Erwin Historical Society. That morning I was greeted by a white-haired woman. I would guess she was in her 80s. She introduced herself as Martha.<sup>7</sup>

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<sup>7</sup> My conversation with Martha ended abruptly before I had an opportunity to learn her last name.

Before she let me enter, she asks me why I have come to the Heritage Museum. Over her shoulder, I see a picture of a Civil War soldier hanging above one of the beautifully inlaid fireplaces. I explain that I was raised in Johnson City, was visiting from Nashville, and I was interested in learning more about Erwin's history. She asked me my family surnames and what side of "the war" my family fought for. I told her my grandparents' names and then, truthfully, relayed that all of my great-great grandfathers had fought for the Confederacy. She nodded and invited me inside. She told me that she was the President of the Erwin Historical Society and that she would give me a tour of the home.

Built in 1885, I was told the home had been the residence of the General Manager of the C.C. and O. Railroad Company, which meant that in 1918 this was the home of L.H. Phettaplace, the White man who allegedly implored the mob to refrain from burning down the Black part of town.<sup>8</sup> I imagined a large man, whose life was so comfortable in this beautiful home, being roused from his Sunday evening routine to face a horrific sight: a burning Black body and his frightened Black neighbors surrounded by an angry White crowd. He was not the town's law enforcement official but that night he was the voice of authority that tried to restore order and calm.

Martha explained how each room contained period furniture and "Blue Ridge" pottery, made by Southern Pottery, Inc., which had been located there in Erwin from

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<sup>8</sup> I was able to interview Mrs. Mary Young Edwards, who was born in 1926 and raised in Erwin. She was raised by her Grandparents, Mr. and Mrs. Phettaplace, the same Mr. Phettaplace who was General Manager of the Rail Road. She said that her Grandparents were not from the South and that she had never heard her Grandparents speak of the incident. It was not until much later in life that she learned about the incident and the role her Grandfather had played in trying to restore calm to the town. A list of the people I interviewed and the dates the interviews took place is attached as Appendix 3.

1916 until the Pottery closed in 1957. In the kitchen, above the large coal-fired stove, there was a figurine shelf of Black mammies and sambos, in their kerchiefs and straw hats, smiling, eating watermelon. I wondered how authentic to the home these figurines were and if they had been made at Southern Pottery.

Upstairs there was a room filled with the uniforms and medals of young men from Erwin who had fought in World Wars I and II and Korea. There was a room devoted to the C.C. and O. Railroad with old lanterns, engineer caps and other railroad memorabilia. There was a beautiful quilt on display of the presumably White “Families of Erwin” where the surnames were sewn in the middle of a circle and then the family members names extended like petals on a flower.

After the tour, Martha showed me some of her own artwork, paintings of Stonewall Jackson as well as water-colors of trees and plants and flowers. Then she took me to a dormer window and asked me to sit with her. She told me she was glad a young woman like me was interested in the history of the area. I smiled and thanked her sincerely for her hospitality- I took a deep breath and told her that as she was the President of the Historical society, I needed to ask her about something that happened in Erwin’s past. I opened my backpack and showed her the article from the *Johnson City Staff*. I showed her the last paragraph where Mr. Phettaplace is referenced and asked, “so *this* was Mr. Phettaplace’s home?” I thought a question like that might break the ice. But she looked at the article for a moment and said sharply “this never happened and you have no business asking about it.” She got up and walked away to a back room and

closed the door behind her. I waited for a few minutes and then got in my car and drove to the Unicoi County Courthouse.

According to County Courthouse records, the man accused of the “usual outrage” Tom Devert, was a Black property owner in Erwin. Buying a lot on Toney Street with his wife Sallie Devert, the Courthouse property records indicate that the Deverts bought the lot for \$90 in January 1918. The lot was sold by Sallie to White neighbors for \$40 shortly after her husband Tom was shot by the river and burned in the Erwin town square. While no census records can be found for Tom Devert, Sallie is found in the 1920 Johnson City census listing herself as a widow without children, boarding with another family. On the census it states that she was born in South Carolina in 1872.

#### *Tom Devert's Body*

The newspaper articles state that on Sunday evening, May 19, 1918, Tom Devert allegedly attempted to abduct a fifteen year old White girl who was walking along the river with her seven year old brother. The *Johnson City Staff* states Devert

must have choked her into insensibility before he was frightened away by men nearby who rushed to the spot when they heard her frantic outcries...the negro is said to have turned her loose when he saw the men, then to have seized her again and dragged her to the river bank plunging into the river with the evident idea of swimming across. One of the four men whose names cannot be learned today, drew a forty four caliber revolver and fired three shots at his head, two of the bullets taking effect...

According to the *Johnson City Staff*, the unidentified men dragged Devert and the girl from the river, carrying the girl back into town and pulling Devert's dead body by a rope. The *Bristol Herald* indicates that Devert was wounded but still alive.

The sight attracted a large mob which then went into the Black neighborhood and forced all of the Blacks at gunpoint to come to the town square. White men built a pyre of rail-road ties and placed Devert's body on top. The mob forced the Black community to watch as they doused his body with oil and set it on fire.<sup>9</sup> According to the *Bristol Herald*, a member of the mob told the Black witnesses "Watch what we are going to do here and if any of you are left in town by tomorrow night, you will meet the same fate."

The mob then threatened to burn down the Black part of town when Phettaplace evidently sought to stop this from happening. According to the *Johnson City Staff*, Phettaplace was successful. The *Bristol Herald* reported a different ending: a party, said to be led by, allegedly, the Sheriff George Buckner, invaded the Black neighborhood, burning houses and killing one man. Both papers state that the exodus of the Black community began that night and that by Monday night, no Black people could be found in Erwin, Tennessee.

An editorial published in the Johnson City paper on Wednesday, May 22, 1918 stated:

Another Mob: A white girl is outraged by a drunken brute. The guilty man is dead. But that is not the end of it. In the mob itself, crime has bred crime and in its insensate lust for violence and destruction, it knows no law, no bounds, no reason...As an aftermath of the scene, the whole negro population left the town. Negroes of the best reputation, sober, industrious and owners of property<sup>10</sup> fled in

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<sup>9</sup> This was the fifth Tennessee lynching within a year where the victim's body was burned, dead or alive. On May 23, 1917, Ell Persons was burned at the stake in Memphis before a crowd of 5000 people; December 3, 1917, Lation Scott was burned at the stake in Dyersburg; February 13, 1918, Jim McIlherron was burned at the stake in Estill Springs; Berry Noyse was burned at the stake in Lexington, TN on April 23, 1918.

<sup>10</sup> The 1910 census does not reflect any of Erwin's 57 Black residents (out of 3,000 total population) owning any property. But this could, and obviously did, change between 1910 and 1918, as we see from

the general exodus following the shooting up of the town Sunday night...Terror stricken, they sought safety in flight...few of them will ever be persuaded to return to the town...at a time when labor conditions are growing more and more critical, the blow to Erwin industry is severe. Nearly a hundred skilled laborers left almost overnight. Some of them were high priced machinists, all of them valuable workers...the fact remains that an innocent population was done a fearful injustice and it will be a long time before the thrifty little city of Erwin recovers from the blot on its reputation as a law abiding and well conducted community. Its authorities in standing by without protest and without making any attempt whatever to protect guiltless colored men and women are not to be excused and won't be excused when it comes to a federal investigation.

According to Tom Devert's death certificate, an investigation was mustered, but prosecution was denied. The certificate stated that a grand jury found no one could be held responsible as Devert was "killed by unknown persons in an attempt to rape Georgia Collins." Under the "place of burial" section, it was written "burned by mob."<sup>11</sup> No one was ever held responsible for failing to investigate what really happened on the river bank where Georgia Collins died and Tom Devert was shot.<sup>12</sup> Sheriff Buckner remained in office through at least 1934 and no one was prosecuted for burning down Erwin's Black Residents' homes and banishing them from their community.<sup>13</sup> And to this day, very few (12 out of a total county population of 17,740) Black people, according to the 2000 census live in Unicoi County Tennessee.

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the record of Tom Devert purchasing property on Toney Street. According to the 1910 census for Unicoi County writ large, there were 131 Blacks living in the county, but none of them owned property.

<sup>11</sup> Throughout this project I will reference the death certificates made available on Microfilm at the Tennessee State Library and Archives.

<sup>12</sup> I searched the Unicoi County Criminal Court records (microfilm roll A-2893) from May 22 to May 31, 1918 and found no mention of Georgia Collins or Tom Devert.

<sup>13</sup> Sheriff George Buckner's testimony is referenced in a report on the Civilian Conservation Corps operation in Erwin in 1934 where he refused to arrest moonshiners providing libations to the men working for the CCC (National Archives, Record Group 95, Records of the Forest Service (USDA) Records Relating to Civilian Conservation Corps Work, July 1934).

After I went to the Unicoi County Courthouse, finding Devert's property records, finding no record of any type of criminal indictment, I stopped at the office of the local newspaper. When I entered the office, I told the receptionist that I was investigating an incident that occurred in Erwin in 1918. She asked "are you talking about the Blacks or the elephant?" "The Blacks" I replied.<sup>14</sup>

The receptionist introduced me to the editor, Mark Stevens, a White man who looked to be in his early 30s. He is a life-long resident of Erwin and a former Chairman of the Chamber of Commerce. I showed him the articles and asked him if he had ever heard anything about the story. He said that he had never really believed the story and still questioned its validity. He then said unprompted that it simply was not true that no Black people lived in present-day Erwin. He could think of at least two Black women who worked in Erwin, one for Wal-Mart and one for Nuclear Fuel Services, Inc., a company that runs a nuclear waste reprocessing plant by the Doe River.

He told me that he believed that anti-Black race hatred was fading with the older generations. But he confirmed that one would be hard-pressed to find an older historian willing to talk about the topic. He had heard about Elliot Jaspin coming to town and that no one had been willing to talk to him. I told him that I had spoken to Ms. Martha that

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<sup>14</sup> Erwin notoriously hung an elephant, Big Mary, and its trainer, using the C.C. and O. Railroad cranes. The stories differ as to who exactly Mary trampled, but the majority of accounts state that when the circus was travelling through nearby Kingsport, Mary killed her trainer after he tried to keep her from eating a watermelon. For accounts, and a photo, accessed July 4, 2010, see: <http://www.blueridgecountry.com/archive/mary-the-elephant.html>  
[http://www.captiveanimals.org/elephants/The\\_Hanging\\_of\\_Big\\_Mary.pdf](http://www.captiveanimals.org/elephants/The_Hanging_of_Big_Mary.pdf).

morning and he said that he was sure she would have nothing to say. He told me that she had once shown him an old scrapbook with a picture from the early 1920s of Erwin Klan members in all of their regalia standing in a row with their hoods off. She had pointed to the man in the middle and informed Stevens that the man was her Grandfather, which implies that she was well aware of Erwin's racially-charged past, but was simply unwilling to speak with me about it.

He said that when he was Chairman of the Chamber of Commerce three years earlier, he received a call from a woman from Maryland wanting to relocate in Erwin. She told him that she had seen a blog on the internet and read there were no Black people in Erwin and she was interested in moving there if this were true. He says that he told her he would rather she didn't move to Erwin if that was her motivation as the town was trying to improve its image as a more progressive community.

I asked him if there was anyone else he could think of, any other historians that might be willing to talk to me about this story (I had the man who had refused to speak to Mr. Jaspin in mind.) He said that he knew of one man, but that he was old and in ill health. I asked him if I might have the man's name, that maybe I could write him and he could just write me back, that I would not have to physically visit him if that would be too taxing. Mr. Stevens said that he would give the man my contact information and then the man could decide for himself. I told Mr. Stevens that as an East Tennessean I had a stake in this story too- that I wanted to help our community heal itself and that I was not out to persecute anyone, only get at the truth and deal with it as the truth.

I left Erwin that afternoon and went to the Johnson City Public Library. One book, of the four I found on Erwin history, mentions what happened to Tom Devert in 1918.<sup>15</sup> In *Around Home in Unicoi County* (1987), William Helton sets out the stories as reported by the newspapers. He provides little commentary. But he does include an interview with one of Devert's coworkers, Wade Kegley, who was graduating from high-school in 1918. He said that he was returning home after attending his baccalaureate service when he heard shouting and shots being fired coming from the Rail-yard. Kegley said there was an "altercation between some white men and a black. They were between the railroad shops and the river, and as the man tried to escape his pursuers, he grabbed a teen-age girl and took her as hostage out into the river. But he was shot and the girl drowned" (Helton 1987, 426).

While the outcome is still the same, Devert's motivation, according to Kegley, was not the "usual outrage," of a Black man sexually accosting a young White woman. According to Starlet Williams, a Johnson City resident and ETSU employee whose grandparents had been driven from Erwin, Devert had been gambling with a group of White men and won the hand. When the White men demanded their money back, Devert refused and tried to run. When they threatened to shoot, he grabbed Georgia Collins as a shield.<sup>16</sup> If this is the story, it's easy to imagine why the White men wished to remain "parties unknown" per the newspaper reports, as their gambling and greed led to Georgia

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<sup>15</sup> The other books on Erwin history were: *Erwin, Tennessee* by James A. Goforth (2004); *Erwin and Unicoi County* by Linda March (2007); *Unicoi County, Tennessee and Its People* by the Unicoi County Heritage Committee (1995).

<sup>16</sup> This version of the story was also relayed to me by T.K. Owens, 2010 candidate for the District 3 Tennessee Senate Seat, who, if elected would be the first Black man to serve in that position.

Collins being dragged into the river. It would be much easier to say that Devert had been the instigator.

Two weeks after my trip to Erwin and Johnson City, I received a letter from Lewis Thornberry, a retired White History Department faculty member from ETSU who was raised in Erwin in the 1950s. He said he had spoken to newspaper editor Mark Stevens, who had mentioned my inquiry and my desire to set the record straight for the purpose of bettering race relations. He said he had “never researched, studied or read about this incident” and that it was not discussed in his home. He did say “awareness of ‘isolation’ in Erwin led me to be more concerned about my race relations and all race relations. I’ve never felt kin to those folks who gave Erwin its ‘bad history.’ ”

He attached an article he had written for a local historical newsletter “Erwin was Their Home Too” about the Lyons family, a Black family that lived in Erwin from the 1940s to the 1970s. The story was nostalgically written about how as a child he had always been led to believe there were no Black people living in Erwin, but that in truth in the 1950s there had been a family whose father, a World War I veteran, worked for the Rail-Road and whose mother was a domestic servant for a White family. The three children were bused the fifteen miles to school in Johnson City but according to his story, they made friends with their White neighbors in Erwin and played pickup games of baseball together. The two sons, like their father, joined the military and later served in the Korean War. He wrote that he was “pleased to learn of the friendship between the Lyons and other Erwin residents. I had always imagined the worst! I believe these friendships should be an important part of our local history, as surely as older infamous

events are.” The article concluded “The names of these three African American veterans are proudly located on our Unicoi County Veterans Memorial.”

In the margins he wrote, “My mother always told me to not pick at a scab, but to let it heal over. I’m not smart enough to see the consequences of reconciliation efforts. You certainly have your work cut out for you.”

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This project is aimed toward promoting remembrance, not for the sake of picking at old wounds or for shaming or for punishment. It undertakes remembrance for sake of not only justice, but for the ultimate purpose of racial reconciliation in Tennessee. By asking the question: How has Tennessee’s past when it comes to race relations shaped Tennessee’s present, I hope to begin building a bridge toward a harmonious and prosperous future for all Tennesseans.

## CHAPTER ONE:

### VIOLENCE, TENNESSEE AND RACE RELATIONS

This project sheds light on two multifaceted issues that have not received adequate scholarly attention. The first issue is the fact that thousands of Black Americans, like the Black residents of Erwin, Tennessee, were driven from their homes and livelihoods by White mobs in communities across the country between 1865 and 1930. While there is no definitive nation-wide count, I discovered (through census records and newspaper reports) 11 of these banishments or pogroms occurred in Tennessee. In the majority of these communities, the population remains virtually all-White today. In four other Tennessee communities, as late as 1946, Black residential and business districts were destroyed by White mobs in “race riots” with the acquiescence (and some would argue participation) of Tennessee law enforcement officials (Ikard 1997).<sup>1</sup>

None of these incidents of mass violence in Tennessee resulted in anyone White being arrested or indicted for taking Black life, liberty or destroying Black-owned property. This pattern also holds true for the thousands of Black Americans (and 260 Tennesseans) who died at the hands of lynch mobs in the century after the Civil War. A key contribution of my research is that it is the first to identify systematically incidents of mass violence in Tennessee that I consider pogroms. While others have examined lynchings, no one has examined pogroms in Tennessee and only one other scholar, to my

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<sup>1</sup> Of course, modern race riots have plagued American race relations long after 1946. However, for the purposes of this project, those riots and their causation will not be considered in detail at this time.

knowledge, has examined them in the United States. I have uncovered primary documentation of mass violence against Blacks that has previously been unreported and unrecorded by scholars and modern historians.

The second issue addressed is that the failure to uphold the law and protect Black life and property facilitated not only the murder and physical banishment of Black Americans, but also a culture of disrespect for the rule of law. I document this failure through systematic analysis of court documents, census data, newspaper archives and property records. I will argue that by failing to punish those who terrorized Black Americans, government institutions not only failed the mob's victims, but the entire community, Black and White. When states fail to protect their citizens from vigilante behavior and fail to prosecute those who would usurp the state's police power, the rule of law- which ensures that laws apply equally to everyone- is undermined, delegitimizing both the law and law enforcement (Feinberg 1965, Altman 2001, Donnelly 2006).

While racial segregation after the Civil War was legal throughout the South in the first half of the twentieth century, pogroms, murder and summary trials without juries were not. For promoting and tolerating this behavior, government institutions (elected officials and government employees who pledged to uphold the law) could have been held liable under the Fourteenth Amendment to the United States Constitution which prohibits government employees/institutions from refusing to provide the protection of law equally. I scoured the county Criminal Court Clerk records for every pogrom that occurred in Tennessee and found that there was rarely an investigation and never a prosecution associated with the pogroms. I also inspected the same records and death certificates associated with the most infamous lynchings that took place in the state

(where according to newspaper reports hundreds/thousands of people gathered to watch) and again, found no record of criminal convictions of lynch mob members.<sup>2</sup>

And yet it is clear that the prosecution of Black Tennesseans for crimes and misdemeanors was taken very seriously by Tennessee's law enforcement officials. Between 1866 and 1916, Black men consistently outnumbered White men, two to one in the Tennessee Prison population (Tennessee Convict Register Books, Biennial Reports 1866-1916).<sup>3</sup> Of the 106 men executed by the state between 1870 and 1913, seventy-one were Black (Tennessee Convict Register Books, Biennial Reports 1870-1913). Fifty-eight men were electrocuted by the state between 1913 and 1938, and forty-nine of these men were Black.<sup>4</sup> Gossett (1992) found that physically strong Black convicts in Tennessee were always sent to the Brushy Mountain State Prison mines during and after the period of convict leasing (1872-1896), while White convicts "were either working in relatively clean and safe industries such as soap-making and the garment factory or were idle" (248).<sup>5</sup>

But the arrest and prosecution of Whites for lynching or pogroms against Blacks received little to no support. The record of prosecution in Tennessee is completely silent.

The lack of justice provided Black American citizens after the Civil War and the inability

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<sup>2</sup>See Appendix One. We do find two cases, however, when Sheriffs were indicted for not sufficiently protecting the victim from the mob. One of these cases resulted in a hearing before the Supreme Court in March of 1906. I will explain this case in detail in chapter three.

<sup>3</sup> In 1870, Blacks made up 26% of the total Tennessee population; 1890 = 24%; 1920 = 19% (United States Census.)

<sup>4</sup> From Nashville: Of the twenty-six prisoners executed by the state between 1913 and 1957, twenty-one were Black; From Chattanooga: of the eight men electrocuted or hung by the state between 1921 and 1943, all were Black. From Knoxville: of the thirteen men electrocuted or hung between 1922 and 1960, nine were Black. Memphis: of the 31 men electrocuted or hung between 1912 and 1949, 29 were Black (Crane and Crane 1979).

<sup>5</sup> After leasing prisoners to private corporations was abolished in Tennessee, the state operated Brushy Mountain mine with convict labor for itself, requiring all state owned institutions to purchase their coal from Brushy Mountain.

of government institutions to address it in a comprehensive manner at the time is a burden borne by all Americans today and a topic that deserves redress.

This project provides a summary account of the violence committed by White lynch mobs against Black Americans between 1865 and 1964 and a detailed account of the same topics during the same time period for Tennessee. This period roughly coincides with the passage of the first Civil Rights Act (1866) which declared

All persons ...shall have the same right in every State and Territory to... the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other

and the passage of the second Civil Rights Act passed by Congress one-hundred years later (1964) that mandated the extension and enforcement of many of the same rights and liberties.<sup>6</sup> These historical bookends represent turning points in the legal treatment of Black Americans- both are Congressional mandates requiring local and state governments to extend the rights (and protections) of citizenship to everyone within their jurisdiction, regardless of the color of their skin. Both bills also authorized the United States Attorney General to file lawsuits for the protection of rights secured by the Constitution or other United States law.<sup>7</sup>

That it took two Civil Rights Acts enacted one hundred years apart to mandate the equal protection of law and due process for all American citizens, regardless of color, is normatively troubling. The need for further legislation highlights the inability of the

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<sup>6</sup> Three other bills (The Enforcement Act of 1870; The Civil Rights or Ku Klux Klan Act of 1871; and the Civil Rights Act of 1875) built upon the original Civil Rights Act of 1866, further articulating that it was a crime for any person or for the state to inhibit or intimidate the Freedmen from the exercise of civil rights and liberties.

<sup>7</sup> Between 1866 and 1964, there were only six cases brought in Tennessee by private citizens or the Attorney General asking for the protection of the Civil Rights statutes of 1866, 1870, 1871 and 1875.

Federal government to meet the demands of the original Civil Rights Act and the unwillingness of local and state governments to provide all citizens, regardless of color, the equal protection and due process of law.

I address other violent episodes that occur outside of this time period in Tennessee, such as the assassination of Martin Luther King Jr. in Memphis in 1968 and the spate of church burnings state-wide in 1996 as well as the increase in race-based hate-crimes between 2006 and 2008. I do this to show that while Tennessee has made remarkable progress in its race relations since 1964, Tennessee still has room to improve. But the project primarily details the one-hundred years after slavery was abolished and moves in chronological order. A primary facet of this story is the passage of time, the progress that has been made over time and the work that remains to be done.

In this opening chapter, in order to set the stage for the story of racially motivated violence in Tennessee, I summarily outline hypotheses offered by scholars of violence, race relations and Southern politics regarding the causes of inter-racial violence, detailing that all of these theories suggest potentially causal factors. In contrast to the extant theories, I argue that the lack of the rule of law is the overarching mechanism explaining pogroms, lynchings and race riots in Tennessee. I then explain why I have chosen Tennessee as a case study. I detail the methods used to collect my data and I set out the road-map for the rest of the dissertation. I conclude this introduction with a brief discussion of how the rule of law might be reinvigorated through racial-reconciliation and briefly describe the role I believe government institutions should play to facilitate this process. This will be discussed again in detail in the dissertation's conclusion.

## Lynching, Race Riots, Pogroms and Theories of Violence

*The practice of violence, like all action, changes the world, but the most probable change is to a more violent world – Hannah Arendt 1970, 177*

“No one concerned with history and politics can remain unaware of the enormous role violence has always played in human affairs” (Arendt 1970, 110). Violence is a method or a tool (not an end in itself) used to bring about the desires of the wielder; and violence most often appears where power is in jeopardy (Darrow 1902, Arendt 1970).

In *Reflections on Violence*, Georges Sorel (1908, 60) stated, “The problems of violence still remain very obscure.” Arendt argued that beyond the problems of obscurity, attempts by social or natural scientists to “solve the riddle of ‘aggressiveness’ in human behavior,” had the potential to be “pernicious” and “theoretically dangerous” (1970, 171-172), because such attempts might lead to belief that in certain cases, humans were incapable of exercising their own agency against violence, i.e. that violence is a natural, instinctual or uncontrollable human characteristic- bound to occur when subject A is exposed to stimulus B. Arendt, with emphasis on inter-racial violence wrote,

the danger of being carried away by the deceptive plausibility of organic metaphors is particularly great where the racial issue is involved. Racism, white or black, is fraught with violence by definition because it objects to natural organic facts- a white or black skin- which no persuasion or power could change; all one can do when the chips are down is exterminate their bearers... (1970, 173).

She hesitantly stated that if causal chains could be drawn with regard to violence, the connections would be that violence is a logical consequence of racism because of the nature of racism-when one believes another being is inferior because of their biological traits, treating them less than human is likely. She also consistently maintained that when

those who have power (government or governed) feel it slipping away, they will often resort to violence in an attempt to hold on to power (Arendt 1970).

Despite the obscurity or perniciousness associated with solving the causal problems of violence, scholars from different fields across generations, from Hobbes (1651) to Robert Wright (2001) have attempted to find causal links between violence and biology, psychology, economics, and political power.<sup>8</sup> I will outline some of the theories, particularly with regard to inter-racial violence, and conclude with my own restatement *ala* Hobbes, to wit: because one of the primary purposes of government and adoption of the rule of law is to monopolize dispute resolution and thereby stem violence, government that knowingly allows vigilante violence to become the norm is responsible for the legacies of violence that continue to affect us today.

#### *Racial and Power Threat Theories*

Arendt's observations dovetail nicely with V.O. Key's (1949) articulation of "racial threat" theory which found that Southern White political attitudes in the first half of the twentieth century were most conservative, public policies most oppressive and Southern behavior most "aggressive" in communities with the highest concentration of Blacks (Key 1949: 5).<sup>9</sup> In order for Whites to retain power, the numerically dominant Black population must not be able to exercise civil or political rights.

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<sup>8</sup> Hobbes, author of *Leviathan* (1651), believed that because bloody, violent anarchy was inevitable in the state of nature, nature must be abandoned for the state of monopolized dispute resolution by a centralized power. Robert Wright in *NonZero* (2001) argues that over time human beings have realized that violence is wasteful and that people are more valuable alive than dead.

<sup>9</sup> Recently, the racial threat hypothesis has been restated as "the decades old truism that proximity to Blacks causes Whites to exhibit racial hostility" (Voss 1996, 1157.) This theory will be analyzed in special reference to racially motivated violence in Tennessee, where Blacks have always been and continue to be

Many tools were developed to ensure the oppressed status of Southern Blacks: debt peonage and convict leasing were among the most prolific. By 1905, over 100,000 Southern Black men had been arrested for inability to pay their bills or vagrancy and “leased” by state governments at a profit to mining operations, turpentine companies and cotton plantations (Blackmon 2008). Tennessee engaged in the practice from 1872 to 1896, resulting in thousands of “strong Black males” (1,066 in 1896 out of a total prison population of 1,525) being “immediately transferred to the mines” where “not one convict lived longer than ten years, even though twenty percent of the prison’s convicts had life sentences” (Gossett 1992, 246-247). Convict leasing also caused several bloody battles between free laborers and state militia tasked with enforcing the convict-leasing contracts (Wilson 1938). But this means of control was “legal.” Another effective method of ensuring Black Southerners could not exercise their civil or political rights was through lynching.

### *Lynching*

Between 1882 and 1968, 3,437 Black men were lynched in the United States, of which 3,029 occurred in the former Confederate South (NAACP Lynching Records at the Tuskegee Archives). Lynching, the extra-judicial mob murder of an individual, is most often associated with hanging, but victims were also shot, burned, dragged to death and tortured (Pfeifer 2004).

On August 4, 1899, *The New York Times* interviewed several Southern Governors regarding lynching in their states. The Governors of South Carolina, Arkansas and

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most heavily concentrated in the Western part of the state and least concentrated in the Eastern part of the state.

Georgia all replied that “the only hope for relief lies in the stopping of the particular crime which is chiefly the occasion of mob law,” i.e. Black male assault of White women (*The New York Times*, August 4, 1899, 1). In his book *The Truth About Lynching and the Negro in the South*, Collins (1918) stated that the Black Man’s propensity for rape and violence made lynching necessary. Of course this was a huge “straw man,” and indicative of the racist work that paraded as scholarship during this era. Nevertheless, these sentiments were bolstered by a belief by many Southerners that courts as a vehicle for dispute resolution were ineffective or unnecessary when it came to regulating Black behavior. The *New York Times* reported that “Southerners believe the quips and quirks of the law” justified lynching, as “the tedious delays and obstructions which operate so often, defeat justice” (November 25, 1895).

Ida B. Wells Barnett (1892) maintained that lynching Black men was not a tool of crime deterrence or the punishment of criminals. Barnett asserted that when Blacks were arrested for crimes, they were usually dealt with harshly by the legal system. One of the first to compile detailed lists of lynching victims and their alleged crimes, Barnett found that alleged sexual assault of White women was not, in fact, the leading reason Whites lynched Blacks. Only one in four of the lynchings she studied began with an accusation of Black sexual assault or rape (Wells 1892).<sup>10</sup> She alleged that White men recognized Jim Crow legislation alone, coming to fruition during her adulthood, would not be enough to ensure that the large Black population in the South would not advance economically, socially or politically. She argued that rather than as crime deterrents,

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<sup>10</sup> This ratio was validated by Brundage’s (1997) study of lynching as well, which actually found that rape or attempted rape accounted for 15% of all lynchings in his data set.

lynching and mob violence were used to eliminate threats to political and economic power (Wells 1892, Brundage 1997).

Barnett's insight was articulated by sociologist Hubert Blalock in his work *Toward a Theory of Minority Group Relations* (1967) as the "power threat" hypothesis. He proposed that two distinct motivators lead a majority group to violently oppress a minority group: political power and economic power. Blalock recognized that struggles over these resources often occur simultaneously; as such causality is difficult to discern. But Blalock, like Key, maintained that the level of oppression should vary according to the size/concentration in numbers of the minority population and whether the majority is trying to horde a) political power or b) capital. Blalock believes that with regard to both resources, the majority group is going to increase oppression of the minority group when the resource is threatened.

Blalock (1967, 159) also stated that competition for political power or economic power might end in

symbolic or ritualistic forms of violence such as lynching. I have attempted to test the theory [that the greater the number of minorities in a community, the greater the violence will be] using lynching rates, but inadequate data, the infrequency of lynchings, and certain methodological difficulties have prevented me from obtaining definitive results.

In the 1970s and 1980s, sociologists Reed (1972), Corzine, Creech and Corzine (1983) and Tolnay, Beck and Massey (1989) attempted to pick up where Blalock left off with more substantial lynching data. Reed and Creech et al. found support for the political component of the "power threat" hypothesis, where Tolnay et. al. were more convinced by the economic component as explaining the dispersion of lynching over time and space.

Explanations rooted in group-threat theories tap the communal nature of lynching. Lynching differs from simple murder in many ways, but particularly in the fact that it is a group that serves as executioner. Thus communal psychosis was another hypothesis offered to explain the practice of lynching and mob violence in the South (Dollard 1937). Dollard asserted that frustration and aggression stemming from economic insecurities and religious fanaticism combined to create a repressed frenzy in communities throughout the South (1937).

Furthering the group psychosis explanation, Dahlke (1952), like Herbert Blumer (1958), argued that group violence was not a function of individual prejudice per se, but of “group position” created through different racial groups collectively and publicly projecting negative images onto one another over time, images that reinforce feelings of racial superiority, differentness of minorities, fear and suspicion. When a group is consistently denigrated,

its situation, in the absence of mitigating norms of justice and humanitarianism, becomes extremely precarious. Violent expression of disesteem on the part of the superordinate group may readily result (Dahlke 1952, 420).

Patterson found lynching often took the form of a communal cleansing ritual; almost a religious sacrifice (1998). He documents clergy members who condoned and sometimes incited mass lynching by marking the lynching victim as the community’s sacrifice for its sin and wickedness (Patterson 1998). Patterson draws out the similarities of Southern lynching with ritualistic human sacrifice performed in ancient cultures under the guidance of religious leaders, bolstering the communal psychosis theory of lynching.

### *The Media*

Several scholars have found that newspapers played a prominent role in provoking lynching in the South (Washington 1913; Dahlke 1952; Godschalk 2006; Wasserman 2006). Wasserman (2006) in *How the American Media Packaged Lynching 1850-1940* finds that newspaper coverage fueled the occurrence of lynching by persistently dramatizing the supposed propensity of Black male aggression toward White women. Southern papers would

give these rape and sexual assault stories massive front-page publicity [and] package their stories about lynching in more favorable terms than the rest of the nation. As one Southern paper put it in the coverage of a lynching concerning an alleged African American offender: 'Usual Crime: Usual Cure' (Wasserman 2006 ii.)

Wasserman (2006) also found that favorable newspaper coverage of lynching began to change in the South with the introduction of anti-lynching bills in the United States Congress in the 1930s: the threat of Federal intervention into Southern affairs seemed to affect the support shown for lynching amongst the people and the press.

### *Cultural and Economic Factors*

Alongside group-threat explanations, "economic fear" (Myrdal 1944, 563), and "economic frustration" (Hovland and Sears 1940, 31) are usually stressed as causal factors of White angst that released itself through violence. Hovland and Sears (1940) found support for the theory that as the per-acre value of cotton dropped, lynching of Black Southerners in the Southern black-belt (where the antebellum plantation economy was most prevalent) would increase. Economic frustration led to lynching of Blacks, they argued, because the true source of economic deprivation, landlords and cotton

speculators, were too powerful to retaliate against and Blacks represented economic competition as well as easy targets (Hovland and Sears 1940). Thus when the cotton crop was healthy, violence was abated. But when the cotton crop was poor, the frustration of poverty prompted poor Whites to find a Black scape-goat for their misfortune.

Scholars of the Progressive era, e.g., Charles Beard (1928), Clarence Darrow (1901, 1928), W.E.B. Dubois (1932), believed that rather than individual psychosis or group threat, and more than economic angst alone, lynching was a “cultural” problem. They asserted a lack of strength in: local law enforcement, educational, religious and civic institutions caused racially motivated violence. In addition, Progressives believed the dearth of comprehensive institutional approaches to poverty, economic stagnation and labor disputes at the local, state and federal levels contributed to the melee (Kennedy 2007).

The Progressive critique of social or cultural conditions as causal factors of Southern violence inspired Southern sociologists in the 1920s and 1930s, like Howard Odum and Arthur Raper, to dedicate more time and attention to lynching and racially motivated violence. These scholars agreed with the Progressives that lynching would

ultimately fade from the scene with the general rise of the cultural level, which alone can provide the basis for the development of a public which will discard these crude methods of group expression. It is a matter of major importance to stimulate this cultural advancement (Raper 1933, 51).

Most of these thinkers believed that Southern industrialization and urbanization would lead to stronger schools, civic organizations, democratic norms and respect for the rule of law (Young 1928; Raper 1933).

But modernization in the South was not a panacea, specifically because it was both jarring and contested (Wright 2009). Mechanization only benefitted those that could afford tractors and cotton threshers, not the economically depressed majority of Southern farmers, Black and White. Urbanization led to safety-in-numbers for Black Southerners, but also crowding and over-stretched public services (Raper 1933). Industrialization in the South was also problematic. Blacks were rarely granted work in the textile mills of the Carolinas (Raper 1933). And in the mines of Alabama, Tennessee, Kentucky and Virginia, Black convicts were used as scabs when White workers asked for better working conditions or higher wages (Jones 1998; Blackmon 2008). This created additional animosity between Black and White Southerners as well as further economic stratification. Thus modernization was not necessarily the answer to the South's social difficulties or propensity toward vigilante violence.

Raper (1905), White (1929) and Myrdal (1944, 563) noted the "isolation, the dullness ... and the general boredom of rural and small town life" was a major contributor to the relationship between the frequency of lynchings and poor, rural communities. As H.L. Mencken caustically opined,

lynching is a sport popular in the South because the backward culture of the region denies the populace more seemly recreations [such as] those afforded by brass bands, symphony orchestra, boxing matches, amateur athletic contests, shoot-the-chutes, roof gardens, horse races and so on (1919, 69).

But this "small town- lack of amusement" hypothesis is also troubling because lynchings took place in Southern cities with equal or greater frequency. In Tennessee, Memphis, a city replete with symphonies, opera and institutions of higher learning, hosted the highest number of lynchings of any locale (Project Hal 2003, Tuskegee Archives).

In *An American Dilemma: the Negro Problem and Modern Democracy* (1944), Gunnar Myrdal, a Swedish scholar recruited by the Carnegie Foundation to investigate race relations in America, found several contributing factors to racial violence between Blacks and Whites. He believed economic insecurity on the part of Whites, coupled with Black attempts toward economic independence, small-town boredom, race-hatred and either incompetence or complicity on the part of police were all conceivable culprits. Myrdal found that in truth, “the causation [of white mob violence] is such that, when the time is ripe, almost any incident may touch it off” (Myrdal 1944, 564).

#### *An Absent Rule of Law*

While small town boredom, sexual obsessions, bad cotton harvests and over-zealous assertions of honor have all been asserted to play a role in Southern lynching, all of these social and economic phenomena were subject in law, if not in practice, to well established institutions of government. The refusal or inability of local, state and federal law enforcement officials to administer justice: to prevent lynching in the first place and at a minimum to arrest and prosecute those who formed the lynch mob, is the true culprit in the saga of American racial violence.

When a community is well ordered and adheres to the rule of law, disputes between individuals are resolved by impartial institutions (Feinberg 1965; Altman 2001; Donnelly 2006). Dispute resolution in a constitutional democracy like the United States is not a triviality to be determined by the will of a mob (Hobbes 1651; Raper 1933; Altman 2001). Rather, in communities governed by the rule of law, the people trust their institutions to wisely and fairly resolve their disputes on the basis of factual evidence, not

allegations and accusations (Altman 2001). The rule of law rests on judge-made as well as written law, like the United States Constitution. The Constitution after the Civil War mandated that every citizen, Black and White, would receive the equal protection as well as the due process of all American law.<sup>11</sup> And law enforcement officials and mechanisms: sheriffs, juries and judges alike, swear to uphold the Constitution as a condition of their employment.

I argue that when law enforcement officials balk at their sworn duty, they send a signal to the community that the rule of law does not apply. When jurors, in the few cases where they were impaneled to issue an indictment, find that lynching occurred at the “hands of parties unknown,” they too send a signal that the rule of law does not apply. In other words, the behavior of a town’s law enforcement mechanisms sets the tone for whether a bad cotton crop or perceptions of threat are valid excuses for murder and whether or not there will be legal consequence for such behavior.

It was argued at the time and is clear now that lynching did not deter crime in the communities where it was practiced (Woodson 1918; Myrdal 1944). Lynching arguably promoted criminality as it established that crimes committed against Black people would go unpunished. Raper (1933) found, of the twenty-one lynchings that occurred in 1930,

Two of the 1930 mob victims were innocent of crime (they were not even accused), and there is grave doubt of the guilt of eleven others. In six of these eleven cases there is considerable doubt as to just what crimes, if any, were committed, and in the other five, in which there is no question of the crimes committed, there is considerable doubt as to whether the mobs got the guilty men.

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<sup>11</sup> See The Civil Rights Act of 1866; The Enforcement Act of 1870; The Civil Rights or Ku Klux Klan Act of 1871; and the Civil Rights Act of 1875.

In his book *Lynching and the Law* (1933), Chadbourn asserts that “only about eight-tenths of one percent of the lynchings in the United States since 1900 has been followed by conviction of the lynchers” (13).

Of the 213 cases where a Black person was lynched in Tennessee between 1871 and 1944, I have been unable to find records of a judge or jury ever finding an individual who participated in the lynch mob guilty.<sup>12</sup> One Tennessee historian asserts that “Ninety-nine percent of mob-members escaped arrest and punishment” (Bennett 2002). When law enforcement allowed mob lynching to take place or refused to arrest mob ringleaders, law enforcement implicitly condoned the murderous behavior. And unfortunately this cycle repeated itself over and over again in Tennessee from 1871 to 1944.

Lynching was undoubtedly an extension of the exploitative economic order in the South (Tolnay and Beck 1995) as well as repressive social conditions (Raper 1905; White 1929; Myrdal 1944). Violent racism grew alongside the myth of White supremacy (Collins 1918) as well as political disfranchisement of Blacks (Fleming 1995). But *more than these*, the responsibility for lynching and mob terror rests with the refusal of law enforcement to uphold and enforce the law. And for this, local, state and federal governments bear responsibility. As Myrdal wrote

It would be easier to prevent and punish [lynching] with an adequate police and court system than it would be to curb lynching, for the white perpetrators of these outrages are more often individuals than groups..who do not respect the rights of Negroes on equal terms (1940, 566).

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<sup>12</sup> Again, see Appendix One. There are two exceptions: in one case, a local Sherriff was indicted for not sufficiently protecting the victim from the mob. The other case resulted in a hearing before the Supreme Court in March of 1906. I will explain this case in detail in Chapter Four.

This theme of lawlessness and the responsibility for lawlessness will be carried throughout this project. Lawlessness was not limited to lynching however; it took other forms which will be discussed in the following section. Whether there is a responsibility to address this lawlessness today will be the project's final argument.

### *Pogroms and Riots*

Alongside lynching, other forms of violence for the purpose of Black economic, political and social oppression took root in America in the aftermath of the Civil War: Race Riots and Pogroms- each will be discussed in turn. Race Riots and Pogroms differ from lynching in that

[T]he riot is the most extreme form of extra-legal mob violence...it is not a one-way punishment, but a two-way battle. The Negroes may be hopelessly outnumbered and beaten, but they fight back. There is danger to the white man participating in the riot as there usually is not when he engages in a lynching (Myrdal 1944, 566).

For the purposes of this project, I differentiate between Race Riots and pogroms. There are two primary differences between the two phenomena: what happened to the Black community *after* the violent episode and to what degree the Black populace could defend itself.

With a pogrom, defined by the *Encyclopedia Britannica* as a mob attack against the persons or property of a religious or racial minority, the Black community was forced to leave permanently, as was the case in Erwin, Tennessee.<sup>13</sup> Black people were not given the opportunity to return to their homes and rebuild. Conversely, Race Riots occurred in relatively more urban settings and in many cases, a significant portion of the

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<sup>13</sup> See Prologue.

Black community remained or returned to pick up the pieces and rebuild their lives (Myrdal 1944; Grimshaw 1969).

In both race riots and pogroms, armed White mobs, often supported by law enforcement, invaded Black enclaves or neighborhoods, beat and murdered Black civilians and destroyed Black-owned property (Grimshaw 1969; Ikard 1997; Capeci 2007; Neeno 2009). In many cases, Blacks retaliated, as in the Knoxville (1919) and Columbia (1946) race riots in Tennessee, but most often (between 1865 and 1964) Blacks were outnumbered and out-gunned (Myrdal 1944; Grimshaw 1969; Capeci 2007; Neeno 2009).

Race Riots during this time period are documented as having occurred in both the North and South.<sup>14</sup> Myrdal warned that riots were even more damaging to attempts at amicable race relations than lynching. He found that Whites who lynched innocent or helpless Blacks sometimes felt “a twinge of guilt” (1944, 568). But riots, where in some cases, Blacks attempted to defend themselves, or Whites were killed, intensified the fear and insecurity on the part of Whites and eradicated feelings of culpability.

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<sup>14</sup> Race riots are documented as having occurred in: Memphis and New Orleans (1866), Camilla, Georgia; Opelousas, Louisiana and Pulaski, Tennessee (1868), Laurens, South Carolina; Eutaw, Alabama and Alamance County, North Carolina (1870), Meridian and Philadelphia, Mississippi (1871), Colfax, Louisiana (1873), Vicksburg, Mississippi, New Orleans and Coushatta, Louisiana (1874), Yazoo City, Mississippi and Eufala, Alabama (1875), Hamburg and Ellenton, South Carolina (1876), Clarksville, Tennessee (1878), Danville, Virginia (1883), Thibodeaux, Louisiana (1887), Wilmington, North Carolina (1898), Newburg, New York (1899), New York City and Akron, Ohio (1900), Atlanta (1906), Springfield, Illinois (1908), East St. Louis, Missouri; Philadelphia, Pennsylvania and Houston, Texas (1917), in twenty-six cities and towns the summer of 1919, Tulsa, Oklahoma (1921), Rosewood, Florida (1923), Detroit, Michigan and Harlem, New York (1943), and Columbia, Tennessee (1946) (Brown 1975, 324; Gibson 2004; Rucker 2007).

## *Pogroms*

As referenced in the Prologue, one book has been written, to my knowledge, chronicling the American pogrom phenomenon: *Buried in the Bitter Waters: The Hidden History of Racial Cleansing in America* (2007) by Elliot Jaspin.<sup>15</sup> One of the key contributions of my research is that it is the first major documentation of pogroms in Tennessee and one of the first to systematically examine this question in the United States.

Jaspin notes that there are very few records documenting the pogroms and that today, these incidents are only very tentatively discussed. He interviewed hundreds of people for the book and found that

[When] a community feels a need to either deny or shade its history [it] is a measure of just how powerful these racial cleansings remain. In part, townspeople may want to edit the past as a way to protect the memories of their fathers and grandfathers who took part in these expulsions. But by shading what happened, or denying it entirely, they are also protecting the legacy of these cleansings. Through a variety of devices, these communities continue the project their ancestors began- an all-white society...By denying what took place long

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<sup>15</sup> This is compared to book-length treatises that address the Race Riot phenomenon (Brown 1975; Gilje 1996; Rucker and Upton 2007) as well as the lists of Race Riots found in other volumes (Myrdal 1944; Grimshaw 1969; Brown 1975; Tolnay and Beck 1995; Rucker 2007; Neeno 2009). The only other source I have found referencing pogroms comes from Ray Stannard Baker's *Following the Color Line: An Account of Negro Citizenship in American Democracy* (1908, 71). Baker references Evening Shade, Arkansas (1906), Springfield, Ohio (1907) and Greenburg, Indiana (1907) as towns that forced the entire Black population to leave. He also chronicles Lawrenceburg, Ellwood and Salem, Indiana as being towns where "no negro is permitted to stop overnight...nor have negroes been permitted to live [there] for years" (Baker 1908, 126). These places where Blacks were not allowed to live or be present overnight are chronicled by James Loewen in *Sundown Towns: A Hidden Dimension of American Racism* (2005). Whites in these towns would inform Black people upon arrival that they were not welcome there. There would often be signs posted at the city limits, such as the one in Hawthorne, California in the 1930s, which said "Nigger, Don't Let the Sun Set on YOU in Hawthorne." Loewen found concrete evidence (in the form of signs like these) of approximately 1,000 of these towns existing, primarily in the Midwest and Northwestern states; leading him to conclude that racism in America was not simply a Southern problem. Baker (1908) makes similar statements in his book, opining that the Black man in Philadelphia or Indianapolis was just as likely to be set upon by a White mob as a Black man in Mississippi if the right circumstances presented themselves.

ago, they can claim that their racially ‘pure’ world is a coincidence, when in fact, it is not. (Jaspin 2007, 11).<sup>16</sup>

Pogroms physically uprooted families. They deprived citizens of the economic security found in their homes and their jobs and the emotional security found in having a place to call home. In many of these communities, Blacks were too afraid to return to their homes and collect their belongings, assuming that anything was left -in many cases the communities were burned (Jaspin 2006). Further, they had to abandon land that still had value. According to Jaspin, in many of the pogrom sites he investigates, the “abandoned” land was sold at a profit by the county.<sup>17</sup> Pogroms not only created a contested legacy of why today no Black families live in the communities where they occurred, they deprived Black families of capital invested in their homes, land and employment.

I will go into further detail regarding Tennessee’s specific history of lynching, race riots and pogroms in upcoming chapters. While racially motivated violence took place across America, Tennessee will be this project’s focus for reasons I explain in the next section.

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<sup>16</sup> None of these pogroms are included in the Race Riot lists that have been compiled by other authors. According to Jaspin (2006), pogroms occurred in Washington County, Indiana (1864); Comanche County, Texas (1886); Polk County, Tennessee (1894); Pierce City, Missouri (1901); Evening Shade, Arkansas (1906); Marshall County, Kentucky (1908); Boone County, Arkansas (1909); Forsyth County, Georgia (1912); Erwin, Tennessee (1918), Corbin, Kentucky (1919); Blanford, Indiana (1923); Spruce Pine, North Carolina (1923).

<sup>17</sup> I was unable to find conclusive evidence of this in Tennessee. In the majority of the places where pogroms occurred in Tennessee, Blacks were not property owners. In the few cases where I was able to document property ownership, the property was usually sold, presumably under duress, to a neighbor for a fraction of the cost originally paid for the property. This occurred in Erwin and Lafayette Tennessee.

## Tennessee as a Case Study

“Geography, economics, race and political philosophy have divided the state almost from the beginning into three ‘Grand Divisions’” (Lamon 1981, viii). East Tennessee is mountainous territory, where the Appalachian mountain range straddles the Tennessee, Georgia, North Carolina and Virginia state lines. The soil is not suited for cotton production and the slave population as a percentage of the total population in East Tennessee never grew above 10 percent (Lamon 1981, 15). East Tennessee’s original White inhabitants were primarily Scotch-Irish Protestants, many former indentured servants themselves, zealous of individual freedom and inhospitable to strangers (Eberling 1926).

Intensive democracy has been a continuing characteristic [of East Tennessee] which not even the eminently aristocratic institution of slavery could overcome. In no part of the earth is the belief in the equality of men stronger or more persistent than in East Tennessee, where Union loyalty was never surrendered and slavery rarely endorsed (Eberling 1926, 20).

It was East Tennessee that was home to “the first newspaper in the United States devoted to the abolition of slavery” (Mielnik 2002). Quaker Elihu Embree’s *Emancipator* was published in the state’s first capitol city, Jonesboro, Tennessee, in the northeastern part of the state in 1820 with a circulation of 2000 readers within and without the state (Patton 1932; Mielnik 2002). Manumission societies from East Tennessee petitioned the Tennessee General Assembly every legislative session between 1796 to 1840 for the abolition of slavery within the state (Patton 1932; Stewart 1973; Fitz 2006).

Middle Tennessee serves as a geographical bridge between the mountainous east and the rich delta soil of the west. Middle Tennessee’s rolling hills suited the production

of tobacco and other staple crops. Bordered by Alabama to the south and Kentucky to the north, Middle Tennessee was home to “some of the largest slave concentrations in the state” (Lamon 1981, 15). President Andrew Jackson’s plantation home, the Hermitage in Middle Tennessee was home to approximately 150 slaves at the time of his death in 1845.<sup>18</sup> By 1840, Black slaves in Middle Tennessee made up 27% of the total population; by 1860, twelve middle Tennessee counties had populations where slaves made up over 35% of the population (Lamon 1981, 15). Nashville and the surrounding counties were the sites of many of the Civil War’s bloodiest battles. Rather than a legacy of manumission societies or abolitionist newspapers, it was Middle Tennesseans (specifically disfranchised Confederate soldiers) who first formed the Klu Klux Klan in Pulaski Tennessee in 1865.

Finally, the soil and economic culture of West Tennessee is most comparable to that of its neighbors Mississippi and Arkansas, where staple crop production was most profitable, large plantations most prevalent and the density of African slaves most substantial: in 1860, seven of the southwestern-most West Tennessee counties had populations of over sixty percent African slave (Ash 1988, 11). West Tennessee legislators (in comparison to East Tennessee) voted uniformly for dissolution from the Union in 1860 and legislatively and violently resisted manumission and emancipation before and after the Civil War (Ash 1988, 205).

Legal historians of the South have claimed that Tennessee jurisprudence before the Civil War was truly “emancipatory.” The Tennessee Supreme Court prior to the outbreak of Civil War represented

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<sup>18</sup> “Slavery at the Hermitage” accessed May 1, 2010. [www.thehermitage.com/slavery](http://www.thehermitage.com/slavery)

in absolute terms, the most generous emancipatory jurisprudence of any Southern Court...the only room for dispute about the court's behavior consists in whether to describe it as full scale anti-slavery or only partially so (Nash 1968, 234; *see also* England 1943; Nash 1970; Ely 2002).

Evidence for this assertion can be inferred from the fact that two of Tennessee's antebellum Supreme Court justices (both from East Tennessee) were active abolitionists (Ely 2002); and from language like that used in *Ford vs. Ford* (1846, 95), where Tennessee appellate court Judge Nathan Green wrote

[A slave] is made after the image of the Creator...equal to his owner but for the accidental position in which fortune has placed him...but the law under which he is held as a slave have not and cannot extinguish his high-born nature.

But legal justice in Tennessee also seemed to vary by region.

By far the highest rate of acquittals and the lowest rate of convictions [of slaves brought to trial for criminal activity] were registered in East Tennessee. Conversely, the lowest rate of acquittal and the highest rate of conviction were recorded in West Tennessee. The rates in Middle Tennessee tended toward those in the West (Howington 1982, 276).

Tennessee lost more money, land and soldiers during the Civil War than any other Southern state with the exception of Virginia (Whiteaker 2002). In addition, Tennessee was the only southern state which had a considerable body of citizens who remained constantly loyal to the Union (Eberling 1926). A majority of Tennesseans (69,000 vs. 58,000) in March 1861, voted *against* secession (Whiteaker 2002). It was not until shots were fired at Fort Sumter in June 1861 that Tennessee legislators agreed to secede; even then, elected representatives from 26 East Tennessee counties issued their own declaration to secede from the state of Tennessee (Thirty-Third Tennessee General Assembly, Senate Journal of the Second Extra Session, April 25, 1861; Whiteaker 2002). Politicians in Nashville denied the legitimacy of the declaration and sent Confederate troops to occupy East Tennessee for the remainder of the war (Van West 1988). East

Tennesseans then resorted to guerilla warfare against the Confederate troops, burning bridges and mangling train tracks (Whiteaker 2001). 20,000 Black men from all over Tennessee and 30,000 White Tennesseans enlisted to fight for the Union, with approximately 100,000 Tennesseans enlisting to fight with Confederate forces (Whiteaker 2001).

These factors combined made post-war Tennessee truly a war-torn state. All Tennesseans were devastated by the war in one way or another. How the state was going to rebuild itself economically, physically, politically and socially in the war's aftermath were not settled questions.

Tennessee's regional, political, agricultural, economic, racial and ideological variation; its history of manumission societies alongside its history of Klan violence; its status as the only Southern state to maintain a semblance of political and military loyalty to the Union; its lack of subjection to Federal Military Reconstruction; its history of being the first Southern state to ratify the 14<sup>th</sup> Amendment alongside its status as the first state to judicially uphold Jim Crow segregation; and the fact that "for the post-bellum period in Tennessee's history few published works focus upon or include substantial information regarding Black Tennesseans" (Lamon 1981, 117) make Tennessee a relevant case study for examining the nexus between race, violence and the equal protection of law in the post-war South.

#### *Tennessee Data: Lynching and Pogrom*

In this section, I explain how I gathered the data that will be analyzed in the following chapters. There are three sources I consulted to identify the Black people

lynched in Tennessee between 1865 and 1944 (the year of the last recorded lynching.)

First, I copied the data compiled by the NAACP (National Association for the Advancement of Colored People) in *Thirty Years of Lynching in the United States: 1889 – 1919*, first published in 1919. The NAACP finds that 163 Black men were lynched in Tennessee between 1889-1913.<sup>19</sup> Next, I consulted an online data set which chronicles lynching in the South and adds new information as it becomes available: *Project HAL: Historical American Lynching Data Collection Project*. This database was developed by Elizabeth Hines and Eliza Steelwater at the University of North Carolina at Wilmington. The HAL study (1882 – 1930) lists the number of Tennessee’s Black lynching victims at 173.<sup>20</sup> Finally, I consulted Crane and Crane’s study of Tennessee law enforcement and prisons, *Tennessee’s Troubled Roots* (1979) which compiled lynching data from several sources and reported that in Tennessee, between 1871 and 1944 (the year the last man was lynched in Tennessee), there were 213 Black men lynched.<sup>21</sup> Because Crane and Crane’s focus was on Tennessee, incorporates the same records used by Project Hal, and

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<sup>19</sup> The NAACP records were updated semi-annually over the following two decades in the NAACP’s *The Crisis* periodical. In order to be included in the NAACP data, four criteria must have been met: “1) evidence that a person was killed; 2) the victim met death illegally; 3) Three or more persons participated in the killing; 4) the group acted under the pretext of service to justice or tradition” (NAACP 1919).

<sup>20</sup> According to the HAL website, “the original data came from the NAACP Lynching Records at Tuskegee Institute, Tuskegee, Alabama. Stewart Tolnay and E.M. Beck examined these records for name and event duplications and other errors with funding from a National Science Foundation Grant and made their findings available to Project HAL in 1998.” Accessed June 1, 2009:  
<http://people.uncw.edu/hinese/HAL/HAL%20Web%20Page.htm>

<sup>21</sup> Crane and Crane (1979) gathered their lynching data from: NAACP, *Thirty Years of Lynching 1889-1919*; Records of Daniel Williams, archivist, Hollis Burke Frissell Library, Tuskegee Institute (1916-1934); Jesse Ames, *The Changing Character of Lynching 1931-1941*, Commission on Interracial Cooperation, Atlanta, Georgia (1942); *The Negro Year Book, 1947*, Dept. of Records and Research, Tuskegee Institute (1947).

covers twenty-five additional years, I have adopted their data set for my research.<sup>22</sup>

Lynching by region of the state breaks down as follows:

**Table One: Black Lynching by Region of State**

	West Tennessee	Middle Tennessee	East Tennessee
Crane and Crane data	98	90	25

*Pogrom Data:*

Other than *Buried in the Bitter Waters*, there are no datasets or books written that tally the number of pogroms that took place after Reconstruction. The data I collected was garnered by conducting a word-search using the online archives of the *New York Times*, the *Washington Post*, the *Chicago Defender* and the *Chicago Tribune*.<sup>23</sup> Using the search terms of “Negro”+ “Black” +“Tennessee” + “violence”+ “Klan” + “Race” + “Riot” and limiting the dates of the search to the years between 1865 and 1960, I retrieved over 2000 articles. I then skimmed each article and downloaded 200 that I thought might be of interest. In all I found 94 articles that highlighted particular instances of racially motivated violence in Tennessee. I made sure to look at the days following each instance to see if there was further reporting. The *Washington Post*, *The New York Times* and the *Chicago Tribune* combined referenced 15 instances of racially motivated mass violence between 1865 and 1950 which are listed in Table Two.

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<sup>22</sup> I compared Crane’s report to a census search I conducted for each of the 213 men and will report my findings on their age, occupation and whether they owned property in the fourth chapter.

<sup>23</sup> These online archives were made available to me through the Vanderbilt University library.

**Table Two: Instances of Mass Racial Violence in Tennessee by, Region, Year and Newspaper reference**

Memphis, Shelby County, urban Race Riot	West Tennessee, 1866	<i>New York Times</i> , May 1, 1866, p.1
Rutherford County- rural pogrom	Middle Tennessee, 1869	<i>New York Times</i> , August 31, 1869, p.1
Maury County- rural pogrom	Middle Tennessee, 1870	<i>Chicago Tribune</i> , 1/14/1870 p.1
Clarksville, Montgomery County- urban Race Riot	Middle Tennessee, 1878	<i>New York Times</i> , April 15, 1878, p.1
Humphreys County- rural pogrom	Middle Tennessee, 1885	<i>New York Times</i> , August 25, 1885, p.1
Morgan County – rural pogrom	East Tennessee, 1891	<i>New York Times</i> , December 2, 1891, p.1
Ducktown, Polk County- rural pogrom	East Tennessee, 1894	<i>Washington Post</i> , 4/30/1894, p.6
Roane County- rural pogrom	East Tennessee, 1902	<i>New York Times</i> , February 4, 1902, p.1
Campbell and Fentress Counties- rural pogroms	East Tennessee, 1908	<i>New York Times</i> , August 17, 1908, p.5
Macon County- rural pogrom	Middle Tennessee, 1910	<i>New York Times</i> , June 8, 1910, p.5
Unicoi County- rural pogrom	East Tennessee, 1918	<i>Washington Post</i> , 5/21/1918, p.6
Knoxville – urban Race Riot	East Tennessee, 1919	<i>New York Times</i> , August 31, 1919, p.2
Montlake, Hamilton County- rural pogrom	East Tennessee, 1921	<i>New York Times</i> , September 15, 1921, p.3
Columbia, Maury County- urban Race Riot	Middle Tennessee, 1946	<i>New York Times</i> , April 25, 1946, p.1

Many of these articles verified and augmented the lynching information gathered from the different data bases referenced earlier.

From these articles I took the dates and locations and sought articles on microfilm in the Tennessee State Library and Archives from Tennessee newspapers to buttress the reports. I began with the larger regional newspapers- Memphis, Nashville, Knoxville and Chattanooga and I was also able to find archives of some newspapers in the smaller communities where these instances happened or reports from newspapers in a neighboring county. Some issues of the local newspapers were missing from the microfilm reels and in other cases, there was simply no mention of the violence that was described in the New York or Chicago newspapers. Ultimately, I found original newspaper articles from regional newspapers on microfilm at the Tennessee State Library and Archives for seven of these occurrences.<sup>24</sup>

Urban Race Riots are documented as occurring in each section of the state: Memphis 1866, Clarksville 1878, Knoxville in 1919, Columbia 1946. Of the 11 rural pogroms for which we have newspaper and census documentation, four occurred in middle Tennessee and the rest occurred in East Tennessee.

The dispersion of lynching and mass violence across the state and its implications will be discussed in Chapter Four. Given the numerical density of Blacks in West and Middle Tennessee, it would appear that Key and Blalock's theories of "racial-threat" help explain the high numbers of Blacks who were lynched, and possibly the four pogroms that happened in Middle Tennessee. But East Tennessee, with the smallest Black

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<sup>24</sup> I also used census data to bolster the evidence that a pogrom took place, finding that indeed in all of these, the Black population in the decade after the pogrom had definitively decreased.

populations of the three grand divisions and the strongest Republican presence, with by far the fewest lynchings, was also the site of over half of the state's pogroms. That East Tennessee communities with small Black populations would be the sites of so much mass misery is a conundrum. How communities and the state should deal with these disparate legacies of injustice and violence will be the focus of this project's conclusion.

### **Objective of the Study**

After chronicling the degree to which racial violence was tolerated in Tennessee between 1865 and 1964, I argue that local/communal inter-racial dialogue amongst Black and White Tennesseans is necessary for race relations to improve. I also suggest that political apologies on behalf of particular local governments and potentially Tennessee state government are due all Tennesseans, but particularly Black Tennesseans, for the violence that took place and was never punished.

I find that evidence of the worst acts of racial terror (mob lynchings, pogroms and race riots) is often denied (if not actively hidden) by White community leadership and historians, despite the historical evidence (newspaper accounts, census data and property records) that chronicle the events. Perhaps this is understandable: no one wants to tarnish their community's ancestors; but it is also problematic because these acts continue to shape race-relations between Blacks and Whites today. How can race relations be improved when fundamental truths are not acknowledged? As legal scholar Ifill (2007) explains,

If we are honest, we know that it is this history [of racial violence]- not that of affirmative action or busing- that lurks in the dim, gray area of distrust, fear and

resentment between and among blacks and whites. It is there- where overwhelming anger, insistent denial, shame and guilt lie (xix).

I argue further that it is the history of racial violence and not slavery that make the best case for communal dialogue and the potential extension of legal and political redress. The horrors of slavery are undeniable and also merit expressions of profound regret. But before the Civil War, Black Americans were not citizens (*Dred Scott vs. Sanford*, 60 U.S. 393 (1857)) and thus were not technically due the equal protection of law. Further, there are now no living survivors of slavery *per se*. But after the Civil War, after the ratification of the Reconstruction Amendments, the denial of equal protection to Black citizens was not only unconscionable but unconstitutional. And there are survivors of racial terror, perpetrators and victims, who are still with us today.

Communal dialogue will not be easy. Extensive preparation will have to take place before meaningful dialogue could be attempted: experts in the factual history of racial violence must be consulted alongside those versed in legal remedies, practical conflict resolution and mediation. As we will see in the final chapter of this project, political apologies are not easily crafted or secured. And yet a community where racial violence took place publicly owning that history and pledging never to repeat it; an entity (like a government body) that failed to punish wrongdoing, accepting responsibility and expressing regret for it, is symbolically (and legally) powerful. There are American citizens alive today who were subjected to the initiation and aftermath of racist terror at the hands of other American citizens and provided no legal recourse. It is for this period of American history that the most compelling case can be made for dialogue and

apologies and political redress on behalf of culpable institutions, for the damage caused individuals, communities and the legitimacy of local and federal government.

### *Methods and Analysis*

This project uses multiple methods to interpret the data gathered. In the context of racial violence in the South writ large, I specifically investigate (and chronologically discuss) race relations and racial violence. I use census records and state government archives to investigate the context of where each lynching, riot and pogrom took place in Tennessee. Through archival research I detail what information is available about the person lynched. Using period newspapers and periodicals I report what was locally asserted as causal factors of each violent instance and what efforts were undertaken by law enforcement to abate the violence. I then investigate court records (which are frustratingly limited) to determine if any cases were brought on the behalf of Black Americans in relation to the lynchings or pogroms that took place in Tennessee from 1865 to 1965.<sup>25</sup>

I conducted interviews in Erwin and Jellico, Tennessee, communities where pogroms and riots occurred and report what historians and community leaders say about the incidents today. This is done in an effort to explain why some communities choose not to remember or address their violent pasts and the effects of this communal violence on both Black and White Americans, politically and socially. Lastly, I briefly consider

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<sup>25</sup> Evidence of any effort to protect Black Americans in Tennessee where mob lynchings and pogroms occurred is frustratingly scant before 1945. Investigations into Black murders or pogroms at the level of the police/sheriff or county coroner were rarely undertaken, which creates a dearth of any activity by the courts to even attempt to secure procedural or substantive justice. What evidence I was able to locate however will be detailed.

case studies from other communities that have addressed their histories of racial violence and argue that that Tennessee's history should also be exposed to the light of truth.

## **Roadmap**

This project is organized chronologically. Race relations in Tennessee after the Civil War and through the first half of the twentieth century were built upon an antebellum foundation that was relatively unique among the Southern states. Time and effort will be spent establishing the context of each period addressed. A primary facet of this story is the passage of time, the progress that has been made over time and the work that remains to be done.

Chapter Two will address race relations in Tennessee from the date of the state's founding in 1796 to the end of the Civil War in 1865. Tennessee's emancipatory jurisprudence and history of abolitionist activity will be discussed as will the experience of slaves and Free Blacks in the state. The issue of "states rights" which rears its head throughout Southern history will be addressed as will southern attitudes toward law enforcement in general. The *Dred Scott* decision and the role it played in hastening the Civil War as well as the services rendered by Southern Black soldiers in the Civil War will set the stage for the second chapter's story of Reconstruction.

Chapter Three will chronicle Reconstruction in Tennessee: 1865 - 1877. The Legislation of the era, the political battles and Supreme Court decisions foreground our discussion of the struggle for civil rights that characterized the decades to come. In this chapter we will discuss the race riot in Memphis in 1866 as well as the pogroms that took

place in Rutherford and Maury counties (1869 and 1870). As the end of Reconstruction is typically associated with the election of Rutherford B. Hayes in 1876, the bulk of the racial violence that takes place in Tennessee will be discussed in the following chapter: what Tolnay and Beck (1995) have referred to as “the lynching era.”

Tolnay and Beck (1995) argue that the lynching era ended with the Great Depression. And yet the last lynching in Tennessee took place in 1944, well after the Great Depression had ended and two years before the race riot in Columbia, Tennessee in 1946. Thus, Chapter Four will cover the period from the end of Reconstruction through 1944. This was the era of Jim Crow legislation when Tennessee government mandated the segregation of Black and White Tennesseans in almost every facet of life and *Plessy vs. Ferguson* (163 U.S. 537 (1896)) which found such legislation constitutional was upheld by the United States Supreme Court. I will discuss some of the most notorious lynchings that took place in the state during this period and set forth descriptive statistics for all of Tennessee’s lynching victims. This is also the era during which nine of Tennessee’s pogroms and two additional race riots took place: these will each be addressed in turn.

Chapter Five will round out our discussion of Tennessee’s past history of racial violence. It will address some of the most trying and violent incidents that took place in Tennessee after World War I. This discussion sets the stage for the story of the Columbia Race riot which would be a fruitful site of present-day communal dialogue about racial reconciliation. This chapter will also briefly discuss the Civil Rights movement in Tennessee, the key actors and struggles experienced here as well as the story of the

Highlander School. The chapter will end with the assassination of Martin Luther King in Memphis and the Chattanooga Race Riot of 1980.

In the Conclusion, I investigate what race relations in Tennessee look like today. I discuss the legacy of racial violence in terms of government legitimacy and responsibility and what efforts have been undertaken by the Tennessee state and Federal governments to address the legacy of slavery and Jim Crow. I then look at the political apologies and remedies sought by the communities of Rosewood, Florida, Greensboro, North Carolina and Tulsa, Oklahoma to deal with the lingering effects of mass racial terrorism. I look at all of these efforts to highlight the relevance of political apologies to contemporary justice, equality and government legitimacy, as well as to learn from these efforts, their failures and successes.

I ultimately set forth my proscriptions for dealing with historical injustice and creating a framework for moving forward as an integrated community in Tennessee. I discuss interviews conducted with Tennessee legislators who recently refused to pass legislation that would issue a statement of “profound regret” (not apology) for Tennessee’s role in perpetuating slavery and Jim Crow. The fate of the “profound regret” bill in the Tennessee legislature illustrates one reason why effective apologies, like effective politics, might have more success at the community level. I maintain that the emphasis of any project that attempts to address historically situated violence mandates a limited public forum where the parties affected can speak frankly with one another. The conversations, in order to be meaningful, should lead to localized recommendations for moving forward as a community willing to ensure liberty and justice for all. I conclude

with my own version of a statement of regret on behalf of Tennessee government and suggest that such a resolution should mandate the creation of localized commissions for the purpose of racial reconciliation.

I believe the story that I relay about Tennessee and the remedies that I put forth could be applied to any Southern state wishing to improve race relations and government legitimacy. It is with this goal, of improving race relations and government legitimacy throughout the country, that this project has been undertaken.

## CHAPTER TWO

### RACE AND TENNESSEE POLITICS BEFORE THE CIVIL WAR

In order to understand the arc of race relations in Tennessee, we must begin at the beginning; and in the beginning there was slavery.<sup>1</sup>

#### Early Tennessee Law and the Slave Code

On April 2, 1790, when Tennessee was ceded to the United States by the state of North Carolina, the fourth express condition of the cession act stated “No regulation made or to be made by Congress shall tend to emancipate slaves [in Tennessee]” (1st Statute at Law 106). This was an early assertion of the right of a state to chart its own course with regard to its internal affairs, even if that course might eventually differ from that of the Federal government. Although there are no census records for 1796, records for 1800 reflect that there were 309 Free Blacks and 13,584 slaves in Tennessee out of a total population of 105,602 (United States Census 1800).<sup>2</sup>

Slavery, which existed in every county in Tennessee, was technically governed by Tennessee’s slave code; but in reality, the every-day life of a slave: the behavior and the labor, was under the jurisdiction of and governed by the master, overseer and the slave patrol (the duties of the patrol are discussed at length in the Tennessee slave code).

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<sup>1</sup> This chapter is not a comprehensive assessment of slavery or the slave codes in Tennessee- it merely chronicles the slave codes, the decisions of the Tennessee Legislature and Supreme Court with reference to slavery and the legal terrain slaves inhabited before and during the Civil War. For in depth analysis of slavery in Tennessee, see: Patterson, *The Negro in Tennessee: 1790-1865* (1922); Mooney, *Slavery in Tennessee* (1971); McCormack, *Slavery on the Tennessee Frontier* (1977).

<sup>2</sup> All historical census data comes from: Historical Census Browser (2004). Retrieved Spring 2010, from the University of Virginia, Geospatial and Statistical Data Center: <http://fisher.lib.virginia.edu/collections/stats/histcensus/index.html>.

Holding another person, or many people, in a state of bondage, disallowing the freedom of movement, necessarily demanded the threat, if not the use, of physical force. Cash, in his treatise *The Mind of the South*, wrote

The lash lurked always in the background...Into the gentlest houses drifted now and then the sound of dragging chains and shackles, the bay of hounds, the report of pistols on the trail of the runaway...(1942, 83)

Slavery also provided the White Master, the overseer, the slave patrol and White men in general unchecked power over a class of people who had very little recourse. One wealthy middle Tennessean stated, “The chief amount of slave whippings of which I have had any cognizance was inflicted by gatherings of non-slave holding whites...it was the vast mass of whites owning no slaves who were the greatest enemy of the slaves” (John Burgess 1860).<sup>3</sup> Cash (1942, 83) agreed, finding that slavery inevitably stirred

that sadism which lies concealed in the depths of human nature- bred angry impatience and a taste for cruelty for its own sake...And in the common whites it bred a savage and ignoble hate for the Negro, which required only opportunity to break forth in relentless ferocity (Cash 1942, 83).

Notwithstanding the documented instances of emancipation and paternalism, violence and dehumanization necessarily characterize the process of holding other human beings in captivity (Douglass 1855; Jordan 1974; Ash 2006). The treatment of slaves, short of killing them, was rarely checked in the South by government institutions (Nash 1957; Fede 1985; Ash 2006).

Every Southern state had a slave code that dictated the boundaries of slave behavior. Tennessee’s sixteen-page code adopted and expanded upon North Carolina’s slave code. With provisions dating back to 1741, the code mandated that slaves must not

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<sup>3</sup> Quoted in Stephen Ash (2006) *Middle Tennessee Society Transformed, 1860–1870: War and Peace in the Upper South*, p.49.

be allowed to own property, own a dog, carry guns or other weapons, possess liquor, sell any type of material good, or travel without the written permission of their owners; penalty for breaking these laws was typically thirty to forty “lashes on his, her or their bare backs” (Haywood and Cobbs 1831).<sup>4</sup> Slaves who committed murder, arson, burglary, rape, robbery or “conspire to rebel or make insurrection” if found guilty and convicted “shall suffer death” (Haywood and Cobbs 1831). Perjury was punished by thirty lashes and having both ears cut off (Haywood and Cobbs 1831). Running away was dealt with harshly. For example, before he became President, Andrew Jackson in 1804 offered fifty dollars for the return of one of his slaves and “ten dollars extra for every hundred lashes administered, not to exceed three hundred” (Meacham 2009, 303). Per the slave code, if a slave ran away, was caught and refused to “immediately return home, it shall be lawful for any person or persons whatsoever to kill and destroy such slave or slaves, by such ways and means as he or she shall think fit, without accusation or impeachment of any crime for the same” (Haywood and Cobbs 1831).

Per the slave code, slaves were not allowed to hire out their own services, although Imes (1919) maintains that this law was often evaded. Imes asserts that in several of the cases where Tennessee slaves were emancipated by their owners, the slaves had been allowed to work for others, save their money and purchase their freedom (1919). Slaves were to be provided “adequate food, shelter and clothing” (Haywood and Cobbs 1831), although there is little evidence that this was enforced (Imes 1919; Fede 1985). If a slave was caught stealing because he or she was not being fed, the slave

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<sup>4</sup> *The Statute Laws of the State of Tennessee: of a Public and General Nature, Revised and Digested on order of the Tennessee General Assembly Volume 1* by John Haywood and Robert Cobbs 1831

owner would be fined (Haywood and Cobbs 1831). The beating of someone else's slave without "sufficient cause" was indictable (Haywood and Cobbs 1831). Causing the death of someone else's slave through beating was punishable with a fine, but (premeditated) murder of a slave "with malice aforethought" was punishable with death (Haywood and Cobbs 1831).<sup>5</sup>

Before 1854, in Tennessee it was *not* "lawful for any person or persons to import into this state any slave or slaves...for the purpose of selling or disposing of them as articles of merchandize [*sic*]" (Haywood and Cobbs 1831). Anyone caught attempting to import slaves for the purpose of selling them would be subjected to a fine if the slaves were no longer in his or her possession; if the slaves were still with the seller, the slaves would be taken by the state and sold with the profits going to the state (Haywood and Cobbs 1831). This law was repealed in 1854 and the importation of slaves to Tennessee for the purpose of selling them was legalized, making Memphis one of the busiest slave-trading ports in the country (Acts of General Assembly State of Tennessee 1853-1854; Harkins 2002).

The General Assembly stated in 1801 (Acts of the General Assembly State of Tennessee Chapter 27 §1) that

the number of petitions presented to this legislature praying the emancipation of slaves not only tend to involve the state in serious evils, but are also productive of great expense; for remedy whereof

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<sup>5</sup> "It has not been ascertained, as far as the writer knows, whether any white citizen of Tennessee was ever indicted under the provisions of the law. We do [however] have a case of a famous old slave-holder in a community not far from Nashville being tied to his gate post and severely whipped by his neighbors, because of this brutal murder of one of his slaves" (Imes 1919, 258). I will discuss Tennessee courts' treatment of abuse of slave cases later in this chapter.

emancipation proceedings were to take place at the county level, where bond would be posted with the county court clerk by the emancipator ensuring the slave would not become a ward of the state (Haywood and Cobbs 1831).<sup>6</sup> This was the process until 1831.

After 1831, however, the Tennessee General Assembly mandated that before county courts could uphold a request for emancipation, the emancipator would have to swear and post a bond guaranteeing the freed slave would be removed from the state (Acts of the General Assembly State of Tennessee Chapter 102 §2 (1831)). In 1854, the legislature took a step further and mandated that emancipation would be contingent upon posting a bond guaranteeing the removal of the slave to Liberia (Acts of General Assembly State of Tennessee Chapter 150 (1854); *Boone vs. Lancaster*, 1 Sneed (TN) 577, 1854).

Between 1796 and 1831, although their existence was precarious, free Blacks could remain in Tennessee and could enter Tennessee from other states. They were required to “be registered and numbered in a book” every three years by the county court clerk who would record their “name, age, color and stature of such free negro or mulatto...and in what court or by what authority he or she was emancipated” (Acts of the General Assembly State of Tennessee Chapter 32 §1 (1806)).<sup>7</sup> The free Black or Mulatto

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<sup>6</sup> England (1943, 41) found that “hundreds of Tennessee slave holders expressed desires to free all or part of their slaves” through their last wills and testaments. Because slave owners after 1831 were forced to assert that they would remove their slaves from Tennessee upon emancipation, England found that “there grew up a large class of nominal or *quasi* slaves, released from the direction and control of their masters but whose freedom had not been sanctioned by the state” (1943, 41).

<sup>7</sup> After December 16, 1831 (Acts of Tennessee 1831 Chapter 102 §1), free Blacks were forbidden from moving to Tennessee. This legislation was amended in 1842 (Acts of Tennessee 1841-1842) when the legislature allowed Blacks emancipated or already living in Tennessee prior to January 1, 1836, to petition the county court to remain in the state. If the magistrates approved, the Blacks were allowed to stay

would be given a “copy of the register of his or her freedom” which they must carry with them at all times (Acts of the General Assembly State of Tennessee Chapter 100 §1 (1807)). And although it is not referenced in the slave code, between 1796 and 1834, Tennessee’s constitution allowed free Black men who owned property or lived in the state for over six months to vote in local, state and federal elections (Tennessee Constitution of 1796; Combs and Cole 1940).

### **Anti-slavery Sentiment**

In its earliest days, Tennessee had a strong anti-slavery constituency. Tennessee’s topography and population distribution from 1796 to the mid-1820s, with the greatest number of people living in mountainous East Tennessee, established a social climate that did not depend upon slavery for economic or political power. Tennessee’s first anti-slavery organization, the Tennessee Manumission Society, was founded in 1815 in East Tennessee, with twenty-five branches and over a thousand members spread throughout Middle and East Tennessee (Martin 1916; Fitz 2006). East Tennessee was also home to the nation’s first anti-slavery publication: the *Emancipator* was published by Quaker Elihu Embree in Jonesboro in 1820 with a circulation of several thousand subscribers in Tennessee, Kentucky and other states in the region (Martin 1916; Patterson 1922; Fitz 2006). Patterson (1922, 187) wrote that Tennessee was “the mother of abolition literature in the United States.”<sup>8</sup>

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upon the posting of a \$500 bond. This act was then overturned in 1849 and the legislation of 1831 reinstated.

<sup>8</sup> Elihu Embree was the direct inspiration of Tennessean Benjamin Lundy who took over Embree’s press upon Embree’s death. “Lundy was the inspiration of [William] Garrison who decided to establish *The Liberator* after his association with Lundy” (Patterson 1922, 188). And of course abolitionist Garrison was an ardent abolitionist and the bane of the South (Foner 1988).

Thousands of anti-slavery activists signed hundreds of petitions to the Tennessee General Assembly requesting the abolition of slavery between 1799 and 1829.<sup>9</sup> The petition texts indicate Christianity and egalitarianism inspired the early petitioners. “Slavery tends to debase the minds of its subjects and unfits the rational creatures of God for the noble duties that he requires at his hands” (Emancipation Petition #90-6, 1817). “To bring up children in the expectation of possessing as property the servants who wait upon them is to train them to oppression and tyranny; to indolence and vice; and to prevent the eternal principles of justice, benevolence and mercy from taking proper hold on their hearts” (Emancipation Petition #90-16, 1817). The majority of signatories coming from East Tennessee yeomen saw slave-owning Tennesseans as a “despotic ruling class” (Patterson 1922; Fitz 2006, 9)

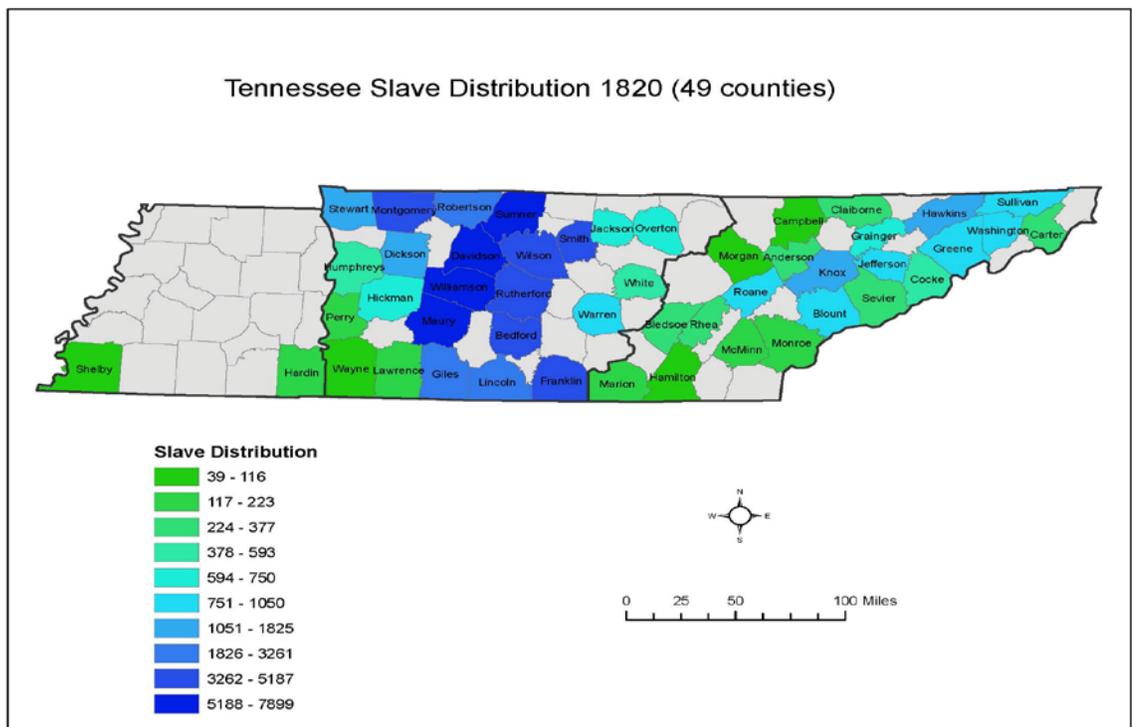
The Tennessee Manumission Society advocated the abolition of slavery through legal channels, i.e. by petitioning the state legislature (Fitz 2006). In one publication the Society wrote, “The great and benevolent object which we have in view is only to be attained by the consent of a majority of the members of our civil government and by a gradual reform of our laws” (April 1822).<sup>10</sup> Benjamin Lundy, editor of the Tennessee journal *The Genius of Universal Emancipation*, with reference to slave-holders stated it differently: “WE MUST VOTE THEM DOWN” (April 1822, emphasis in original).

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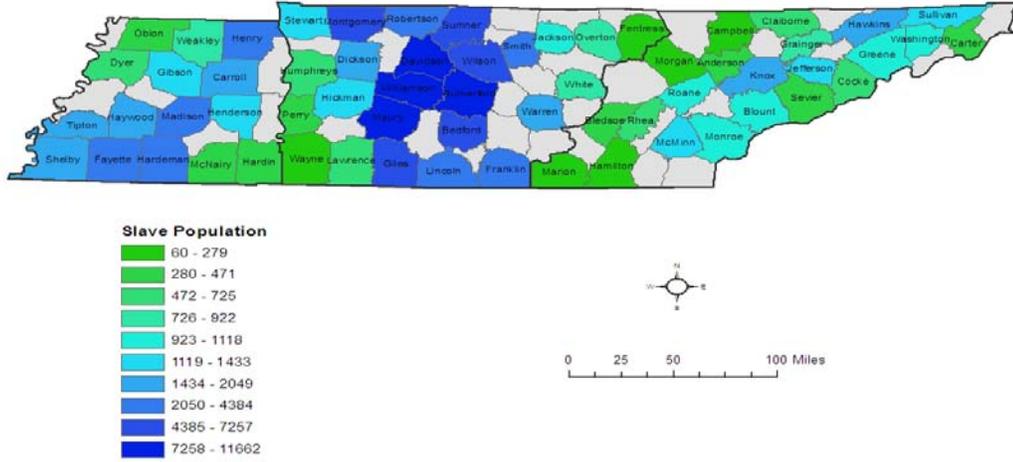
<sup>9</sup> Their petitions can be read at the Tennessee State Library and Archives in Nashville. The anti-slavery petitions are organized chronologically and indexed under “Emancipation.” The first was filed in 1809 by “the Society of Friends of Jefferson County asking that slavery be abolished and slave families not be separated.”

<sup>10</sup> After Elihu Embree died in 1820, his *Emancipator* paper was taken over by Benjamin Lundy, who renamed the publication *The Genius of Universal Emancipation*. The Tennessee Manumission Society used both papers as vehicles to communicate with their constituents.

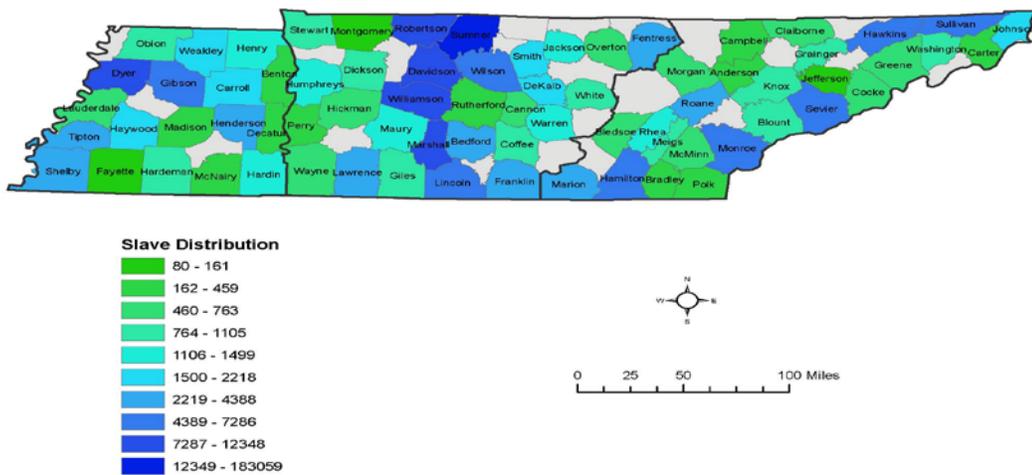
And yet by 1825, sentiments in Tennessee were changing. West Tennessee (the western-third portion of Tennessee between the Tennessee and Mississippi rivers) was opened for settlement after its purchase from the Chickasaw Indians in 1818 and was quickly becoming more populous and economically dominant than mountainous East Tennessee, once the bastion of the state's political power (Garrett and Goodpasture 1903).

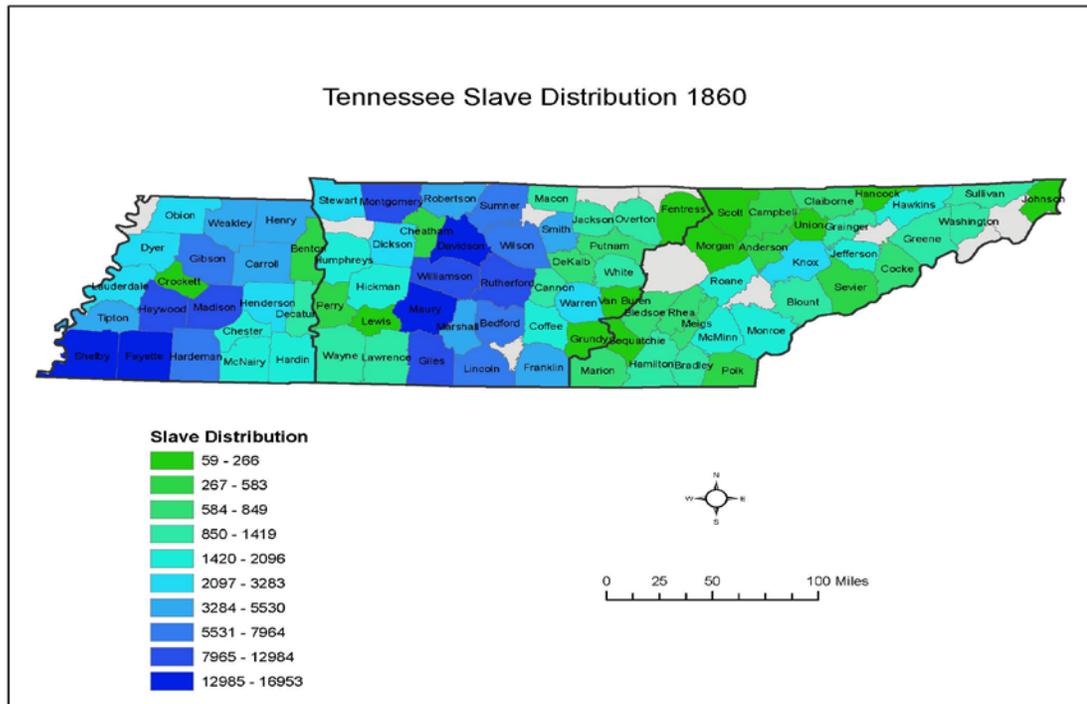


### Slave Population in Tennessee 1830 (63 Counties)



### Tennessee Slave Distribution 1840





Northern textile mills were booming and so was the demand for cotton. As such Tennessee farmers were turning farms away from subsistence toward cotton production and slavery began its west-ward spread across the state (Garrett and Goodpasture 1903; Patterson 1922; Fitz 2006).

Tennessee's population changed dramatically between 1800, when Tennessee had seventeen counties and 1860, when Tennessee had 85 counties (after the Civil War, Tennessee would have 95 counties). As one can see from the maps above, the slave population and the total population expanded westward over time. <sup>11</sup>

<sup>11</sup> The gray colored spaces in the pictures above had yet to be incorporated as counties in Tennessee. Presumably the pieces of land that had yet to be incorporated were parts of other existing counties. Slaves lived in every county in the state: the minimum number in any county in any year was 39 in Hamilton County (south-east Tennessee) in 1820.

The following table sets forth the total population, slave population and free Black population from 1800 to 1860 in twenty-year intervals. While the White population basically quadrupled between 1800 and 1820, Slaves increased by a factor of six and free Blacks increased by a factor of nine. All populations essentially doubled between 1820 and 1840.

**Table Three: Tennessee Population Change 1800-1860**

	Free Blacks	Slaves	Total Population
<b>1800</b>	309	13,584	105, 602
<b>1820</b>	2,727	80,107	422, 813
<b>1840</b>	5,524	183,059	829,210
<b>1860</b>	7,300	275,719	1,109,801

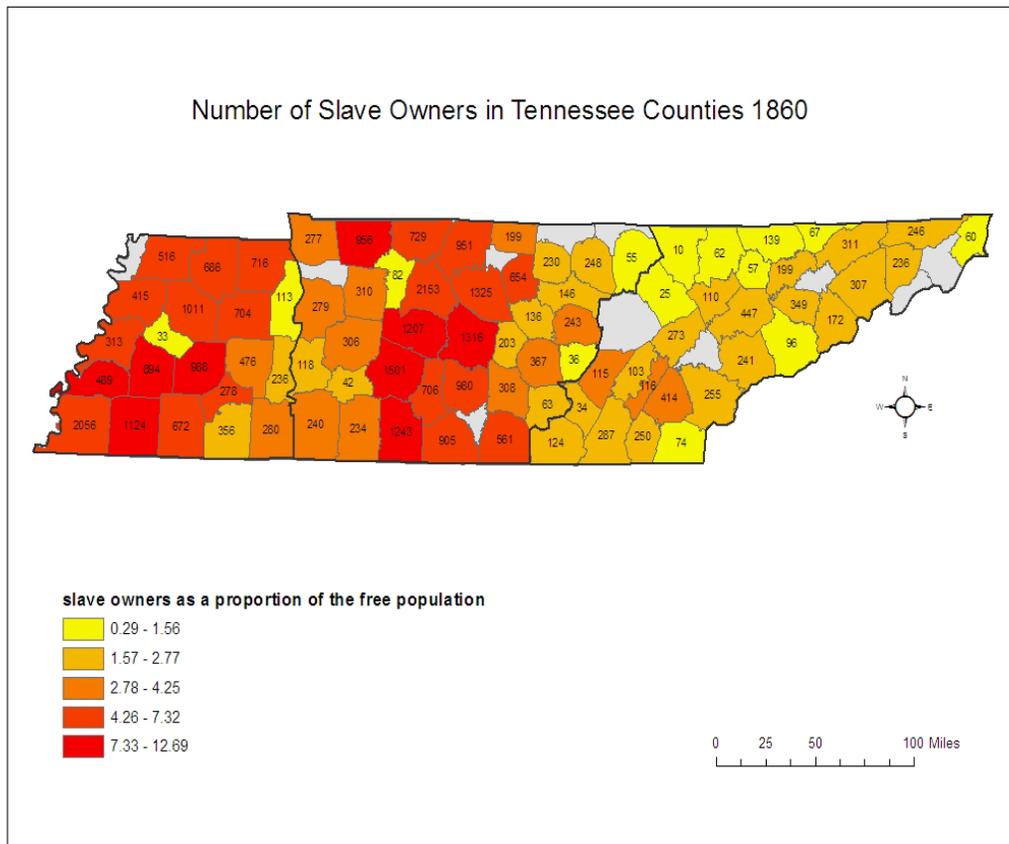
This rapid growth of the slave population worried many White Tennesseans (Fitz 2006). As one Knoxville contributor to the *Emancipator* wrote in June, 1820, “I tremble at the thought that [the slave population] is doubling in a geometrical ratio every 30 years...in one century they will be equal, if not superior in numbers to the whites in the southern states...we may look for them again to act the scenes of St. Domingo [*sic*].”<sup>12</sup> Yet none of the pre-1830s anti-slavery petitions submitted to the Tennessee General Assembly reference the deportation or colonization of free Blacks: the assumption of the 1820s petitions seems to be that Blacks and Whites could live together peacefully in a

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<sup>12</sup> This writer was referencing the successful (and bloody) slave revolt in Saint Domingue, Haiti, led by Toussaint L’Ouverture (1791-1804) whereby the White French sugar plantation owners were overthrown, slavery eventually abolished and Black leadership of Haiti installed.

society free of slavery; but within a slave society, violence between Blacks and Whites was always a threat (Patterson 1922; Fitz 2006).

The anti-slavery movement in Tennessee continued to grow in the 1830s (Patterson 1922; Fitz 2006). But the emphasis of slavery's opponents in Tennessee (as evidenced by the petitions to the legislature) had shifted from opposing slavery solely for Christian or egalitarian reasons to political and economic reasons (Mooney 1946; Fitz 2006). "Of the fifty-five petitions sent to the legislature and the convention in these years, only five gave primary emphasis to how slavery defied the Bible and the Declaration [of Independence]" (Fitz 2006, 16).



Primary emphasis was now given to the depletion of the soil, destruction of the labor market and the disproportionate economic and political power given to a wealthy few to the detriment of the poor White farmer (Legislative Petition 1834, #38).<sup>13</sup> 1860 Census records reflect slave owners were a small proportion of the Tennessee population: 36,844 men and women owned slaves in Tennessee, out of a total free population of 834,082 or 4.42%. Slave ownership varied in concentration across the state. In the preceding map, one can see the total number of slave owners in each county (and every Tennessee County had at least ten slave owners.)<sup>14</sup> Again, slave ownership was concentrated in the Middle and Western portions of the state. And as slave ownership was positively associated with wealth accumulation, the majority of wealth was concentrated in the Middle and Western parts of the state as well.<sup>15</sup> One petition from East Tennessee asked

From whom, we would ask this honorable body, does the slave holder derive his exclusive privilege? Is the non-slave holder not a member of the same community...is he not endowed with the same civil rights, or has he no interest in

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<sup>13</sup> The abolition movement in the North was also coming to fruition in the early 1830s. William Lloyd Garrison in 1831 stated in the first edition of his abolitionist newspaper, the *Liberator*, "I do not wish to think, or speak, or write, with moderation... I am in earnest - I will not equivocate - I will not excuse - I will not retreat a single inch - AND I WILL BE HEARD." Garrison was soon recognized as a leading abolitionist voice, publishing his paper until the Civil War ended, and vilified in the South as an instigator of insurrection (Foner 1988).

<sup>14</sup> The color distribution represents slave owners as a proportion of the White population. The gray-shaded areas represent counties that were not formed until after the Civil War.

<sup>15</sup> Slave ownership was both a symbol and the substance of wealth in Tennessee. Ash (2006) finds that the wealthiest ten percent of Middle Tennesseans in 1860 owned 65% of the regions wealth, where the lower half (50%) of the economic bracket owned only two percent. And overwhelmingly this wealth was concentrated in slaves. Ninety-five percent of wealthy families (upper three centiles) owned slaves, only two percent of families in the lowest five centiles owned slaves (Ash 2006). Ash (2006) finds that one-third of Middle Tennessee families owned slaves and these families also owned 88% of the regions wealth. In 1860, the value of all Real Estate in Tennessee equaled \$242,591,851; the value of 287,112 slaves equaled \$172,267,200. In six of the eleven Confederate states, the value of slaves was greater than the value of Real Estate. In Florida, Mississippi, North Carolina and South Carolina the value of slaves trumped the value of Real Estate two to one (Report of the Treasury Department of the Confederate States of America, 1861).

the affairs of the community? ... We are it seems to have the name of living under a republican institution, while we are to be [immersed] with some of the most odious features of aristocracy [*sic*] (Legislative Petition 1834 #38).

Some 1830s petitions maintained that slavery also increased threats of racial violence. Of the two slave insurrection scares in Tennessee, one coincided with the 1831 Nat Turner slave rebellion where dozens of White people were killed. This is alluded to in Legislative Petition 1831, number 32 which speaks of the “bloodshed in our neighboring state.” As such, the vast majority of the petitions of the 1830s expressed a desire to do more than abolish slavery: forty-eight of the fifty-five petitions filed in the early 1830s advocated abolition and then mandatory colonization of slaves to Liberia (Fitz 2006).

Calls for colonization satisfied different constituencies. Slave owners, fearful of the influence of free Blacks on their slaves, supported deportation as did those who altruistically believed deportation would be in the best interest of Blacks, given the racist climate that surrounded a slave-holding society (Patterson 1922; Fitz 2006). The Tennessee Colonization Society, founded in 1829, convinced the Tennessee legislature in 1833 to guarantee ten dollars to aid in the transportation costs of every slave transferred to Liberia from Tennessee, up to five hundred dollars per year (Patterson 1922). Given the size of Tennessee’s Slave population however, colonization was far from prolific in Tennessee: according to the records of the American Colonization Society (1867, 180), between 1830 and 1866, only 870 emancipated Slaves left Tennessee for Africa.

## **Constitutional Convention of 1834**

The anti-slavery petitions submitted to the Tennessee General Assembly in the 1820s, though impassioned, had proven fruitless. Rather than ease the plight of the slave, the General Assembly in 1831 ratified several pieces of restrictive legislation: if a slave was emancipated, he or she could not remain in Tennessee; further, free Blacks could not immigrate into Tennessee (Acts of General Assembly State of Tennessee 102 §§1 and 2 (1831)). The African colonization movement had picked up steam in 1833 when the General Assembly pledged \$500 per year to aid in the transportation of freed slaves to Liberia. But anti-slavery petitions were again being sent to the General Assembly in record numbers (Fitz 2006). Slavery was as contentious an institution as ever and many Tennesseans believed the time was ripe at the 1834 Constitutional Convention to press the case for abolition.

The legislation dealing with slavery and free Blacks ratified at the Convention was less notable than the debates on the Assembly floor. Thirty-three memorials with thousands of signatures on the subject of eventual abolition of slavery were brought to the attention of the General Assembly (Journal of the Constitutional Convention of 1834, various pages). Of the memorials that advocated eventual abolition, twenty-seven came from fourteen East Tennessee counties and five came from two Middle Tennessee Counties (Journal of the Constitutional Convention of 1834, various pages). None of the memorials were actually considered by the entire assembly: by a vote of 38 to 20, they were tabled until January 1, 1835 (Journal of the Constitutional Convention of 1834, 71).

Nevertheless, a committee of three, with a member from the Western, Middle and Eastern parts of the state, was formed to read through all of the memorials and report back to the full committee on the contents of the memorials and any future action that the state should consider regarding slavery. Their five-page report, delivered on June 19 by Representative McKinney from Hawkins County in East Tennessee (a county from which no memorials had been submitted), stated that the memorials were “utterly impracticable” (Journal of the Constitutional Convention of 1834, 87). The committee believed that “lengthy discussion of the perplexing question [would produce] no result except the waste of time, the expenditure of money and the destruction of harmony among the members” (Journal of the Constitutional Convention of 1834, 88). While the committee found the motives of the memorialists to be pure and agreed that slavery was an evil, to “tell how that evil can be removed, is a question that the wisest heads and the most benevolent hearts have not been able to answer in a satisfactory manner” (Journal of the Constitutional Convention of 1834, 88).

But the report did not stop there. McKinney stated that even if emancipated, Blacks in Tennessee were still doomed to being “degraded, despised and trampled upon by the rest of the community...

When the free man of colour is oppressed by the proud or circumvented by the cunning or betrayed by those in whom he has reposed confidence, do the laws of the land afford him more than a nominal protection? Denied his oath in a court of justice, unable to call any of his own colour to be witnesses, if the injury he complains of has been committed by a white man, how many of his wrongs must remain unredressed? How many of his rights be violated with impunity? How poor a boon does he receive when receiving freedom if what he receives can be called by that name? Unenviable as is the condition of the slave, unlovely as slavery is in all its aspects, bitter as the draught may be that the slave is doomed to drink, nevertheless his condition is better than the condition of the free man of

colour in the midst of a community of white men with whom he has no common interest, no fellow feeling, no equality (Journal of the Constitutional Convention of 1834, 90).

The report went on to argue that abolishing slavery in Tennessee would not guarantee that Tennessee slaves would be granted freedom as there would be nothing to stop slave owners from moving themselves and their slaves further South (Journal of the Constitutional Convention of 1834, 91). The report also suggested that freed slaves would be tempted to “concert plans with their brothers in chains to exterminate the white race and take possession of the country” (Journal of the Constitutional Convention of 1834, 92). McKinney stated that the colonization societies were the best alternative to those who wished to emancipate their slaves, as, again, the condition of the free Black in Tennessee was, in the opinion of the committee worse than slavery (Journal of the Constitutional Convention of 1834, 92). And finally, the report concluded that despite their good intentions, the memorials were simply too much, too soon,

A premature attempt on the part of the benevolent to get rid of the evils of slavery would certainly have the effect of postponing to a far distant day the accomplishment of an event devoutly and ardently desired by the wise and the good in every part of our beloved country (Journal of the Constitutional Convention of 1834, 93).

Adoption of the report was tabled until June 24.

On June 24, the second order of business was a four-page protest filed against adoption of the report. Representative Stephenson from Washington County in East Tennessee stated

In our opinion the committee has mistaken the object of the memorialists when they say that their plans cannot be carried into effect. In fact they do not so far presume to dictate to the Convention as to propose a plan... but only respectfully ask the Convention to take the subject under their consideration and endeavor to

devise some means by which the State will ultimately be delivered from the curse and evil of slavery. It is admitted in the report that slavery is an existing evil. If then it is a moral and political evil, a remedy may be found and this is what the memorialists ask the Convention to endeavor to effect, and this we believe was not unworthy of serious consideration....

Solomon in his wisdom has said “oppression makes a wise man mad” and notwithstanding the beautiful description given in the report of the benefits of slavery, so fascinating that we were almost involuntarily constrained to exclaim “oh the blessings of slavery” yet on reflection we are free to say we have not fallen quite so much in love with it as to desire it for ourselves...

Viewing the report as we do a kind of apology for slavery, we have thus raised against it our feeble testimony in discharge of a duty we owe not only to the memorialists, but to that degraded people whose voice cannot be heard here, also to ourselves, to our country and to our God (Journal of the Constitutional Convention of 1834, 99-103).

Despite the protest, the Assembly adopted the initial report by a vote of 44 to 10 (Journal of the Constitutional Convention of 1834, 100).

After much back and forth during the month of July, on August 5, one last stirring five-page protest was made by Representative Kincaid of Bedford County in Middle Tennessee, which in 1830 was home to 4,295 slaves (out of a total population of 20,546.)

Though the undersigned is conscious that there are many slaveholders in Tennessee who treat their servants humanely ...this will not apply as a general rule to the majority. Where slaves are owned in large numbers... it is deemed by their owners necessary to keep them under rigid discipline, and generally under the direction of an overseer or task master who is clothed with authority to inflict punishment for trivial offences either of commission or omission... their persons may be abused by the infliction of corporal punishment at his discretion or without limit, and this even for a supposed offence, and such punishment may be repeated day after day for the same offence ... But this is not all: Cannot the master part with his right to his slave and sell him to another person under whose government his suffering would be far worse than under that of the first owner? And is not this a practice of every day's occurrence? And besides the suffering of the slave by the infliction of punishment upon his person ... he may be and frequently is subjected to still greater punishment: the husband may be severed from his wife and children and in galling chains, sent one way, and the wife dragged from the husband and children sent another way, and the children separated and sent different directions, notwithstanding the hearts of each may

bleed from the chords of affection which bind them to each other being thus forcibly torn loose from their bosoms... Yet we are told that the situation of the slave is better than that of the free man of color. This is the clear definite conclusion which is arrived at in the report of the committee and which the majority of the convention has adopted as its own sentiment (Journal of the Constitutional Convention of 1834, 222-228).

This was the last of the protests and the last attempt to bring the attention of the Convention to the condition of the Slave in Tennessee.

Two Constitutional provisions dealing with slaves and free Blacks were enacted at the Convention. The first was offered by Nelson Hess of West Tennessee. By a vote of 30 to 27, the Convention attendees wrote into the Tennessee Constitution that "The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owner or owners" (Tennessee Constitution of 1834, Article II, § 31). The closeness of this vote presumably had less to do with supporting emancipation than opposing restrictions on the power of the General Assembly; regardless, fourteen of the dissenters were from East Tennessee, ten from Middle Tennessee and three were from the West (Journal of the Constitutional Convention of 1834, 201).

The second provision dealt with the right to vote. Heretofore, free Black men had been allowed to vote in Tennessee. But at the convention, Representative Marr of Weakley and Obion counties in West Tennessee, where the Slave population was 2,685 out of a total population of 19,149, presented a resolution stating

That free persons of color including Mulattoes and Indians were not parties to our political compact, nor were they represented in the Convention which framed the evidence of the compact under which the free people of the State and of the States are associated for civil government...hence their supposed claim the exercise of

the great right of free suffrage is and shall be not only not recognized but prohibited (Journal of the Constitutional Convention of 1834, 107).

The resolution was adopted by a vote of 33 to 23. John McKinney introduced a provision that “no person shall be disqualified from voting in any election...who is now by the existing laws...a competent witness in a court of justice against a white man (Journal of the Constitutional Convention of 1834, 209). Thus the Constitution of Tennessee changed from allowing “all free men twenty-one years and over” who lived in the state to vote (1796, Article III §1), to:

Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote, six months next preceding the day of election, shall be entitled to vote for Members of the general Assembly, and other civil officers, for the county or district in which he resides: provided, that no person shall be disqualified from voting in any election on account of color, who is now by the laws of this State, a competent witness in a court of Justice against a white man (Article IV §1).

However, according to Acts of Tennessee (1794) Chapter I § 32:

All negroes, Indians, mulattoes, and all persons of mixed blood descended from negro and Indian ancestors to the third generation inclusive, though one ancestor of each generation may have been a white person, whether bond or free shall be taken and deemed to be incapable in law to be witnesses in any case whatever except against each other, *and provided further* that no person of mixed blood in any degree whatever who has been liberated within twelve months previously shall be admitted as a witness against a white person (emphasis in original).

Thus, the veneer of egalitarianism set out in the new suffrage provision of the Constitution was actually devoid of any substance as Tennessee law since 1794 provided that no one descended from a Black or Indian ancestor was capable of being a witness against a White person.

The Constitutional Convention of 1834 signaled the last gasp of Tennessee's anti-slavery movement (Patterson 1922). In response to President Andrew Jackson's statement to Congress in December 1835,

I would therefore call the special attention of Congress to the subject and respectfully suggest the propriety of passing such a law as will prohibit under severe penalties the circulation in the Southern States through the mail of incendiary publications intended to instigate the slaves to insurrection

Tennessee passed legislation prohibiting anti-slavery speech from being disseminated through the mail in 1836 (Acts of the General Assembly State of Tennessee Ch 44 §2 (1836)). But the dissenters did not disappear entirely: Ezekiel Birdseye who moved to East Tennessee in 1838 was a vocal abolitionist who vociferously opposed slavery on both the Christian grounds that slavery was immoral and unjust, and because he found slavery hurt the average White Tennessean, dominating the economy and stunting the soil and laborer (Dunn 1997).

Tennessee's pattern of legislation restricting the already circumscribed rights of slaves and free Blacks continued until the eve of the Civil War. Although there was a respite between 1842 and 1849, when the legislature allowed free Blacks emancipated or already living in Tennessee prior to January 1, 1836, to petition the county court to remain in the state (Acts of the General Assembly State of Tennessee Chapter 191 (1842)), this legislation was revoked in 1849 and the 1831 provisions reinstated (Acts of the General Assembly State of Tennessee Chapter 107 (1849)). In 1854, the legislature required masters who emancipated their slaves to send their slaves to Liberia (Acts of General Assembly State of Tennessee Chapter 150 (1854); *Boone vs. Lancaster*, 1 Sneed (TN) 577, 1854). The demand for slaves had increased as is shown by the average

increase in price from \$584 in 1836 to \$854.65 in 1859 (Tennessee Comptroller Report 1859). And in 1855, the importation of slaves for the purpose of selling them, which had been illegal in Tennessee, was legalized (Acts of the General Assembly State of Tennessee Chapter 64 §1 (1855)).

### **Interpreting the Laws**

Tennessee appellate courts, like Tennessee legislation, followed North Carolina precedent. And both states before the Civil War ultimately declared that slaves and free Blacks, when under the court's jurisdiction, were protected by the "common" or "natural" law, thus expounding upon Tennessee statutes that limited the civil and procedural rights of slaves (Nash 1970).

By 1834, North Carolina and South Carolina had crafted opposing precedent as to the application of common law rights to slaves. South Carolina case law found "There can be no offense against the State for a mere beating of a slave...for a slave is not generally regarded as legally capable of being within the peace of the State" (*State vs. Maner*, 22 S.C.L. 453 (1834)). Alternatively, North Carolina found that

the public peace is thus broken, as much as if a free man had been beaten...by overpowering the slave and inflicting on him severe chastisement...There is consequently as much reason for making such offenses indictable as if a white man had been the victim (*State vs. Hale*, 9 NC 582 (1823)).

Tennessee courts chose to follow in North Carolina's footsteps.

In *Fields vs. State* (9 Tenn. 156 (1829)) the defendant Fields, who had killed a slave "Peter" and been convicted by a jury of manslaughter, appealed the decision alleging "that no judgment should be rendered against him, because the jury found him

guilty of manslaughter only, which crime, where the person slain was a slave, does not in point of law exist.” Upon appeal, Judge Whyte found:

The judgment rendered in the present case is upon a verdict of the jury given on an indictment for murder, finding that the plaintiff in error is not guilty of the murder charged in the bill of indictment, but he is guilty of manslaughter in feloniously slaying the negro slave, Peter. It is the same judgment that would have been rendered against the plaintiff in error, if the subject of the homicide had been a free man, instead of a negro slave. There is no law authorizing any distinction between the two cases.

Judge Peck concurred stating:

It is well said by one of the judges of North Carolina, that the master has the right to exact the labor of the slave--that far, the rights of the slave are suspended; but this gives the master no right over the life of the slave. I add to the saying of the judge, that law which says thou shalt not kill, protects the slave; and he is within its very letter. Law, reason, Christianity and common humanity, all point out one way.

Other cases presented to the Tennessee Supreme Court support the proposition that the Court made efforts to consider the humanity and common law rights of slaves. Judge Nathan Greene in the case of *Ford vs. Ford* (26 Tenn. 92 (1846)), found that although the sons refused to execute their father’s will directing them to free his slaves and provide them with land,

If the executors refuse to act or propound the will, we have said a legatee may do it. But we are met with the objection that none but free persons have a right to sue, and that the persons of color in this case are still slaves. A slave is not in the condition of a horse or an ox. His liberty is restrained, it is true, and his owner controls his actions and claims his services. But he is made after the image of the Creator. He has mental capacities, and an immortal principle in his nature, that constitute him equal to his owner but for the accidental position in which fortune has placed him. The owner has acquired conventional rights to him, but the laws under which he is held as a slave have not and cannot extinguish his high-born nature nor deprive him of many rights which are inherent in man. Thus while he is a slave, he can make a contract for his freedom, which our laws recognize, and he can take a bequest of his freedom, and by the same will he can take personal or real estate.

This humanitarian spirit seemed to permeate most decisions rendered by the Tennessee Supreme Court before the Civil War. Of the cases appealed where a master was found guilty of abusing their slave, all were upheld; in the 33 trials of slaves for various offenses, 23 were overturned for reasons of lack of counsel or biased judges or jurors (Nash 1970; Brown 2002).

In the case of *Major vs. State of Tennessee* (36 Tenn. 429 (1857)), where Major, a slave, had been accused of sexually assaulting a white teenage girl, where the girl in court was unable to satisfactorily explain what had happened to her or identify Major as her assailant, the jury found Major guilty. After hearing the appeal where: the alleged victim stated in court that she would like to “saw his head off with an old saw and would do so if they would let her and also the counsel that defended him,” after which a juror exclaimed in open court that he would like to kill the defendant as well, the court found that

This case strongly admonishes us of the necessity of a watchful vigilance and an unyielding firmness on the part of judicial officers to see that the invaluable right of fair trial by an impartial jury shall not be disregarded... This provision, securing to the accused the right to trial by an impartial jury is not unmeaning- was not placed in the Bill of Rights without motive and cannot be disregarded by the courts.

Tennessee judges even upheld behavior that clearly violated Tennessee requirements that emancipated slaves be banished from the state. In the case of *Blackmore vs. Negro Phill* (7 Yerger 452 (1835)), the court found:

[T]hat the emancipation was good and effectual, and entitled them to their freedom in Tennessee; also, that if the design, in going to Illinois, was to emancipate said slaves and evade the laws of Tennessee, and that such slaves should immediately return to Tennessee, the emancipation would be good, and entitle the negroes to their freedom in Tennessee; and were the law otherwise, the question of intention is a fact to be left to the jury.

Nash (1970), England (1943) and Ely (2002) have all claimed that Tennessee jurisprudence before the Civil War was unique. Nash (1968, 234) states that The Tennessee Supreme Court prior to the outbreak of Civil War represented

in absolute terms, the most generous emancipatory jurisprudence of any Southern Court...the only room for dispute about the court's behavior consists in whether to describe it as full scale anti-slavery or only partially so (Nash 1968, 234; *see also* England 1943; Nash 1970; Flanigan 1974; Ely 2002).

And yet we know that most dispute resolution between White and Black Tennesseans did not take place in the court-house. As Representative Kincaid reminded us in his protest to the report on slavery at the Constitutional Convention of 1834, discipline and control of slaves was exercised by the master and overseer: most aspects of a slave's life were under the jurisdiction of plantation justice. As Louisiana editor James Dunwoody Browson DeBow asserted in the 1850s, "On our estates...we dispense with the whole machinery of public police and public courts of justice. Thus we try, decide and execute the sentences in thousands of cases, which in other countries would go to the courts" (quoted in Elkins 1968, 56).

Summary justice was the case in Stewart County, Tennessee in the winter of 1856. Fear of slave insurrection had gripped the counties surrounding the Cumberland River (Dickson, Montgomery and Stewart) where almost two-thousand slaves labored alongside one-thousand Whites making charcoal, digging iron ore and tending to iron furnaces (Patterson 1922; Dew 1975). Newspaper reports differ as to where the insurrection was supposed to begin: some claim the insurrection was set to begin in Kentucky, others claim the revolt would begin in Tennessee (Dew 1975).

Nevertheless, it is clear from the newspaper reports that White citizens were panicked and convinced that the slave laborers were positioned to fight their way out of Tennessee and Kentucky to freedom in Illinois or Indiana (Dew 1975). The first stories stem from Montgomery County, where “several slaves” were arrested on suspicion of an insurrection, with one being killed by a slave patrol for simply “making great noise” (*Clarksville Jeffersonian*, December 2, 1856). The Clarksville newspaper editor went on to proclaim that the death was excusable, that heightened vigilance was necessary, even though no slave had committed any crime: “The crimes contemplated [by the slaves] should be atoned for precisely as though those crimes had been attempted and consummated...Fearful and terrible examples should be made...to show these deluded maniacs the fierceness and the vigor, the swiftness and completeness of the white man’s vengeance.”

The panic spread to Stewart County, where six slaves were summarily hung on suspicion of insurrection and sixty-five slaves were beaten (one died from the whippings) in an attempt to elicit confessions of intent to revolt (Flanigan 1974). After comparing newspaper articles and other primary documents from all over the region, finding numerous inconsistencies, Dew (1975) argues that in reality, the only evidence of slave insurrection existed in the minds of the White Southerners.

This assertion is supported by the case of *Kirkwood vs. Miller* (37 Tenn. 455 (1858)) where the Tennessee Supreme Court rebuked summary vigilante justice. The Court found that because Kirkwood had killed one of the slaves accused of being part of the insurrection, though he was never arrested or prosecuted for murder, he could be held

liable to the slave's owner for damages. The court found the man could not use the fear of slave insurrection as an excuse. Killing a slave could not be

based upon the wild panic and vague, undefined apprehensions about a rising or insurrection of the slaves, rumors and groundless alarms...Those who take it upon themselves in periods of groundless panic to slay and destroy without the sanction of law, must do so at their peril.

### **Prelude to Civil War**

Given Tennessee's emancipatory jurisprudence, the extension of common law rights to slaves when brought before the court's jurisdiction, and the fact that thousands of Tennesseans opposed the practice and only a fraction of the state's population owned slaves, and the fact that at the Constitutional convention of 1834, Tennessee legislators adopted a report admitting that slavery was evil, one might imagine that slavery in Tennessee would eventually come to an end of its own. But when one considers the rising prices of slaves and cotton and the wealth this brought to the Middle and Western parts of the state, coupled with the continued west-ward expansion of slavery throughout the country, one wonders how much longer the institution would have lasted in Tennessee in the absence of Civil War.

The political climate of the nation by the 1850s was obviously changing. Tacit acceptance of slavery was no longer the accepted norm. Published in 1852, Harriett Beecher Stowe's *Uncle Tom's Cabin* had touched the conscience of many Americans. Abolitionists like William Garrison and Frederick Douglass were encouraging citizens and politicians to recognize the inhumanity of slavery. Though Tennessee's electoral votes in 1856 went to Democratic candidates Buchanan and Breckenridge, Republicans

Fremont and Dayton (who opposed the Kansas- Nebraska Act and the expansion of slavery) won 116 electoral votes in an incredibly heated presidential election. Also in 1856, John Brown led “free-soilers” into battle to fight the expansion of slavery in “Bleeding Kansas” (Grimshaw 1969).<sup>16</sup>

One year later, the United States Supreme Court in the case of *Dred Scott vs. Sanford* (1857) made two momentous pronouncements: first, Blacks in the United States would never become rights-bearing citizens; second, the Kansas-Nebraska Act was constitutional. With regard to Blacks, the court stated:

[Slaves and free Blacks] have been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect...

Scott, after the death of his owner in Missouri, sued for his freedom in 1847. He won at the trial court level, but the decision was reversed by the Supreme Court of Missouri. When Scott’s appeal reached the United States Supreme Court ten years later, the court found that because Scott was Black, he was not a citizen; Blacks in America, slave or free, according to the court, would never be granted citizenship. As a non-citizen, Scott did not have the standing to sue for his rights nor, the Court reasoned, could he look to the Constitution for his freedom because, using the doctrine of original intent, the Constitution’s drafters regarded Black people as “of an inferior order.”

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<sup>16</sup> John Brown would go on to lead an armed revolution of slaves against their masters in Virginia in 1859 (Reynolds 2005).

The court, by upholding the Kansas-Nebraska Act, found the Missouri Compromise of 1820, legislation which restricted the expansion of slavery to certain territories, unconstitutional. Specifically, the federal government could not prohibit slavery in the Western territories- the decision of a territory to be “slave or free” must be made by the territories’ representative governments. Thus the door was open for the westward expansion of slavery.

The *Dred Scott* decision emboldened Slave owners with the belief that Slavery could be expanded into the Western territories and that Blacks would never be granted the rights of citizenship. Further the decision severely constrained the rights of slaves to use the courts to uphold claims to freedom or the protection of common law. The decision enraged Northerners opposed to slavery’s expansion and abolitionists committed to the human rights of Blacks. It also greatly influenced the Republican nomination of Abraham Lincoln for President, who stated that the Republican Party would not respect the *Dred Scott* decision (Blight 2001). Within four years of the decision, the nation was embroiled in Civil War.

### **Civil War in Tennessee**

In October 1859, John Brown infamously attempted an armed slave rebellion in Virginia (Reynolds 2005). In November 1860, Abraham Lincoln of the Republican Party was elected President. Tennessee cast its electoral votes for native son John Bell of the National Union party- rebuking the extreme positions of the Democrats and the Republicans. While most Southerners felt their hold on slavery as an institution, and in turn their way of life, was threatened, particularly now that the Republican Party had

come to power, Tennesseans were consigned to submit to the will of the nation (Garrett and Goodpasture 1903). One Memphis newspaper stated: “As much as we may deplore such a result, we accept it as the result of our system of free government in which it is our duty to acquiesce” (*Memphis Bulletin*, November 12, 1860). The *Nashville Banner* proclaimed “The prevalent sentiment in Tennessee is that disunion is no remedy for existing evils” (November 13, 1860).

But the following month, in December 1860, citing the right to withdraw from the Union, based upon the belief that the sovereignty of the state was superior when Federal authority was deemed repressive or in conflict with the will of the state, South Carolina passed an ordinance of secession. Before the end of January, 1861, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas had followed suit. Tennessee reserved the right of secession, but continued through its representatives in Congress, notably East Tennessean Senator Andrew Johnson, to maintain its ties to the Union (Garrett and Goodpasture 1903).

Tennessee’s Legislature met January 7, 1861 and ordered an election: the people would vote, first, on whether to hold a convention for the purpose of addressing secession, and second, if a convention were to be held, the people would vote for which representatives would attend. On February 9, Tennesseans voted against holding a convention, 69,675 to 57,798 (Garrett and Goodpasture 1903). But the sentiment of the state’s people was more powerfully reflected in the delegates elected: 24,749 votes were cast for delegates who supported secession. 88,803 votes were cast for delegates who favored remaining with the Union (Garrett and Goodpasture 1903).

In mid-April, however, shots were fired by South Carolinians on Federal troops at Fort Sumter. The United States had been attacked and President Lincoln responded with a call for troops to put down the insurrection. In late April, a special convention was convened in Tennessee to decide how to respond to Lincoln's call. At the special convention, the Assembly exercised its presumed right to break ties with the Union and adopted an ordinance of secession, authorizing the governor to join the Confederate States (Garrett and Goodpasture 1903). On June 8, the issue was brought before Tennessee voters. With greater voter turnout than in the February referendum, by a vote of 104,913 in favor to 47,238 against, Tennesseans adopted the ordinance of secession and became the last of the Southern states to leave the Union (Garrett and Goodpasture 1903). By July 31, Tennessee troops had been mustered and Tennesseans were in the midst of Civil War (Garrett and Goodpasture 1903).

East Tennesseans voted overwhelmingly against secession (Garrett and Goodpasture 1903). In May, 1861, before the people of the state were asked to vote on the secession ordinance, a convention of East Tennesseans met in Knoxville (Garrett and Goodpasture 1903). 469 delegates from twenty-eight counties voted to protest an ordinance of secession and adopt a "policy of neutrality which had been recently adopted by Kentucky" (Goodpasture 1903, 205).

In response to the vote of the people in favor of secession, East Tennessee representatives met again in late June and proposed to form their own state. They elected a governor and military leader and thereafter petitioned the General Assembly in Nashville to recognize their decision to stay tied to the Union (Garrett and Goodpasture

1903). But the petition was denied and in August Nashville sent Confederate troops to occupy East Tennessee for the remainder of the war (Temple 1899; Van West 1988).

East Tennesseans then resorted to guerilla warfare against the Confederate troops. In November 1861, the “bridge burners” of East Tennessee, being led by William Carter of Carter County, agreed to simultaneously burn nine bridges from the south-eastern to the north-eastern edges of the state, with the intent of disabling 256 miles of rail-road tracks (Temple 1899). Five bridges were successfully burned, but six men were caught, court-martialed and hung by Confederate troops, all heightening the tensions between East Tennessee and the rest of the state (Temple 1899; Garrett and Goodpasture 1903).

Approximately 20,000 Black Tennesseans and 30,000 White Tennesseans enlisted to fight for the Union, with approximately 100,000 Tennesseans enlisting to fight with Confederate forces (Garrett and Goodpasture 1903; Whiteaker 1998). Tennessee was truly a war-torn, battle ground state, with its own people fighting against each other for different causes. Confederate forces held the Tennessee border until the winter of 1862 when Middle Tennessee fell to Union troops and the Confederates fell back to the South; in June 1863, West Tennessee was ceded by the Confederates as well (Fertig 1898; Garrett and Goodpasture 1903). Ironically, Unionist East Tennessee remained occupied by the Confederates until the spring of 1864 (Fertig 1898; Garrett and Goodpasture 1903). Over the course of the next three years, Tennessee would host more battles and lose more men and infrastructure than any other Southern state with the exception of Virginia (Whiteaker 1998).

Governor of Tennessee from 1853 to 1857, in October 1862, Andrew Johnson was appointed Military Governor of Tennessee by President Lincoln. When he arrived in Nashville that winter, martial law overseen by Federal troops was the only form of government present in the region (Fertig 1898). Johnson, overwhelmingly lenient on Tennesseans, promised the people of Tennessee in the spring of 1863 that if they would return their loyalty to the Union, they would all be pardoned (Fertig 1898). Fertig (1898, 38) states that

The policy of the Federal Government was to win back the people by mild treatment. But this only caused them to stand aloof while a rigorous policy would have driven them into the arms of the government, or caused them to flee southward where they would have done less harm to the Union

Johnson's plea went substantially unheeded. The majority of Tennesseans refused to support the Union, and Tennessee suffered the ravages of war for two more years.

Tennessee was a primary battle-ground state in 1863 and 1864. General Nathan Bedford Forrest, a native Mississippian and by all accounts a brilliant military tactician, was responsible for most of the Confederate victories in Tennessee in this era. One of these victories, however, remains embroiled in controversy. Garrett and Goodpasture (1903) report the following: Forrest's expedition of March 1864 "was made famous by the capture of Fort Pillow. He has been unjustly charged with slaughtering the negro troops at this place after their surrender." The Tennessee Historical Marker erected by the Tennessee Historical Commission states

Federal Forces captured this important Confederate work, 18 miles west, in 1862. To end depredations committed by the Federal garrison, Forrest with a force from his Confederate Cavalry Corps, attacked and captured the fort. Of the garrison of

551 white and Negro troops, 221 were killed. The rest, some wounded, were captured.

Other historians tell a different story.

Black soldiers were accepted into Union fighting battalions in 1864 (Freeman et. al. 1992). Approximately 200,000 Black soldiers: 93,000 from the Confederate states, 40,000 from the border slave states of Kentucky, Maryland and Missouri, and 53,000 from the free states signed up to fight for the Union (Foner 1988). Initially, Black recruits were only allowed to serve in functions other than fighting (as cooks, trench diggers, etc.); but by war's end Black soldiers were on the front-lines in battle (Freeman et. al. 1992). Black soldiers were paid half what White Union soldiers received when first recruited, but by 1865 were receiving equal pay (Freeman et. al. 1992).

The deadliest discrepancies in treatment of Black soldiers came at the hands of Confederate soldiers. According to a letter written by a Confederate commander to a Union officer regarding a captured Black soldier, "Negroes are not considered prisoners of war, but all who surrender to us are treated as property and either delivered to their original owner or put to labor by the [Confederate] Government."<sup>17</sup> But at the battle of Fort Pillow, many historians argue that Black soldiers were not put back into slavery, but killed upon surrender (Grimshaw 1969; Foner 1988; Freeman et. al. 1992; Redkey 1992). According to President U.S. Grant's memoirs,

The garrison consisted of a regiment of colored troops, infantry, and a detachment of Tennessee cavalry. These troops fought bravely, but were overpowered. I will leave Forrest in his dispatches to tell what he did with them. "The river was dyed," he says, "with the blood of the slaughtered for two hundred yards. The approximate loss was upward of five hundred killed, but few of the officers

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<sup>17</sup> Letter dated July 30, 1864 to Col. McCaleb from Col. William P. Hardeman: accessed May 1, 2010: <http://www.archives.gov/education/lessons/blacks-civil-war/black-pows.html>

escaping. My loss was about twenty killed. It is hoped that these facts will demonstrate to the Northern people that negro soldiers cannot cope with Southerners." (1885, 391).<sup>18</sup>

What truly happened at Fort Pillow is difficult to assess. Even the national park service's statement is equivocal "Many accused the Confederates of perpetrating a massacre of the black troops, and that controversy continues today."<sup>19</sup> Cimprinch (2005) and Schmutz (2009), taking into account military records, Congressional testimony and soldier's letters regarding the incident, find that this was a pitch battle, where surrender was not accepted until over 300 men were killed. Of the Federal soldiers who surrendered, with roughly equal numbers of Black and White fighting, 58 Blacks were taken prisoner compared to 168 Whites.<sup>20</sup>

In November 1864, Tennessee would host one of the bloodiest battles of the Civil War, the Battle of Franklin, where Confederate troops were outnumbered two to one, by Federal troops White and Black (Garrett and Goodpasture 1903). The war would end six months later, with Confederate surrender, on April 27, 1865.

Tennessee before the Civil War had been divided on the wisdom of slavery. Tennesseans had been divided about seceding from the Union. Tennesseans were divided in their loyalties on the battlefield. How would Tennessee rebuild itself after the

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<sup>18</sup> Similarly at the battle of Poison Spring in Arkansas, and the battle of The Crater in Virginia, both in 1864, Confederate soldiers killed the captured Black troops rather than take them as prisoners of war (Grimshaw 1959; Foner 1983; Redkey 1992).

<sup>19</sup> "Fort Pillow, Tennessee" accessed May 1, 2010:  
<http://www.nps.gov/history/hps/abpp/battles/tn030.htm>

<sup>20</sup> Schmutz (2009) reports that after the battle of Fort Pillow, Black troops would use Fort Pillow as a rallying cry, and replicated the policy of offering no quarter (i.e. not accepting the surrender) to Confederate soldiers.

Civil War? What would its institutions look like? Who would govern? How would Blacks and Whites in Tennessee treat each other now that slavery was vanquished? We take up the story of Race and Reconstruction in the next chapter.

## CHAPTER THREE

### RACE AND RECONSTRUCTION IN TENNESSEE

A year before the Civil War would end with Confederate surrender at Appomattox, Tennessee government was being reorganized by Union loyalists from East Tennessee. The same group of East Tennesseans who, in 1861, resolved to separate from Tennessee in order to avoid secession, would convene again in Knoxville in April 1864 for the purpose of rebuilding the state's government institutions (Fertig 1898; Alexander 1950; Harcourt 2002).

The first order of business undertaken at the convention was establishing who could vote in the upcoming local, state and Presidential elections. The loyalists declared that prospective voters must swear they were

active friends of the Union; they would oppose all armistices and negotiations of peace until the constitution, and proclamations made in pursuance thereof, should be established over all the people of every state and territory and that they would heartily assist the loyal people in whatever measures they should adopt (Fertig 1898, 53).

In March 1865, Parson William Brownlow, a newspaper editor from Knoxville who had been imprisoned by the Confederates between 1862 and 1863, was elected Governor by 26,865 Tennesseans (twenty-percent of the population that had voted in the 1860 presidential election) who swore allegiance to the Union (Fertig 1898). This satisfied President Lincoln's December 1863 "Proclamation of Amnesty and Reconstruction" that declared Southern state governments could begin the process of reconstruction and readmission wherever ten percent or more of the population that

participated in the elections of 1860 agreed to abandon the Confederate cause and swear loyalty to the Union (Fertig 1898; Foner 2005). In his inauguration speech Brownlow declared he would protect Black Tennesseans and White Unionists from “those who fought to perpetuate slavery” (Alexander 1950, 72).

Unionist voters in March 1865 also approved an amendment to the Tennessee 1834 Constitution: that slavery would be abolished in the state and that the Legislature was forbidden to make any law recognizing it (Fertig 1898; Combs and Cole 1940; Harcourt 2002). One month later, and two days before General Lee surrendered to General Grant on April 9, 1865, Tennessee became the twentieth state to ratify the thirteenth amendment to the United States Constitution which states:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. 2. Congress shall have power to enforce this article by appropriate legislation.

The first post-war Tennessee General Assembly enacted a series of laws restricting the freedoms of former Confederate soldiers and sympathizers, e.g. making it a misdemeanor to speak ill of the Union; creating Union patrols in each county to subjugate the Confederates (Tennessee General Assembly Chapter 24 (1865)). The most stringent law politically was related to the franchise (Fertig 1898; Garrett and Goodpasture 1903). All who had fought for the Confederate Army would be denied the franchise for fifteen years; anyone who did not serve in the Army, but supported the Confederate government could vote after five years if two eligible voters would attest to the disfranchised person’s loyalty (Act of the Tennessee General Assembly Chapter 33 (1865)). In sum, only White Union men could vote, and thus control the government, for the foreseeable future.

This same assembly, according to *Harpers Weekly* (June 10, 1865) attempted to ratify a series of “black codes,” similar to those being proposed all over the South. These codes, attempts to replicate the social and economic conditions Blacks faced as slaves, were passed with strength and speed throughout the South (Foner 1988). The Black Codes of Mississippi required: Black people carry a pass from a White man to leave the area where they lived; Black testimony would be refused in court; Blacks could not bear arms or own property; Black children could be taken away from their parents to be apprenticed to Whites, etc. (Foner 1988; Smith 1990). Harpers reported Tennessee House-members proffered legislation to ensure

No contract between a white and black citizen is to be binding unless witnessed by a white person. In courts the colored citizens may be witnesses against each other only. On failure to pay jail fees after imprisonment colored citizens may be hired out to the highest bidder. The children of colored citizens, whether orphans or not, may be bound out to white persons at the option of the court, and so on (*Harpers Weekly*, June 10, 1865, 355).

The codification of these practices was evidently quashed by the State Senate as no reference to them appears in the General Assembly’s report for 1865 and 1866. This is supported by Smith who stated, “in Tennessee, the effort to pass such a code was defeated by Unionists” (1982, 576).

During the same session, on May 14, the Assembly passed the “Metropolitan Police Law” (Act of the Tennessee General Assembly 1865 Chapter 35) which stated: “That the County of Shelby is hereby constituted, for the purpose of police government and police discipline, a District, which shall be known and called the Metropolitan Police District of the State of Tennessee.” The legislation ordered in § 11 that

the Board of Police may, upon any emergency or apprehension of riot, appoint as many special patrolmen without pay from among the citizens as it may deem advisable.

This legislation was passed to organize and provide discipline to what had become a corrupt and chaotic police force in Memphis and specifically addressed rioting that occurred in Memphis between April 30 and May 2 (Fertig 1898; Garrett and Goodpasture 1903; Ryan 1977; Lovett 1979; Page 2002). According to a report from the Freeman's Bureau, the cause of the riot was

a bitterness of feeling which has always existed between the low whites & blacks, both of whom have long advanced rival claims for superiority...In addition to this general feeling of hostility there was an especial hatred among the city police for the Colored Soldiers, who were stationed here for a long time and had recently been discharged from the service of the U. S....(Johnson and Gilbreth 1866).<sup>1</sup>

The report indicates that the immediate cause was a scuffle between White Irish policemen and recently discharged Black soldiers on April 30. But the serious rioting occurred on May 1, after the City Manager, John Creighton, gave the following speech to a White crowd gathered on South Street:

“Everyone should get arms, organize and go through the Negro districts...I am in favor of killing every God damned nigger...burn up the cradle...and clean out every damned son of a bitch of a nigger out of town . . .” (Johnson and Gilbreth 1866).

The report goes on to state that the speech had great effect on the White populace and that Black churches, school-houses, and homes were burned “in which they had all their personal property, scanty though it be, yet valuable to them and in many instances containing the hard earnings of months of labor” (Johnson and Gilbreth 1866).

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<sup>1</sup> Report to Major General Howard, Commissioner of the Bureau of Freedmen and Abandoned Lands, of an investigation of the cause, origin, and results of the late riots in the city of Memphis made by Col. Charles F. Johnson, Inspector General States of Kentucky and Tennessee, and Major T. W. Gilbreth,

The United States House of Representatives Select Committee on the Memphis Riots (39<sup>th</sup> Congress, First Session, Report 101, July 25, 1866)<sup>2</sup> determined that forty-six Blacks and two Whites died; seventy-five Blacks were injured; hundreds of Blacks were robbed; five Black women were raped; ninety-one Black-owned homes, four churches and eight schools were burned (Ryan 1977; Lovett 1979). Pointedly, Page (2002, 78) reports “In the end, no white citizens were prosecuted, despite the [United States] Congressional investigation and the African American community was forced to rebuild.”

The Memphis Riot was the first of many violent episodes between Whites and Blacks in Tennessee to make national headlines during Reconstruction. On July 6, 1867, there would be a skirmish between Blacks and Whites in the Franklin, Tennessee town-square where 28 men, Black and White were wounded and three Whites and two Blacks were killed (Freedmen’s Bureau Report; *New York Times* July 7, 1867).<sup>3</sup> In the summer of 1869, the *New York Times* and *Nashville Republican Banner* reported riots taking place in Brownsville, Somerville, Murfreesboro, Lebanon, Smyrna, and Mitchellville in Sumner County.<sup>4</sup>

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<sup>2</sup> “A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 – 1875” <http://memory.loc.gov/cgi-bin/ampage?collId=llss&fileName=1200/1274/llss1274.db&recNum=10> accessed Spring 2010.

<sup>3</sup> This incident is also mentioned in “Letters Received by the United States Attorney general 1809-1870, Southern Law and Order,” available on microfilm at the Vanderbilt University Library.

<sup>4</sup> May 4, 1869: p.1 “Riot in Tennessee: One White and Two Negroes Killed” (Brownsville) *New York Times*; August 25, 1869: p.1 “Riotous Proceedings in a Tennessee town: The Trouble Between Whites and Negroes” (Somerville) *New York Times*, p. 1; August 31, 1869: p.1 “Negroes Driven From Homes” (Murfreesboro) *New York Times*; August 31, 1869: p.1 “The Majesty of the Law” editorial, (Lebanon, Smyrna, Sumner County/Mitchellville) *Nashville Republican Banner*.

The Memphis Riot mirrored a similar incident in 1866 New Orleans where a White Confederate mob attacked the Louisiana General Assembly: 100 men were injured in the fighting and thirty-four Blacks and three White Republicans were killed (Foner 1988). Similar Reconstruction battles, where disfranchised White Confederates engaged in open, armed-conflict using heavy-artillery against Blacks, took place in Camilla, Georgia (1868), Laurens, South Carolina (1870), Eutaw, Alabama (1870), Meridian and Philadelphia, Mississippi (1871), Colfax, Louisiana (1873), Vicksburg, Mississippi and New Orleans (1874), Eufaula, Alabama (1874), Clinton and Yazoo City, Mississippi (1875), and Ellenton, South Carolina (1876) (Trelease 1971; Brown 1975; Rable 1984; Tolnay and Beck 1995; Lane 2008.)

Most of these disturbances were attributed to unrepentant and maladjusted Confederates coping violently with a new social order where Blacks could assert their own liberty (Ryan 1977; Lovett 1979; Foner 1988; Page 2002). But they also signified that in many places throughout the South, the Civil War was not over. Further, these violent incidents took place in venues where Blacks had made advances in economic and political power, places where Whites wished to “demoralize and intimidate the freedmen” and “restore Democratic one-party white rule in the South” (Trelease 1971, xlv; Tolnay and Beck 1995, 10).

These incidents emboldened the United States Congress to draft legislation ensuring greater protection for the Freedmen (Finkelman 2002). Among these pieces of legislation was the Civil Rights Act ratified in April 1866 (14 Stat. 27) and the Fourteenth Amendment. During debates on the Civil Rights Bill, Senator Charles Sumner of Massachusetts, one of the leading voices of the post-war Republican Party, received a

package that contained a Black man's finger. The note attached said, "You old son of a bitch, I send you a piece of one of your friends, and if that bill of yours passes, I will have a piece of you" (McPherson 1964, 341).

Congressman John Bingham of Ohio (who authored the Fourteenth Amendment) was in charge of gathering the evidence from Tennessee (Finkelman 2002). When he asked Lieutenant Col. R.W. Barnard, a Freedmen's Bureau official, if it was safe to remove Federal troops from Tennessee, Barnard replied:

I have not been in favor of removing the military. I can tell you what an old citizen, a Union man, said to me. Said he, "I tell you what, if you take away the military from Tennessee, the buzzards can't eat up the niggers as fast as we'll kill 'em" (H.R. Joint Committee on Reconstruction, 39<sup>th</sup> Congress, 121.)

Union Major General Clinton Fisk, for whom one the first Black colleges in the South was named, testified that in Tennessee,

Slaveholders and returned rebel soldiers persecute bitterly the former slaves and pursue them with vengeance, and treat them with brutality and burn down their dwellings and school houses... It is lamentable and astonishing with what tenacity the unsubjected cling to the old barbarism (H.R. Joint Committee on Reconstruction, 39<sup>th</sup> Congress, 112.)

This testimony led to the passage of the Civil Rights Act of 1866 which, like the Fourteenth Amendment, drafted and ratified two months later, mandated that all persons born in the United States are citizens of the United States

and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude...shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens...

But the Civil Rights Act went further than the blanket language of the Fourteenth Amendment which did not specify the enforcement mechanisms. The Civil Rights Act mandated that Freedmen's Bureau Agents, United States Marshals and District Attorneys would have the power to arrest and institute proceedings against anyone who would violate the Act and bring the offender before Federal Court. In addition, all Federal Marshalls called upon to issue warrants under the act must do so. Should a Marshall refuse to do so,

he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offense.

Despite this legislation, in October 1866, in Henry County, Tennessee, Freedman's Bureau agent David Tillson called upon the local sheriff to execute a warrant for the arrest of four individuals known to have terrorized local Black families as well as murdered several Black heads of household. The Sheriff replied that

“it would be unpopular to punish white men for anything done to a negro- it might be unsafe- that he was not going to obey the orders of any damned Yankee- and that the rebellion was not over yet in Henry County” (Crowe 1975, 379).

The men were not arrested, the sheriff remained in office and no one was fined the statutory penalty of \$1000 (Crowe 1975, 379).

Incidents like these also emboldened the Tennessee legislature to tighten their grip on power to the detriment of former Confederates. In the General Assembly of 1866, the Republicans further restricted the franchise. Anyone who wanted to vote must swear:

That I have never voluntarily borne arms against the Government of the United States for the purpose, or with the intention of, aiding the late rebellion; nor have I with any such intention at any time given aid comfort counsel or encouragement to said rebellion, or to any act of hostility to the Government of the United States. I further swear that I have never accepted any office either civil or military, or to exercise the functions of any office either civil or military, under the authority or pretended authority of so called Confederate States of America, or of any insurrectionary State hostile or opposed to the authority of United States Government with the intent and desire to aid said rebellion, and that I have never given voluntary support to any such Government or authority, so help me God (Act of the Tennessee General Assembly 1866 Chapter 33 § 3).<sup>5</sup>

The oath would be given before a county commissioner appointed by Governor Brownlow (Coulter 1936; Harcourt 2002). While the law effectively barred two-thirds of the state's men from voting and political office-holding, it also entrenched animosity toward Unionists amongst the disfranchised (Garrett and Goodpasture 1903).

Other bills were passed that session with regard to the rights of Black Tennesseans. On May 26, 1866 the following bill was passed: "An Act to define the term 'Persons of Color and to Declare the Rights of Such Persons.'"

§ 1 That all Negroes, Mulattoes, Mestizoes and their descendants having any African blood in their veins shall be known in this State as "Persons of Color."

§ 2 That persons of color have the right to make and enforce contracts, to sue and be sued, to be parties and give evidence, to inherit and to have full and equal benefits of all laws and proceedings for the security of person and estate, and shall not be subject to any other or different punishment, pains or penalty for the commission of any act or offence than such as are prescribed for white persons committing like acts or offences...

§ 4 That all acts or parts of acts and laws inconsistent herewith are hereby repealed; provided that nothing in this act shall be so construed as to admit persons of color to serve on the jury. And provided further that the provisions of

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<sup>5</sup> The June 1865 legislation limiting the franchise was repealed by the 1866 legislation. The 1866 legislation makes no reference to time limits after which the franchise would be restored (i.e. five or fifteen years) so one must assume that the restriction was indefinite and that it would take another bill to re-franchise the disfranchised Confederates.

this act shall not be so construed as to require the education of colored and white children in the same school.

§ 5 That all free persons of color who were living together as husband and wife in this state while in a state of slavery are hereby declared to be man and wife, and their children legitimately entitled to an inheritance in any property heretofore acquired or that may hereafter be acquired by said parents, to as full an extent as the children of white citizens are now entitled by the existing laws of this State.

These provisions are self explanatory, but reveal monumental change in the legal status of Black Tennesseans. The inability to serve on a jury however, represented a failure in the legislation to provide Black Tennesseans with the “full and equal benefits” of law, as did the exclusion of the Black Tennessean from the ballot and franchise.

### **Adopting the Fourteenth Amendment in Tennessee**

There was a mighty struggle to ratify the Fourteenth Amendment in Tennessee in July 1866. Most Southern states were prepared to adopt the 13<sup>th</sup> Amendment and relinquish the institution (if not the practical aspects) of owning other human beings labor, but extending the rights of citizenship was another matter entirely (Ash 2006). The maladjustment of race relations between Blacks and Whites in the South and the reluctance or inability of state governments to protect the Freedmen from violence, prompted Congress in Washington to draft the Fourteenth Amendment that, in addition to declaring all persons born in the United States citizens, mandated that Black Southerners receive the equal protection and due process of law with regard to their life, liberty and property (Finkelman 2002).

The Amendment also: penalized states that would limit the franchise on the basis of race by limiting the state’s representation in the United States Congress; prohibited those who had previously served in state or Federal government and then left to fight for

or give aid to the Confederacy from running for/serving in a political office (though this could be changed by a 2/3 vote of each Congressional chamber); and finally the amendment ensured that the debt incurred by the Union was valid and would be paid, but that federal tax dollars would not pay compensation for slaves or any debts contracted by the Confederacy (Flack 1908). The Amendment states:

§ 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 2: Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

§ 3: No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

§ 4: The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

With regard to section one, a citizen's privileges and immunities encompass the rights afforded every citizen by the Bill of Rights: the right to free speech, freedom of religion, to be free from searches and seizures and the right to a jury of one's peers, etc. (O'Brien 1995). The Fourteenth amendment mandated that every citizen was also guaranteed the due process of law, i.e. before citizens can lose their life, liberty, or property, they must be given a fair hearing and a chance to appeal to an impartial tribunal any decision made against their rights (O'Brien 1995). The equal protection of law meant essentially what had been codified earlier in the Civil Rights Act of 1866, i.e. "citizens of every race and color ... [have] full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens." In practice this means the opportunity to use the courts for dispute resolution, to be treated the same as anyone else when being accused of a crime and if someone commits a crime against you, or is about to commit a crime against you, to have the police give your case the same attention as they would give anyone else (O'Brien 1995).

Despite the fact that ratification of the Fourteenth Amendment was understood to be a prerequisite to readmission to the Union, several members of the Tennessee General Assembly refused to appear at the capitol to vote on ratification, thereby preventing the quorum necessary for consideration of the resolution (Garrett and Goodpasture 1903; Coulter 1939). Governor Brownlow had several of these members arrested and physically brought into chambers (Fertig 1898; Coulter 1939). With a quorum present, the Senate approved the resolution by a vote of fourteen to six; the House approved the

resolution by a vote of forty-two to eleven. Tennessee ratified the Fourteenth Amendment on July 19, 1866.

### **Readmission of Tennessee**

Many Tennesseans, since the founding of the state's government, vocally opposed the perpetuation of slavery within the state's borders as is evidenced by the hundreds of anti-slavery petitions filed between 1800 and 1840 and the debates that took place at the Constitutional convention of 1834. A majority of Tennesseans initially voted against leaving the Union in 1861, with some threatening to form their own state, and were ultimately the last of the Southern citizens to secede. The instruments of Tennessee's government were under Union control for much of the Civil War and even though the Emancipation Proclamation of 1863, a war-time measure taken to divest the South of its most valuable property, had excluded Tennessee, the Tennessee legislature, the only Southern legislature to do so, abolished slavery in 1865 on its own accord (Fertig 1898; Garrett and Goodpasture 1903; Harcourt 2002). Tennessee quickly adopted the Thirteenth Amendment which abolished slavery nationwide and was the first Southern state (and the third state overall) to adopt the Fourteenth Amendment securing the due process and equal protection of law to every American citizen, Black or White. After days of debate on the terms of readmission, Congress in Washington voted to restore Tennessee to the Union and to seat its representatives; on July 23, 1866, President Andrew Johnson signed Tennessee's readmission into law (Garrett and Goodpasture 1903).

Tennessee was not only the first of the Southern states to be readmitted to the Union, but given Tennessee's unique history (referenced above) Tennessee was the only Southern state excluded from military reconstruction. Congress was convinced that Brownlow and his Unionists could restructure the state without the aid of Federal troops (Fertig 1898; Garrett and Goodpasture 1903; Alexander 1950). All other former Confederate states would have their governors appointed by President Johnson, their legislatures closely monitored and most would remain occupied by Federal troops until 1876.<sup>6</sup>

In a Christmas Eve speech, Governor Brownlow declared with reference to extending the franchise to Black men, "Without their votes, the state will pass into disloyal hands, and a reign of terror not so easily described as realized will result" (Senate Journal of Tennessee 1866, 730).<sup>7</sup> Governor Brownlow made the argument that extending the franchise to Blacks would further dampen the power of former Confederates who, despite being barred, were often voting, and that it would please the

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<sup>6</sup> In 1876, Rutherford Hayes was elected to the Presidency of the United States in an incredibly close election. A committee of fifteen, made of up of members of the House of Representatives, the Senate and the Supreme Court was convened in Washington to determine who would receive the electoral votes of Florida, Louisiana, Oregon and South Carolina where the electoral returns were contested (McCulloch 1888; Woodward 1966). After finding that Blacks were illegally deprived the vote in Florida and Louisiana, the committee granted those states' electoral votes to Hayes and Hayes won the election by one electoral vote (McCulloch 1888). But his victory came with a price: Southerners would regain control of their own state governments, federal military occupation would end and in return Republicans would ensure a liberal policy for Southern internal improvements (Woodward 1966). The story is rich and complicated. For two in-depth assessments see C. Vann Woodward, *Reunion and Reaction* (1966) and David Blight, *Race and Reunion* (2001).

<sup>7</sup> Tennessee would not ratify the 15<sup>th</sup> Amendment to the United States Constitution, which guaranteed Blacks the right to vote, until 1997. At the time when other states were ratifying the amendment, Tennesseans maintained that because the state had been excused from military reconstruction and had ratified an amendment to the state Constitutions of 1835 and 1870, providing the franchise to Black Tennesseans, there was no need to ratify the 15<sup>th</sup> Amendment. This will be discussed in Chapter 6.

Radicals in Washington who were contemplating a constitutional amendment on the subject (Senate Journal of Tennessee 1866, 12).

Thus, in February, in the 34<sup>th</sup> Tennessee General Assembly of 1867, Blacks, after months of organizing through the State Colored Men's Convention in Nashville and the Equal Rights League in Memphis, and lobbying across the state, were granted the right to vote (Work 1916; McBride 1989; Lovett 1996; Harcourt 2002). Fierce opposition was expressed even amongst the most liberal Unionists. Many of the opposed mandated that Black suffrage could only occur with the extension of suffrage to the former Confederates (McBride 1989). Ultimately, a bargain was struck: the franchise would be extended to Blacks, but Blacks running for office or serving on juries would be expressly forbidden (McBride 1989). The bill passed thirty-seven to twenty-eight in the House; fourteen to seven in the Senate (Senate Journal of Tennessee 1867, 304).

Over 40,000 Black Tennesseans registered to vote in the upcoming elections, particularly in Knoxville, Chattanooga, Nashville and Memphis (McBride 1989; Lovett 1996; Lauder 2006).<sup>8</sup> Black leaders through the Colored Men's League, the Equal Rights League and Union Leagues, a fraternal order created by the Republican Party to organize the Black and White Republican voters, delivered the Black Tennesseans vote for the Republican Party (Lovett 1996; Coulter 1939; McBride 1989).

Later in the same legislative session of 1867, the General Assembly passed legislation ensuring the rights of Blacks to serve on juries (as long as the litigants were Black), and run for political office. Further, legislation was passed ensuring Blacks had the right to first class seats on boats and street cars if they could afford the first class price

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<sup>8</sup> Free Blacks had been allowed to vote in Tennessee between 1796 and 1834, when the General Assembly limited the franchise to White Tennesseans.

(McBride 1989; Lovett 1996; Lauder 2006). With the ballot box open, two Blacks were elected to city council positions in Nashville, but only one was seated (McBride 1989; Lovett 1996; Lauder 2006).

The vote of Black men in the cities was reasonably secure (Lovett 1996; Harcourt 2002). But securing the vote of rural Blacks and Republicans (and making sure the former Confederates could not vote) would prove incredibly difficult. With Black men exercising political power as well as their new found freedoms, many disfranchised Whites unable to constructively deal with the new social order, turned to vigilante violence (Trelease 1971; Rable 1984; Harcourt 2002).

In the winter of 1865, in Pulaski, Tennessee, a small-town in the south of the state, a group of six disfranchised Confederate soldiers organized to form a secret, fraternal organization which over time was named the Ku Klux Klan (Garrett and Goodpasture 1903; Davis 1924; Bullard 1997). According to the testimony of General Nathan B. Forrest in front of the “Joint Select Committee to Report on the Condition of Affairs in the Late Insurrectionary States” (1872, 7), the purpose of the Ku Klux Klan was to:

Counter the Loyal [Union] League...There was a great deal of insecurity felt by the southern people. There were a great many northern men coming down there forming Leagues all over the country. The negroes were holding night meetings and were going about and becoming insolent. And the Southern people all over the state were very much alarmed...I think this organization was got up to protect the weak with no political intention at all.

But it became clear that the Klan’s primary goal was to counter the Brownlow regime by intimidating Blacks and White Republicans. Renewing an 1867 act creating the Tennessee State Guard, a military unit composed of loyal Union regiments from each

Congressional district, Governor Brownlow called the General Assembly into a special session in July 1868 and declared martial law in thirty Tennessee counties that were being terrorized by the Ku Klux Klan; the legislature also made it a felony to belong to the organization (Garrett and Goodpasture 1903; Coulter 1939; McBride 1989; Harcourt 2002; Severance 2006).<sup>9</sup> Brownlow's State Guard had secured the governor's race, Tennessee's Congressional seats and several municipal elections for the Republicans in 1867. But in 1868, the Klan was bolder and more wide-spread and the Guard was much less effective (Garrett and Goodpasture 1903; Severance 2006). But as reported by Garrett and Goodpasture (1903, 250) "so secretly were its [the Ku Klux Klan's] affairs conducted, that no member of the order was ever convicted in Tennessee."

In addition to the Tennessee Guard, members of the Freedmen's Bureau also played a role in opposing or at least reporting Klan violence (Harcourt 2002; Ash 2006). Established by Congress in 1865 to oversee the slave's transition to freedom, the Bureau was the only Federal entity available to Black Tennesseans after Federal troops withdrew. Over the veto of President Johnson, the Bureau was tasked with: providing food and shelter to orphaned and elderly Blacks, drawing up and enforcing labor contracts between Blacks and White employers, and in general, serving as mediators between Blacks and Whites. Freedmen's Bureau agents in Tennessee, often Union soldiers, dealt with a war-torn state where they were understaffed and undersupplied (Trumbull 1866; Ash 2006).

Reports from the Freedmen's Bureau (1865-1870) indicate that assaults on Black Tennesseans and White Republicans by Klan members occurred frequently throughout

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<sup>9</sup> In all there were twenty-one companies distributed over the state, consisting of approximately 1,800 men, mostly from East Tennessee, one-quarter of whom were Black (Severance 2006).

the state.<sup>10</sup> Between April 1865 and August 1868, over 95 incidents of Whites beating or murdering Blacks were reported by the Bureau. The beatings by the Klan were fairly standard in form, with fourteen taking place in Middle Tennessee in July 1868. A band of disguised men would ride to several homes on a predetermined night. The victim would be dragged out of their home, stripped of clothing and whipped, often upwards of one-hundred lashes (Freedmen's Bureau Reports Tennessee 1865-1869; Harcourt 2002). The victim was then told that if he or she didn't do as they were told: i.e., not vote in an election, act with deference to particular Whites, the victim would be revisited with greater fury (Freedmen's Bureau Reports Tennessee 1866-1870). In three of the Bureau reports the Black was killed by the Klan; in all of the reports regarding the Klan no one was arrested because the assailants were in disguise (Freedmen's Bureau Reports Tennessee 1866-1870).

Richard Moore, a Black man from Lincoln County who had fought for the Union, testified at the hearings of the "Military Committee in Relation to Outrages Committed by the Ku Klux Klan in Middle and West Tennessee," convened by the Tennessee General Assembly in Nashville in August 1868:

On Saturday night last...sixteen of this Klan came to my house and knocked me down with sticks and their pistols, beating me severely; and after they had cut my head to the skull in several places, took me from the house and stripped me, and whipped me with a strap of leather, with a buckle on its end, striking me 175 licks. This Klan asked me if I was a Radical. They called on me for my certificate of registration [to vote], which I did not give them. They called upon me for my pistol, and I told them that I had sold it. I was with the Union army during the late war, in Government employ. They told me that I nor no other colored man should vote in the Presidential election... That they, and all the Radicals of the county, should be killed first. But that when the colored men would vote for them all

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<sup>10</sup> Records of the Assistant Commissioner for the state of Tennessee Bureau of Refugees, Freedmen, and Abandoned Lands, 1865 – 1869; National Archives Microfilm Publication M999, Roll 34, "Reports of Outrages, Riots and Murders, Jan. 15, 1866 - Aug. 12, 1868" accessed at the Tennessee State Library and Archives.

would be right, and the country would then have peace, but not till then; that if I would join them and be a good Conservative, I might do anything I pleased... I do not believe that any colored or white Union man is safe in that county, or will be until there is better protection given. The Klan which whipped me told me to take my [bloody] shirt and... "carry it to Brownlow's Legislature"... I know some of the Klan- Captain Tucker, James Bennett, John Clark... All my near neighbors, and all rebels.

The Klan swayed Tennessee's 1868 elections decisively (Garrett and Goodpasture 1903; McBride 1989; Harcourt 2002). Alexander (1950) finds that eight Middle Tennessee counties saw a fifty- percent decline in Republican votes between 1867 and 1868. McBride (1989) finds that in Giles and Rutherford counties, the Black vote declined by two-thirds as a result of Klan intimidation. While Republicans still held a majority of the seats, their grip on power was slipping.

### **The End of Republican Rule**

Multiple factors are identified by Alexander (1950) as harbingers undoing Reconstruction in Tennessee: factions in the Republican Party, retreat of moderates and Blacks from voting, and the presence of the Klan is noted as a definitive causal factor. In 1868, the Klan convened a meeting in Nashville, where members from across the state gathered to adopt a written Constitution, designated the "Prescript" which established that the members of the organization would be bound by a secret oath and would obey the orders of the chief officer designated the Grand Wizard (Garrett and Goodpasture 1903). During this convention, the Klan became a political organization and avowed that their purpose was dislodging Union Republicans from power (Garrett and Goodpasture 1903). Despite their masked appearance in public, the Klan would issue editorials and announced public parades (Garrett and Goodpasture 1903; Lauder 2006). Harcourt (2002, 275) argues that the Republican Party in Tennessee collapsed because of the

“challenge to civic authority” embodied by the Klan; Republicans were essentially presented “with a stark choice: give up the cause of the freedmen or engage us in guerilla warfare.” By 1872, the choice had been made at the state and Federal levels of government in favor of the former.

According to Garrett and Goodpasture (1903) and Coulter (1939), the departure of Governor Brownlow for the Senate in 1869 was the ultimate harbinger of the end of Republican Reconstruction in Tennessee. The Speaker of the Tennessee Senate, Dewitt Senter, a conservative East Tennessee Unionist, was tapped to serve out the remainder of Brownlow’s term (McKinney 1998). Dewitt, being challenged by members of his own party in the 1870 elections, took refuge with the Conservative Democrats and refused to send out the Tennessee State Guard to man the polling stations. The stage was set for widespread intimidation by the Klan of Union voters and for the first time in five years, thousands of disfranchised Confederates voted (McBride 1989; McKinney 1998). This election: of sixty-three Conservative Democrats and twenty-two Republicans to the House, fifteen Conservative Democrats and six Republicans to the Senate, signaled the end of Republican rule in Tennessee for decades to come (*Nashville Republican Banner*, August 6, 1869). Republicans would be elected to the Governorship in 1881, 1911, 1921, 1971, 1979 and 1995, but Republicans would not be a majority in the General Assembly again until 2008.

Reflecting upon Brownlow’s administration and the Ku Klux Klan in Tennessee, the “Joint Select Committee of the United States Congress to Inquire into the Condition of Affairs in the late Insurrectionary States” (1872, 421), forebodingly surmised:

The great mass of the people of Tennessee felt that they were outlawed and denied the protection of government...They believed that they were purposely

disarmed and that being so, whatever they loved or prized was at the mercy of an ignorant race whose ignorance and whose passions were being played upon by corrupt parties with sinister purposes ... We may and do condemn secret political organizations [but] we condemn with equal severity the tyranny of the oppressor out of which they have their birth. Had there been no wanton oppression in the South, there would have been no Ku Kluxism. Had there been no rule of the tyrannical corrupt carpet bagger or scalawag rule, there would have been no secret organization. From the oppression and corruption of the one sprang the vice and outrage of the other.

In 1871, The Ku Klux Klan Act, also referred to as the Enforcement Act (17 Stat. 13) became Federal law, allowing President Grant to suspend *habeas corpus* in enforcing the Fourteenth and Fifteenth Amendments, resulting in numerous arrests, particularly in South Carolina (Trelease 1995). But according to the members of the “Joint Select Committee of the United States Congress to Inquire into the Condition of Affairs in the late Insurrectionary States,” the Tennessee Klan was in 1872 being viewed as a legitimate reaction to Brownlow’s government.

Indeed, the seemingly unchecked power of Governor Brownlow and his Republican Party in Tennessee was by all accounts unsympathetic to the plight of Tennesseans who had supported the Confederacy (Joint Committee 1872; Fertig 1898; Garrett and Goodpasture 1903; Coulter 1936; Harcourt 2002). And yet, he had been given free rein to rule by fiat (without the input of the disfranchised Confederates) by the United States government when Tennessee was exempted from Military Reconstruction. By creating a Tennessee State Guard, Brownlow essentially had a military brigade at his beck and call, but this was no different from the situation in other Southern states where Federal troops were enforcing Military Reconstruction.

But others have argued (Harcourt 2002; Severance 2006) that Brownlow’s State Guard did not go far enough. By surrendering to the Klan and those who opposed the

Republican Party, Reconstruction was prematurely abandoned in Tennessee. Klan terrorists were the military arm of a dispossessed political party and were in the end successful in securing their ultimate goal: the intimidation of Republican voters, Black and White, and the return to power of disfranchised Confederates. Tennesseans endured conditions similar to those endured by the citizens of other Southern states who were subjected to Federal Military Reconstruction. The difference was, in Tennessee, it was Tennesseans and not federal troops overseeing Reconstruction.

Violence against Blacks in Tennessee continued with the overthrow of Republican government. The situation was dire enough that many Blacks decided to emigrate from the state (McBride 1989; Lovett 1996). In the fall of 1869, in response to heightened Klan attacks, Blacks in Nashville gathered to discuss the prospect of leaving Tennessee (Lovett 1996).

"Pap" Singleton, a native Tennessean who escaped slavery through the underground- railroad, returned to Tennessee after the Civil War (Lovett 1996). Singleton, with the help of others, encouraged Tennessee Blacks to head west to Kansas where they could apply for homesteads and establish farms and communities free from violence and tyranny (Lovett 1996). He convinced thousands of Nashvillians to settle in Cherokee County, Wyandotte, and Topeka, Kansas (Lovett 1996). Lovett (1996) found that over 25,000 Blacks from the South migrated to Kansas by 1880, 5,418 of whom were from Tennessee.

Led by former Confederate General John C. Brown, purported leader of the Klan in Tennessee following the resignation of Nathan Bedford Forrest, the Tennessee legislature in 1869 repealed the Ku-Klux Klan and militia laws put in place in 1868

(McBride 1989). They also repealed the common-carrier law allowing Blacks who paid a first-class fare to ride in first-class seats (McBride 1989). Finally, they refused to ratify the Fifteenth Amendment which provided the right to vote to all citizens of the United States, regardless of color, on the ground that it was “destructive to the rights of states” (House Journal, Tennessee 36<sup>th</sup> General Assembly, 185).<sup>11</sup> The legislature also called for a Constitutional Convention to take place in January 1870, which was put to a vote by the people and overwhelmingly approved (Garrett and Goodpasture 1903; Alexander 1950; McBride 1989).

Although much attention was paid to the state’s debt from the Civil War, as well as limiting the powers of the Governor (which had been exercised to their limits by Governor Brownlow), much of the debate at the Constitution centered around the franchise. Many of the Democratic delegates wanted to repeal Black suffrage and debates were held for weeks considering the subject (Journal of the Constitutional Convention 1870, 97-98). Knowing that repealing the rights of Blacks to vote might incur Federal wrath, some legislators stated they were even willing to undergo Military occupation in exchange for ending Black suffrage (McBride 1989). But ultimately, by a vote of fifty-four to twenty, the Constitutional delegates rejected the proposal to prohibit Black suffrage (Journal of the Constitutional Convention 1870, 161). A compromise was reached, however, by requiring a poll tax be paid to vote, making it much more difficult for poor Blacks and poor Whites to exercise the franchise (Tennessee Constitution of 1870, Article 4 § 1).

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<sup>11</sup> Tennessee would not ratify the 15<sup>th</sup> Amendment until 1997. House resolution number 32 (1997) was offered by Representative Tommie Brown, a Black female Democrat from Chattanooga, which “post-ratified” the Fifteenth Amendment to the United States Constitution by the State of Tennessee.

The 1870 elections found former Confederate General and reported Klan leader John Brown in the Governor's seat. Klan violence was still prolific. On January 14, 1870, the *Chicago Tribune* reported a "Reign of Blood in Middle Tennessee" referencing five Blacks being killed in Columbia, Tennessee by a gang of Whites and the Whites escaping punishment. On January 28, 1870, the *Chicago Tribune* reported "The Shooting of Five Negroes in Carroll County" where a lynch mob of 200 gathered, kidnapped five Blacks accused of murder from jail and shot them: according to the report no one was masked and no one was arrested. On November 11, 1870, the *New York Times* reported in "Outrages in Tennessee: Negroes Killed" Matthew Shorter, a "colored man" was killed by the Klan on election day in Columbia Tennessee and in that district two Democrats were elected to the General Assembly.

Two incidents of note took place in 1871. On April 25, according to the *New York Times*, "Lynch Law in Tennessee: Two Negroes Hanged by Masked Band," the Sheriff of Weakley County's office was ransacked and valuable papers were taken from his desk, one of which listed the names of Klan members in Weakley County. The newspaper claimed that suspicion fell upon the Johnson brothers who were Black. One was arrested, one escaped to Kentucky. The brother in Kentucky "sent word back that he would be sending a colored regiment of troops to squelch them [KKK]." But after being arrested in Paducah, for what we do not know, he was abducted from the train bringing him back to Tennessee by "about forty men with masks." Both brothers were found the next day "hanging in the woods." In September 1871, the *Chicago Tribune* reported that in Lebanon, Tennessee, Isaac Cheek, the Black tenant of Attorney William Harris survived a Klan attack on his home and killed a member in the process. The paper

reported that Cheek was found by a jury to have acted in self-defense. These incidents both show that Black Tennesseans were not complacently succumbing to Klan violence. And the elections of 1872 will show that Blacks were willing to vote despite the personal risk.

In 1872, Blacks in Tennessee experienced a revival of sorts with regard to political participation. At the Republican nominating convention of 1872, William Yardley , a Black Knoxvilleian was nominated for governor along with two other candidates (McBride 1989; Lauder 2006). General Grant was re-nominated for President although Horace Greeley would receive a majority of Tennessee's votes in the general election. Black voters turned out in record numbers, particularly in Middle and West Tennessee, and were the swing votes in several General Assembly and Congressional elections (McBride 1989). Several Black justices of the peace were elected in Middle and West Tennessee and Sampson Keeble, a barber from Nashville, was the first Black man elected to the Tennessee House of Representatives (McBride 1989; Lauder 2006).<sup>12</sup>

In 1874, Ed Shaw, Memphis's leading African American politician, succeeded in convincing the Irish in Memphis to join with Memphis Blacks in a political coalition, taking control of the City government: six Blacks would serve on the City Council and Shaw served as Wharf-master, controlling river-boat traffic (McBride 1989; Lovett 1996). But the elections of 1874, when adoption of a final Civil Rights Bill in Congress, which guaranteed that everyone, regardless of race, color, or previous condition of servitude, was entitled to the same treatment in public accommodations, was being

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<sup>12</sup> Keeble, who served one term in the legislature, authored several pieces of legislation advocating greater rights for Black Tennesseans. He sought to: amend Nashville's charter to allow Blacks to operate businesses downtown; to provide greater protection for the provision of laborer's wages and to secure funds for the Tennessee Manual Labor University (Lauder 2006). None of his bills were ratified however.

debated, and when several Blacks in West Tennessee were running for political office, racial tensions were heightened to the point that Governor Brown issued a plea to the people of Tennessee to refrain from violence (*New York Times* August 27, 1874). In August, three Black candidates were killed in Fayette County, a Black school teacher, Julia Hayden, was killed in Warren County and Federal troops were called to secure the elections in Memphis (McBride 1989; *New York Times* August 30, 1874). And according to articles from the *Chicago Daily Press* and the *New York Times* on September 2, 1874, in Gibson County, sixteen Blacks were executed by the Klan, after which Governor Brown issued a reward for information leading to an arrest. In rural Tennessee, Blacks were sufficiently frightened from the polls and Conservative Democrats swept every election in the state save five (McKinney 1998). The Federal Civil Rights Bill was passed and in response, Tennessee passed the South's first Jim Crow law, House Bill Number 527, permitting racial discrimination in transportation, lodging, and places of entertainment (Folmsbee 1949).

In 1875, Blacks were once again gathering in Nashville to discuss emigration from the state. Despite an article in the *Nashville Banner* (June 3, 1875) stating "There will be no considerable black migration from Tennessee" on May 22, 1875, the *Chicago Daily Tribune*, reported that "Negro Migration from Tennessee is Imminent." The *Tribune* reported that Blacks were once again gathering in Nashville to discuss moving to Kansas or Missouri, which the paper described as "delusive Canaans." The author goes on to state that if White Southerners want to prevent the exodus, they should create a plan like "the Irish-Tenant Act and the Australian land laws" which would provide the Freedmen the opportunity to own their own land in Tennessee, for in 1870, although

Blacks constituted one-third of Middle Tennessee's population, only six percent of Black families owned their own land (Ash 1996; Lauder 2006).

### **The End of Federal Reconstruction**

The end of Reconstruction is usually attributed to two distinct Federal phenomena: the Presidential election of 1876 and the Supreme Court decision of *Cruikshank* (1876) (Woodward 1966; Foner 1988; Nieman 1991; Blight 2001; Lane 2008). Both incidents signaled that Federal efforts to reconstruct Southern society and specific efforts to protect the rights of Black Southerners had come to an end.

#### *United States vs. Cruikshank* (1876)

The outcome of the 1872 Louisiana gubernatorial election was disputed. William Pitt Kellogg, one of Louisiana's Reconstruction Senators had run on the Republican ticket with a Black Lieutenant governor and had thereby secured the majority of Louisiana's Black citizens' votes. He ran against John McEnery, an ex-Confederate battalion commander. Each side claimed success. But when the state electoral board announced Kellogg's victory, McEnery's supporters staged a military coup in New Orleans and attempted to take the state legislature and the governor's office by force. President U.S. Grant ordered the U.S. Army to quell the insurrection and they did so successfully. But small towns throughout the state had not received the news that the coup had been suppressed. One of those towns was Colfax, Louisiana.

In a letter to the United States Attorney General, District Attorney General for Louisiana, James Beckwith, a New Orleans native wrote:

The Democrats (White) of Grant Parish attempted to oust the incumbent parish officers by force and failed, the sheriff protecting the officers with a colored posse. Several days afterward recruits from other parishes, to the number of 300, came to the assistance of the assailants, armed with revolvers and small cannon and they demanded the surrender of the colored people. This was refused. An attack was made and the negroes were driven into the courthouse. The courthouse was fired and the negroes slaughtered as they left the burning building, after resistance ceased. Sixty-five negroes terribly mutilated were found dead near the ruins of the courthouse. Thirty, known to have been taken prisoner, are said to have been shot after the surrender and thrown into the river (Lane 2008, 22).

According to historian Eric Foner, it was later determined that two White men and 280 Black men, women and children were killed that day in Colfax, most of whom had laid down their arms under a flag of surrender (Foner 1988, 530). According to Union soldiers sent to investigate the incident's immediate aftermath, "We are informed that since the fight, parties of armed men have been scouring the countryside, taking the mules and other property of the colored people" (Lane 2008, 21).

Members of the mob were not convicted for murder or arson in Louisiana courts because the local sheriff refused to arrest or convict the mob members (Lane 2008). The mob members were arrested by federal marshals however for violating federal law, specifically the Ku Klux Klan or Enforcement Act of 1870 which made it a federal crime to inhibit citizens attempting to exercise their civil rights (Lane 2008).

Three of the mob members were convicted in Federal Court at the trial court level (Lane 2008). The decision was then appealed to the Federal District Court for Louisiana which overturned the conviction. Federal District Judge Woods found that the government prosecutors must prove that the crimes were committed on account of the victim's race and that they had failed to meet this burden:

The war of race, whether it assumes the dimensions of civil strife or domestic violence, whether carried on in a guerrilla of predatory form, or by private combinations, or even by private outrage or intimidation, is subject to the jurisdiction of the government of the United States and ...may be punished by the laws and in the courts of the United States; but any outrages, atrocities, or conspiracies, whether against the colored race or the white race, which do not flow from this cause, but spring from the ordinary felonious or criminal intent which prompts to such unlawful acts, are not within the jurisdiction of the United States, but within the sole jurisdiction of the state (*United States vs. Cruikshank*, 707 C.C.La. 1874, 714.)

The case was then appealed to the Supreme Court of the United States. In *United States vs. Cruikshank* (1876), the Supreme Court affirmed the decision of the Federal District court overturning the convictions, but went a step further. Chief Justice Morrison R. Waite announced that because they, like the lower court, found the indictment to be insufficient, they would not rule on the constitutionality of the Enforcement Act at this time. However the Court alluded to the fact that if given the opportunity, they would find the Enforcement Act unconstitutional because it punished private wrongs that were within the jurisdiction of a state's criminal statutes. Crucially, and at issue in this case, the court found that while the Fourteenth Amendment vested power with the federal government to prevent states, local governments and law enforcement officials from violating the principles of equal protection, the Amendment did not apply to the acts of private individuals. The court found it was Louisiana's (and every state's) responsibility to protect the rights of Black citizens against the acts of private citizens who form a mob; therefore federal marshals had no jurisdiction.

With the stroke of a pen, despite the mounting evidence of Klan atrocities in the South, despite the documented carnage presented in the *Cruikshank* trial, the Supreme

Court left the protection of life, liberty and property of Black citizens in the hands of Southern communities that were still overrun with violent vigilantes.

Also in 1876, Republican Rutherford Hayes was elected to the Presidency of the United States in an incredibly close election. A committee of fifteen, made up of members of the House of Representatives, the Senate and the Supreme Court was convened in Washington to determine who would receive the electoral votes of Florida, Louisiana, Oregon and South Carolina where the electoral returns were contested (McCulloch 1888; Woodward 1966; Blight 2001). After finding that Blacks were illegally deprived the vote in Florida and Louisiana, the committee granted those states' electoral votes to Hayes, and Hayes won the election by one electoral vote (McCulloch 1888; Blight 2001). But his victory came with a price: Southerners would regain control of their own state governments, federal military occupation would end, and in return Republicans would ensure a liberal policy for Southern internal improvements (Woodward 1966; Blight 2001).

Again, these two incidents, the finding by the Supreme Court that the Enforcement Act was unconstitutional and that the Fourteenth Amendment could not protect ordinary citizens from the acts of other ordinary citizens, coupled with the return of home-rule to the former Confederate states, signaled that Federal efforts to reconstruct Southern society and specific efforts to protect the rights of Black Southerners had come to an end.

## **The End of Reconstruction in Tennessee**

Of course the story of Tennessee's Reconstruction was different from the rest of the South. East Tennessee Republican rule dictated the terms of Tennessee's reconstruction. The coalition of East Tennesseans and Blacks was unable to defeat the Confederates when the franchise was reinstated. Thus the Republicans secured what gains they could for themselves and for Black civil rights, but ultimately it was only a matter of time before they would be ousted from power. With the creation of the Ku Klux Klan in Pulaski, the tenure of the Republicans was further circumscribed.

Black Tennesseans did not enjoy the same state-wide or national election opportunities seized by Blacks in other Southern states. Between 1866 and 1876, Sixteen Blacks were elected to the United States House of Representatives, two were elected as United States Senators and over six-hundred Blacks were elected to their state legislatures in South Carolina, Mississippi, Louisiana, Florida, Alabama, Georgia, Virginia and North Carolina, usually from districts with high percentages of Blacks in their population (Taylor 1922; McPherson 1982; Foner 1988; Swain 1995).

These integrated bodies of men enacted the states' first public education laws (Lamon 1981). Black legislators at home and in Washington spoke out forcefully against the terror being inflicted on both Whites and Blacks in the South by the Ku Klux Klan as well as legislation that would deny to Black Southerners rights that belonged to White citizens (Taylor 1922; Swain 1995). Blacks in general embraced,

an affirmation of Americanism that insisted that blacks formed an integral part of the nation and were entitled to the same rights and opportunities that white citizens enjoyed (Foner 2002, 26).

This electoral success during Reconstruction in the South generally is compared with one Black representative being elected to the Tennessee General Assembly in 1872 (McBride 1989). Within two years of Tennessee Blacks winning the right to hold office, Tennessee's Republican Party collapsed and the prospects of Black political efficacy seemed fairly bleak indeed.

But Black Tennesseans would not remain down for the count. In 1878: James Carroll Napier was the third Black man to be elected to Nashville's City Council and would serve five terms. He would later go on to become the Register of the United States Treasury under President Taft (Lovett 1996; Lauder 2006). Thomas Cassels, admitted to the Memphis Bar in 1868, would be appointed assistant Attorney General in Memphis (Lovett 1996; Lauder 2006). John Boyd would be elected as a County attorney in Tipton County and would go on to serve two terms in the Tennessee General Assembly in the early 1880s (Lovett 1996; Lauder 2006). And in 1881, Cassels and Boyd would join Issac Norris of Memphis and Thomas Sykes of Nashville as representatives in the Forty-second Tennessee General Assembly (Lovett 1996; Lauder 2006).

Between 1881 and 1889, thirteen Black men were elected to the Tennessee State House of Representatives, one from Nashville, two from Chattanooga, six from Memphis and four from rural south-west Tennessee (Folmsbee 1949; Lamon 1981). Thirteen of these legislators were Republicans; one from rural Fayette County was a Democrat. Collectively, these men authored 68 pieces of legislation (Lauder 2006). A sampling of the bills offered sought: to require the trustees of the University of Tennessee to admit qualified applicants regardless of their race; to provide for more equitable jury selection; to repeal poll taxes; to provide stronger statutory sanctions against lynch mobs. Thirty-

nine of the bills offered were tabled, but twenty of the bills were passed and nine bills, of which the sampling listed *infra* were included, were defeated (Lamon 2006).<sup>13</sup>

One such piece of legislation was proffered in 1881 by Thomas Sykes to repeal Chapter 130 of the Acts of 1875, one of the nation's first pieces of Jim Crow legislation. In practice, the bill protected hotels, railroads, restaurants, and places of amusement from legal suits in Tennessee where a plaintiff charged discrimination under the Federal Civil Rights Act of 1875, thus *de facto* permitting racial discrimination in transportation, lodging and places of entertainment. The legislature, by a vote of fifty to two (the two approving votes being cast by two of the four Black legislators, the other two did not vote), upheld the legislation (Folmsbee 1949). The law was subsequently affirmed by the Tennessee Supreme Court in *Morrison vs. State of Tennessee* (1886), stating that Black men and women could not ride in a first class train car traditionally reserved for Whites, even if paying the first class fare (Schlesinger 1941; Folmsbee 1949).<sup>14</sup> As a compromise, the General Assembly passed Senate Bill No. 342, one of the first "Jim Crow" laws in the nation, requiring trains to provide "separate but equal" facilities for African Americans (Tennessee General Assembly Chapter 155, 1881).

Samuel McElwee, while a student at Fisk University, was elected to serve in the General Assembly in 1882 as a representative from Haywood County. After graduating from Fisk, he would earn a law degree from Central Tennessee College in 1886 (Lauder 2006). During his second term in the assembly, twenty-six year-old McElwee would be

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<sup>13</sup> See <http://www.tennessee.gov/tsla/exhibits/blackhistory/legislation/legislation.htm>  
Accessed Spring 2010.

<sup>14</sup> Folmsbee states that in actuality, Mississippi was the first state to legislate the separation of the races on trains in 1865; but that this legislation was overturned within the year by Mississippi's Federal Military Reconstruction government (1949, 235).

nominated by former United States Senator Roderick R. Butler to be Speaker of the House of Representatives, receiving thirty-two of the ninety-three votes cast (Lauder 2006). McElwee drafted legislation that would enforce the right of Blacks to sit on juries (House Bill 526 (1883); to provide funds for a normal (teachers) school for Black Tennesseans (House Bill 12 (1883). He was also the first Black Tennessean elected to a third legislative term (Lauder 2006).

During his final term (1887-1889), on February 23, 1887, McElwee delivered a fervent and powerful speech, laden with biblical references and the details of recent lynchings, to the House of Representatives, in support of House Bill Five (1889) that would provide stronger statutory sanctions against lynch mobs (Foner and Branham 1998; Lauder 2006). Despite legislation passed in March 1881, declaring that

Any sheriff who either negligently or willfully, or by want of proper diligence, firmness and promptness, in the use of all the powers with which he is vested by law, allows a prisoner to be taken from the jail of his county, or to be taken from his custody and put to death by violence, shall be guilty of a high misdemeanor in office. And on indictment therefore and conviction thereof, shall be fined at the discretion of the court, and shall also by the judgment of the court forfeit his office and be declared forever incapable of holding any office of trust or profit in this State (Act of the Tennessee General Assembly Chapter 45 (1881))

Forty-five Black men and women had been lynched in Tennessee between 1880 and 1890; and in the cases to which McElwee referred, which had occurred in West Tennessee and where one of the victims had been a woman, the victims had been taken from a Sherriff's custody (McElwee 1889; Project HAL).<sup>15</sup> In his speech he implored:

My ear is pained, my soul is sick with every day's report of wrong and outrage perpetrated upon the Negroes by mob violence...I stand here today, Mr. Speaker,

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<sup>15</sup>Project Hal: Historical American Lynching Data Collection Project:  
<http://people.uncw.edu/hinese/HAL/HAL%20Web%20Page.htm#Project%20HAL>  
accessed Spring 2010.

and enter my most solemn protest against mob violence in Tennessee...Great God, when will this Nation treat the Negro as an American citizen? ... As a humble representative of the Negro race, and as a member of this body, I stand here to-day and wave the flag of truce between the races and demand a reformation in southern society by the passage of this bill.<sup>16</sup>

Despite the veracity and passion utilized in his oration, the bill was tabled by a vote of 41-36 (Lauder 2006). Samuel McElwee would be the last Black man to serve in the Tennessee General Assembly until Memphis voters elected A. W. Willis in 1964, more than 75 years later (Lauder 2006).

In many ways, Reconstruction for Southern Blacks can be summarized with a quote from W. E. B. Du Bois (1935) : “The slave went free; stood a brief moment in the sun; then moved back again toward slavery.” But the moment in the sun was bright for Black Tennesseans and would never be truly eclipsed. Both during and after the Civil War, Blacks in Tennessee would take an active role in securing their civil rights. Approximately 20,000 Black Tennesseans fought for the Union during the Civil War and in so doing, secured their freedom (Whiteaker 1998). Co-opted into the Republican Party at the end of the Civil War, Blacks provided crucial support to White political candidates, organized themselves into voting blocks and thereby secured the franchise for themselves as well as the right to run for political office by 1869 (McBride 1989). Despite the imposition of poll-taxes in 1870, Blacks continued to vote, particularly in the cities and would ultimately elect fourteen Representatives who would serve in the General Assembly between 1872 and 1889 (Lauder 2006).

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<sup>16</sup> Excerpts of the speech were reprinted in Foner and Branham's *Lift every voice: African American oratory, 1787-1900* (1997, 661).

But there would also be dark days for Tennessee's Black citizens. Between 1871 and 1944, 260 Tennesseans, 213 of whom were Black, would lose their lives to lynch mobs. Rural pogroms and urban race riots would haunt the Tennessee landscape until 1946. Black Tennesseans migrated North and West by the thousands to find a better life: between 1870 and 1930, Tennessee's Black population declined from 26% to 18% (United States Census Reports). It is to this darker chapter that we must now turn, not in an effort to condemn, but in an effort to tell the truth.

## CHAPTER FOUR

### JIM CROW AND THE LYNCHING ERA IN TENNESSEE: 1871 – 1920

With the end of Reconstruction, Federal efforts to enforce legislation passed for the protection of Black civil rights, would be rare (Foner 1988; Nieman 1991; Blight 2001; Lane 2008).<sup>1</sup> As Tolnay and Beck in *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930* (1995, 15) state,

[By 1876] Federal attempts to enforce the Fourteenth and Fifteenth Amendments [providing Black Americans with civil rights and equal protection of law] weakened and were effectively nonexistent.

In 1883, in a case originating out of West Tennessee, *United States v. Harris* (106 U.S. 629 (1883)), the Supreme Court declared the Enforcement Act of 1871 unconstitutional. Also known as the Ku Klux Klan Act, the legislation, among other things, made it a federal crime for two or more people to gather for the purpose of injuring or denying another citizen of their Constitutional rights. The Court also reiterated its finding, first enunciated in *Cruikshank* (1876), that private citizens could not be prosecuted in Federal court for violating an individual's Fourteenth amendment rights to due process and equal protection of law.

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<sup>1</sup> Between 1866 and 1964, there were only six cases brought in Tennessee seeking the protection of the Civil Rights statutes of 1866, 1870, 1871 and 1875 (and five of those were lodged in the 1960s.) They were: *Charge to Grand Jury*, 30 F.Cas. 1005, 21 Int.Rev.Rec. 173, No. 18,260 (C.C.W.D.Tenn. Mar 1875); *Smith vs. Holiday Inns of America* 220 F.Supp. 1 (1963); *Smith v. Holiday Inns of America*, 336 F.2d 630 (1964); *Hill vs. County Board of Education of Franklin County, Tennessee*, 232 F.Supp. 671 (1964); *Harris vs. Turner* 329 F.2d 918 (1964); *Schnurr and Cohan vs. McDonald* 220 F.Supp. 9 (1963).

In *Harris*, the facts established that four inmates had been arrested and imprisoned under the care of William Tucker, deputy Sherriff of Crockett County. A mob of 20 men over-powered the Sherriff, kidnapped the four inmates and beat them, resulting in the death of one of the prisoners. No action was taken by local or state authorities. But a Federal marshal arrested and the District Attorney secured indictments in Federal Court for all 20 men under the Enforcement Act and the Fourteenth Amendment.<sup>2</sup>

The lower court was divided as to the constitutionality of the Enforcement Act and directly appealed the case to the United States Supreme Court (106 U.S. 630). The Supreme Court accepted the appeal and held, first, in the absence of an allegation that the State was derelict in its duty of protecting individuals from a lynch mob, the State (in this case the deputy Sherriff of Crockett County) could not be held liable under the Fourteenth Amendment for what happened to the four inmates. Second, defendants R.G. Harris and 19 others could only be tried under state, not federal, law for the kidnapping, beating and murder of the inmates and through this finding the Court established that the Enforcement Act was unconstitutional. And, again, per *Cruikshank* (1876) because the bad acts of private individuals against other individuals do not fall under Federal jurisdiction, the defendants could not be found to have violated the inmates' Fourteenth amendment rights.

The guaranty of the Fourteenth Amendment to the Federal Constitution is a guaranty against exertion of arbitrary and tyrannical power on the part of government and legislature of a State, and is not a guaranty against the commission of individual offenses; and the power of Congress, whether express

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<sup>2</sup> Jurors in Federal trials are drawn from Federal voting districts creating a much larger pool and the potential for a less biased jury.

or implied, to legislate for enforcement of such a guaranty does not extend to the passage of laws for the suppression of crime within the States (*United States vs. Harris* (106 U.S. 629 (1883))).

The criminal indictment against Harris and the others was ultimately dismissed: all of the men went without punishment (Avins 1967).

Through *Cruikshank* (1876) and *Harris* (1883), the Supreme Court, which sets legal precedent for every other court in the country, had signaled its unwillingness to uphold or extend Federal legislation to corral the behavior of individuals who would harass other individuals. And in time it became apparent that there was little motivation for local or state officials to enforce local or state statutes for the protection of Black individuals either.

And yet enforcement was the expectation. *Cruikshank* (1876) and *Harris* (1883) represented the unwillingness of the Federal government to serve as a sentinel against inter-personal violence against Blacks in the South. But the cases also represented the positive duty of state and local government to ensure that Blacks would be protected from vigilante violence. And if positive protection could not be afforded, if the cavalry arrived too late, the law of the state required that the arrest and prosecution of the vigilantes would be undertaken. As set forth by the United States Civil Rights Commission on Law Enforcement:

The equal protection of law requires the assurance of personal security, a right of citizens in our society fundamental to the exercise of all other rights. The Constitution secures this right by requiring public officials to extend the equal protection of law to all persons within their jurisdiction. In particular, all persons are entitled to receive equal protection from the police and even handed investigation and prosecution of offenses committed against them. Officials who deny to any class of persons the protection of the laws...violate the Federal Constitution and their oath to uphold it (1965, 172).

## **Separate but Equal**

In one of his last acts as President, U.S. Grant signed the Civil Rights Act of 1875 which guaranteed that everyone, regardless of race, color, or previous condition of servitude, was entitled to the same treatment in public accommodations. But Jim Crow legislation at the state level, which would mandate separation of the races on trains and in public parks, schools, theatres and hotels, advanced in lock-step to counter the Civil Rights Act. Tennessee was the first Southern state to respond with legislation that declared:

[H]ereafter no keeper of any Hotel or public House, or carrier of passengers for hire or conductor, driver or employee of such carrier, or keeper of any place of amusement or employee of such keeper shall be bound, or under any obligation to entertain, carry or admit any person whom he shall for any reason whatever choose not to entertain, carry or admit to his house, Hotel, carriage, or means of Transportation or place of amusement (Act of the Tennessee General Assembly 1875, Chapter 130).

It was also in 1875 that the Tennessee General Assembly codified that Tennessee's public schools and institutes of higher education for Whites and Blacks should be kept "entirely distinct and separate" (Act of the Tennessee General Assembly 1875 Chapter 90).

In 1881, the Tennessee General Assembly revisited the issues of segregation in public places and on public conveyances. Despite bills brought by Black Representatives Thomas Sykes and Isaac Norris to repeal the Chapter 130 (1875) legislation allowing proprietors of public places and conveyances to discriminate on any basis (their bills were defeated by votes of fifty to two), bills which manifestly recorded Black Tennesseans dislike for the policy, the legislature passed the nation's first "separate but equal" legislation, providing that Blacks paying first-class fare should be allowed to ride

in a separate first-class car, to be provided by the rail-road companies (Act of the Tennessee General Assembly Chapter 155).<sup>3</sup> But Mack (1999) finds that Railroad carriers were delinquent in providing equal accommodations to Black passengers and often relegated the Black passengers to the smoking car regardless of the fare they paid. In 1891, in an attempt to bolster the legislation of 1881, the Assembly empowered conductors to forcibly remove passengers seated in the other race's car, and prohibited legal action from ejected passengers in Tennessee courts (Acts of the Tennessee General Assembly 1891, Chapter 52.) In 1905 the assembly supplemented this law and required the segregation of streetcars as well (Acts of the Tennessee General Assembly 1905, Chapter 150). Black passengers challenged this body of legislation repeatedly, but were overwhelmingly denied remedy by the Tennessee courts (Mack 1999).<sup>4</sup>

Ultimately, the United States Supreme Court in *The Civil Rights Cases*, 109 U.S. 3 (1883), a group of five cases brought by Black litigants from California, Kansas, Missouri, New York and Tennessee protesting the Whites' only status of particular public conveyances, theaters and restaurants, declared that the Civil Rights Act of 1875 was unconstitutional. The court found, similar to the *Cruikshank* (1876) and *Harris* (1883) decisions, that Congress did not have the power to outlaw racial discrimination by private individuals and organizations. Specifically the Court stated:

When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a

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<sup>3</sup> Folmsbee states that in actuality, Mississippi was the first state to legislate the separation of the races on trains in 1865; but that this legislation was overturned within the year by Mississippi's Federal Military Reconstruction government (1949, 235).

<sup>4</sup> See *Robinson v. Memphis & C. R.R.* 1879, 9; *Brown v. Memphis & C. R.R.* 1880a; *Logwood v. Memphis & C. R.R.* 1885; *State v. Smith* 1896; *Mayfield v. Louisville & N. R.R.* 1906; *Memphis St. Ry. v. State* 1903a, 1903b; *Morrison v. State* 1905.

man, are to be protected in the ordinary modes by which other men's rights are protected.

To which Supreme Court Justice Harlan, a Kentucky native, in a lone dissent stated:

It is, I submit, scarcely just to say that the colored race has been the special favorite of the laws. What the nation, through Congress, has sought to accomplish in reference to that race is, what had already been done in every state in the Union for the white race, to secure and protect rights belonging to them as freemen and citizens; nothing more. The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel recognition of their legal right to take that rank, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained... Today it is the colored race which is denied, by corporations and individuals wielding public authority, rights fundamental in their freedom and citizenship. At some future time it may be some other race that will fall under the ban. If the constitutional amendments be enforced, according to the intent with which, as I conceive, they were adopted, there cannot be, in this republic, any class of human beings in practical subjection to another class, with power in the latter to dole out to the former just such privileges as they may choose to grant.

But Justice Harlan was not in the majority and his opinion was only dictum.

Thirteen years later, after the bulk of Jim Crow legislation segregating the races had been ratified by the states, Homer Plessy, a man of mixed race, who according to the Court “was seven-eighths Caucasian and one-eighth African blood...the mixture of colored blood was not discernible in him,” took a seat in the White car on a train in Louisiana. Plessy was not only ousted from his seat, but arrested and convicted for breaking Louisiana law mandating separation of the races.

Plessy appealed his conviction and the case made its way to the Supreme Court. In the case of *Plessy vs. Ferguson*, 163 U.S. 537 (1896), the United States Supreme Court opined that separate facilities were not necessarily inferior facilities. They even stated that it was a fallacy to believe that “enforced separation of the two races stamps the colored race with a badge of inferiority.”

And again, Justice Harlan was the lone dissenter who countered

I am of opinion that the state of Louisiana is inconsistent with the personal liberty of citizens, white and black, in that state, and hostile to both the spirit and letter of the constitution of the United States...[although slavery had been abolished] there would remain a power in the states, by sinister legislation, to interfere with the full enjoyment of the blessings of freedom, to regulate civil rights, common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens, now constituting a part of the political community...Such a system is inconsistent with the guaranty given by the constitution to each state of a republican form of government [and should be] stricken down.

But this system, through these laws, would remain in force until the 1960s.

Indeed, it would become very clear in the decades after the Civil War that what Justice Harlan warned of in *The Civil Rights Cases* (1883) would come to pass: Whites, because of their control of courts and legislatures, could dole out the privileges they chose to grant for the betterment or detriment of Blacks (Myrdal 1944; Wormser 2003; Blackmon 2008). The *Cruikshank* (1876) and *Harris* (1883) decisions, the *Civil Rights Cases* (1883) and *Plessy vs. Ferguson* (1896) would all stand for this proposition: that much of Black life and liberty was subject to the will of Whites.

This is not to say that Blacks did not have individual will and exercise agency in their daily lives. Blacks in Tennessee would struggle mightily to show that they could be productive citizens who could: establish printing presses like Sutton Griggs of Nashville in 1901; build recreational parks for Blacks like Robert Church of Memphis in 1899; serve as school principal and secure the endowment of the Carnegies for public libraries like Charles Cansler from Knoxville in 1917 (Lovett 1996). Black Tennesseans would establish banks, build hospitals, serve as community leaders and gain patronage through their ability to exercise the vote in several Tennessee cities (Lamon 1977). But nevertheless, there remained an oppressive spirit that would raise its ugly head

throughout the Jim Crow era to keep many Black mothers in fear for the lives of their sons and many Black communities perpetually exercising caution and restraint.

### **The Lynching Era**

Nowhere would the unbridled exercise of White power be more draconian than in the denial of equal protection of life to Black Americans. In addition to legislation mandating the physical separation of Blacks and Whites, White mob violence stood ready to ensure that any Black citizen who attempted to rise above his or her assigned “place” or challenge White supremacy was met with swift and often deadly force (Cutler 1905; White 1929; Raper 1933; Myrdal 1944; Graham and Gurr 1969; Grimshaw 1969; Tolnay and Beck 1995; Trelease 1995). As Graham and Gurr (1969, 396) surmise: “To acquiesce in slavery and caste meant enduring misery and degradation. But to strike out against the status quo was to invite the rope and faggot.”<sup>5</sup>

248 of the 260 lynchings that took place in Tennessee occurred between 1880 and 1930.<sup>6</sup> Tolnay and Beck (1995, 2) refer to this period as the “lynching era,” the period between the end of Reconstruction and the Great Depression in the South.<sup>7</sup> Although 3,446 Black Americans lost their lives to vigilante lynch mobs between 1865 and 1965,

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<sup>5</sup> Walter White, National Secretary for the National Association for the Advancement of Colored People, wrote *Rope and Faggot: A Biography of Judge Lynch* in 1927.

<sup>6</sup> As referenced in Chapter One, I have combined Crane and Crane’s data (1979), who gathered their lynching statistics from: NAACP, *Thirty Years of Lynching 1889-1919*; Records of Daniel Williams, archivist, Hollis Burke Frissell Library, Tuskegee Institute (1916-1934); Jesse Ames, *The Changing Character of Lynching 1931-1941*, Commission on Interracial Cooperation, Atlanta, GA (1942); *The Negro Year Book, 1947*, Dept. of Records and Research, Tuskegee Institute (1947) with the Project HAL data, an online data set from the University of North Carolina at Wilmington which chronicles lynching in the South, and find 260 total lynchings with 213 of the victims being Black.

<sup>7</sup> Lynching continued to take place during and after the Great Depression, but at a slower pace. The last reported murder of a Black man by hanging from a tree occurred much later, in Mobile, Alabama in 1981; in 1998, a Black man was drug to death behind a truck by his ankles, after being beaten and having his throat partially cut by Klan members in Jasper, Texas.

the overwhelming majority of these lynchings coincided with the era of Jim Crow: when the majority of Southern Blacks remained segregated in under-funded schools, worked as sharecroppers, domestics or day-laborers; when Southerners were increasingly legislating physical separation of the races; and when Blacks in the South had few civil rights to exercise (Myrdal 1944; Lamon 1977; Mandle 1978; Tolnay and Beck 1995; NAACP Lynching Records at the Tuskegee Archives). In addition, scores of cities and towns across the country between Reconstruction and the 1920s experienced violent White on Black riots and pogroms (Myrdal 1944; Graham and Gurr 1969; Grimshaw 1969; Brown 1975).

And because Whites, in the words of Justice Harlan, had the power to dole out the privileges to Blacks as they saw fit, it should come as no surprise that the privileges of a trial when accused of a crime or an investigation into lynchings were often denied Black Southerners. Although local and state governments were tasked with protection of Black citizens (just as they are tasked with protecting every citizen) from mob lynching and pogroms, vigilante violence was rarely countered by local White community leaders or the White police force (Raper 1933; Chadbourn 1933; Ames 1942; Myrdal 1944).

Lamon (1972) finds that of the 34 lynchings that took place in Tennessee between 1906 and 1918, there were no convictions. My own investigation of 36 lynchings between 1877 and 1944, where newspapers reported large mobs had gathered, finds two indictments of Sheriffs who allegedly colluded in releasing the inmate to the mob, but I

did not find any convictions of mob members for lynching (see Appendix One).<sup>8</sup> All of these lynched men were reported to have died at the hands of unknown parties.

Others have also found that convictions for lynching were very rare. Professor Arthur Raper of the University of North Carolina in *The Tragedy of Lynching* (1933), a case-study of all lynchings that took place in 1930, found that there were no indictments in 15 of the 21 lynchings committed nationwide. In the other six cases, 49 people were indicted and four of these convicted: one for arson, one for rioting and two for murder (Raper 1933). These four convictions (none of which occurred in Tennessee) were outliers, however, as we learn from Raper's colleague at the University of North Carolina, James Chadbourn. In his book *Lynching and the Law* (1933, 5,13), where Chadbourn sought to determine if "the number of lynchings could be sharply reduced by making the punishment of those taking part in these reversions certain and severe," the author found that where laws are enforced, they were effective, but unfortunately "only about eight-tenths of one percent of the lynchings in the United States since 1900 has been followed by prosecution and conviction of the lynchers." Finally, the United States Commission on Civil Rights (1965, 12) reported that "from 1882 to 1940, there were only 40 cases in which lynchers were prosecuted; convictions were obtained in only a handful of these cases."<sup>9</sup>

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<sup>8</sup> I chose to search the Coroner/death certificates and County Court Clerk records in counties where newspaper sources indicated a large mob took part in the lynching. I reasoned that if any of Tennessee's lynchings would result in convictions, it would be in the well-publicized cases where there were many witnesses.

<sup>9</sup> The source of this information comes from Hearings on House Rule 801 before a subcommittee of the Senate Committee on the Judiciary, 76<sup>th</sup> Congress 1940. The testimony comes from Walter White, National Secretary of the National Association for the Advancement of Colored People (NAACP); and the Hearings before the Subcommittee Number 3 of the House Committee on the Judiciary 81<sup>st</sup> Congress

Lynching was defined by Professor Monroe Work, who oversaw the compilation of lynching archives at Tuskegee Institute, as an event where there was “legal evidence that a person has been killed, and that he met his death illegally at the hands of a group acting under the pretext of service to justice, race, or tradition (1940).” According to Cutler (1905), lynching was a crime unique to the United States. He described a practice,

whereby mobs capture individuals suspected of crime...and hang [them], with impunity, found in no other country of a high degree of civilization...the frequency and impunity of lynchings in the United States is justly regarded as a serious and disquietous symptom of American society (Cutler 1905, 1).

This disquietous symptom was not reserved to those suspected of a crime. Raper (1933) found that Black men in the South were lynched for: “bringing suit against white men; frightening school children; operating a house of ill-repute; trying to act like a white man; refusal to pay a note; seeking employment in a restaurant” (1933, 10). In Tennessee, Mrs. Mary Martin was lynched in 1894 for being the mother of Black arsonists who escaped the mob; Henry Booth was lynched in 1919 for being “uppity”; Elbert Williams was lynched in 1940 for attempting to vote (Crane and Crane 1979).

Lynching victims in Tennessee were very rarely given a chance to prove their innocence in a court of law.<sup>10</sup> The relatively spontaneous character of lynching made it impossible to gather the necessary facts to determine guilt or innocence. Raper (1933) found, of the 21 lynchings that occurred in 1930,

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(1950) where the testimony came from Brooks Hays, a Congressman from Arkansas and Leslie Perry, representing the National Secretary for the NAACP.

<sup>10</sup> There are cases, such as the lynching of Lignon Scott in Dyersburg in 1917, where a rump court of White elders would find a man guilty and then hand him over to the mob. Scott, a married man and preacher in a local church, was found guilty of frightening a White woman and handed over to a mob that burned him alive.

Two of the 1930 mob victims were innocent of crime (they were not even accused), and there is grave doubt of the guilt of eleven others. In six of these eleven cases there is considerable doubt as to just what crimes, if any, were committed, and in the other five, in which there is no question of the crimes committed, there is considerable doubt as to whether the mobs got the guilty men.

During the lynching era, victims were killed by hanging or shooting and (particularly after World War I) were often tortured: burned alive, dismembered, castrated, disemboweled, gouged with hot-irons, etc (Raper 1933; Lamon 1972; Tolnay and Beck 1995). At least five Tennessee victims of lynching were burned alive at the stake; three others were killed and then burned (see Appendix One). Selling picture post-cards of lynchings was common-place, as was the selling of the victim's fingers, toes and ears, sometimes slices of their hearts or livers, as souvenirs (Cutler 1905; White 1929; Raper 1933; Myrdal 1944; Lamon 1972; Tolnay and Beck 1995; Brundage 1997; Pfeiffer 2004; Goldsby 2006).<sup>11</sup> In a lynching that took place in Memphis in 1917, 5,000 people gathered to watch Ell Persons be burned at the stake. He was dismembered and his charred head, according to the *Memphis Commercial Appeal*, May 23, 1917, was taken to the Black business district and thrown into a Black doctor's office. According to his death certificate, this married 38 year-old farmer died from "unknown causes."

Lynching was a communal affair. In some places, crowds numbering in the thousands would gather to watch a lynching. In Tennessee, there were at least 36 lynchings where newspapers reported that the crowd was larger than 50 people; in six of these cases, the crowds swelled into the thousands. Lynching was in many ways a communal assertion of White dominance over the Black populace (White 1929; Myrdal 1944; Tolnay and Beck 1995; Brundage 1997; Patterson 1998). Lynching was not solely

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<sup>11</sup> Accessed Spring 2010, some of these these picture post-cards can be found at: [www.withoutsanctuary.org](http://www.withoutsanctuary.org)

a punishment meted out against an individual; it served as a conscious, constant reminder to the entire Black community that the Whites maintained control (White 1929; Myrdal 1944). As stated by the Commission on Interracial Cooperation in 1936,

Formerly an instrument of popular justice in frontier communities, and still retaining something of its frontier character, lynching and the threat of it are now primarily a technique of enforcing racial exploitation – economic, political and cultural.

It was not only the worst elements of White communities which instigated or participated in lynching. “Leading people in the community, and prominently identified with the local church” instigated lynch mobs (Raper 1933, 11). Cash asserts

[T]he major share of the responsibility in all those areas where the practice [of lynching] has remained common rests squarely on the shoulders of the master classes. The common whites have usually done the actual execution, of course, though even that is not an invariable rule...but they have kept on doing it, in the last analysis, only because their betters either consented quietly or, more often, definitely approved (1941, 303).

Gunnar Myrdal agrees and observes that where whites “of the middle and upper classes in the South” rarely spoke out in favor of lynching,

[E]qually few have pretended that they would take any personal risks to hinder a lynching, and they make no effort to punish the lynchers. The ordinary Southerner apparently thinks that neither the upholding of the majesty of the law nor the life of even an innocent Negro is worth such a sacrifice. And, above all, Negroes must not have the satisfaction of seeing the whites divided or their assailants punished (1944, 564).

We know that not all Southerners participated in or condoned lynching. After three horrific burnings at the stake took place in Tennessee in 1917 and 1918, White Tennesseans formed thirty-five “Law and Order Leagues” across the state, whose stated purpose was to “organize in every county of the state, strengthen the power of the Governor to deal with emergency cases, ensure the provision of adequate state police and

educate Tennesseans of a sound public opinion” (Mims 1919, 3). Southern women joined the “Association of Southern Women for the Prevention of Lynching,” formed in 1930, to speak out against mob rule and lynching and to put an end to the assertion on the part of White men that lynching was necessary to protect White women (Ames 1941). But because “only about eight-tenths of one percent of the lynchings in the United States since 1900 [were] followed by conviction of the lynchers,” one must deal with the question of whether White solidarity, even in the face of lawlessness and injustice, was more important than Black life or liberty to a majority of Southerners (Chadbourn 1933, 13; Myrdal 1944).

Once community members instigated the process of lynching, it was difficult, if not impossible, for law-enforcement personnel to stop them. Raper, field secretary for both the “Commission on Interracial Cooperation” and the “Southern Commission on the Study of Lynching” explains,

[T]he man-hunt tradition rests on the assumptions of the unlimited rights of white men and the absence of any rights on the part of the accused Negro. Simply by being accused of some crime, the latter- so the man-hunters feel- has forfeited every claim upon society. With men of this mind scouring the woods and fields, it is little wonder that the Negroes lynched never came into the custody of the sheriff or other peace officers (1933, 9).

Even when Black men were in police custody, few law enforcement officers were willing to risk their own lives fending off a lynch mob. One sheriff told Arthur Raper “Do you think I’m going to risk my life protecting a nigger?” (Raper 1933, 13). Raper (1933) found that a majority of the time, law enforcement officers simply stepped aside and let the mob do its work. This was not always the case. In 1920, the District Attorney in Gallatin, Tennessee helped prevent a lynching by provoking an argument with one of the mob members while a deputy Sherriff spirited the inmate away (Crane and Crane 1977).

In Bedford County, the courthouse was burned by a lynch mob in 1934 when they discovered their intended victim had been moved to nearby Rutherford County (*New York Times* December 21, 1934). But overall, it appears that mob victims were usually, even if reticently, handed over to the mob. 24 of the 36 Tennessee victims listed in Appendix One were taken from their jailers. And this was the case in the only lynching case (and criminal prosecution) brought before the United States Supreme Court.

***United States vs. Shipp (214 U.S. 386 (1909))***

In January 1906, Ed Johnson was accused of raping a White 18 year old woman, Ms. Nevada Taylor, near Chattanooga. Johnson was arrested by Sheriff Joseph Shipp, a former Confederate Captain who was up for re-election, and convicted on conflicting testimony from an informer who received \$300 for his report (Curriden and Phillips 1999). Seven Black patrons of a saloon Johnson frequented all testified to his presence at the saloon at the time of the crime (Curriden and Phillips 1999). And Nevada Taylor testified that she was not absolutely certain that Johnson was her assailant (*Chattanooga Times*, March 21, 1906). Johnson throughout the trial maintained his innocence, and the jury was deadlocked for two days with eight believing he was guilty and four unable to render such a verdict. On the third day however, after an emotional outburst by one of the jurors, the jury returned a unanimous guilty verdict and Johnson was sentenced to death (Curriden and Phillips 1999).

In a letter to the people of Chattanooga, Johnson's White attorneys explained in the *Chattanooga Times* (February 2, 1906) why they would not be appealing Johnson's conviction:

We discussed the recent mob uprising and the state of unrest in the community. It was the judgment of all present that the life of the defendant, even if the wrong man, could not be saved, that an appeal would so inflame the public that the jail would be attacked and perhaps other prisoners executed by violence.

But two brave Black attorneys, Mr. Hutchins and Mr. Parden, decided to make the appeal on the grounds that Johnson had not received a fair trial and deserved a rehearing (*Chattanooga Times*, February 20, 1906). They convinced both Judge Clark of the Sixth Circuit Federal Court of Appeals in Cincinnati and Tennessee Governor Cox to stay the execution until an appeal could be filed before the Supreme Court (Curriden and Phillips 1999). On March 19, 1906, Parden travelled from Chattanooga to Washington to make his appeal before the Supreme Court. That day his Chattanooga law office was burned to the ground (Curriden and Phillips 1999). Parden convinced Justice Harlan to issue a stay of execution until the appeal could be heard by the Supreme Court in September (*Chattanooga Times*, March 19, 1906).

But on March 20, 1906, Ed Johnson met his fate at the hands of a mob. The newspaper headline (*Chattanooga Times*, March 20, 1906) summarizes the events:

"GOD BLESS YOU ALL--I AM INNOCENT"  
Ed Johnson's Last Words Before Being Shot to Death By a Mob Like a Dog  
MAJESTY OF LAW OUTRAGED BY LYNCHERS  
Mandate of the Supreme Court of the United States Disregarded and Red Riot Rampant.  
Terrible and Tragic Vengeance Bows City's Head in Shame  
Johnson Taken From County Jail Last Night, Marched to County Bridge and Hung While  
Red Rioters Complete Their Hideousness By Riddling Body With Bullets.  
NIGHT OF WICKEDNESS AND WOE  
Practically No Resistance Offered the Lynchers Who Number Less Than One Hundred  
Men.

Only the Night Jailer Present When the Mob Makes the Onslaught on the County Prisoner.

SHERIFF SHIPP FORCED INTO BATH ROOM.

POLICE AND DEPUTIES NOT IN EVIDENCE AND MOB WORKS,  
UNINTERRUPTED FOR TWO HOURS.

The Tragedy on the County Bridge an Exhibition of Passion Unparalleled in the History of Chattanooga-The Helpless Victim Strung Up to a Beam of the Bridge-The Rope Breaks Before Strangulation Is Accomplished and the Falling Body Is Riddled by Bullets.

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The Supreme Court and President Theodore Roosevelt were incensed that the order staying Johnson's execution had been so blatantly disregarded (Curriden and Phillips 1999). Roosevelt sent Federal Agents to investigate the lynching and the agents reported: on the day of the lynching, Johnson was left alone on the third floor of the jail, while the other prisoners were removed to the second floor; all of the deputies were allowed to leave, leaving a lone jailer in charge of the prison; and that Sheriff Shipp, despite arriving at the jail when the mob was still present, claimed that he was unable to identify a single mob member (Curriden and Phillips 1999).

In the first, and only, criminal trial to ever take place before the Supreme Court, the Justice Department accused Sheriff Shipp and 27 Chattanooga residents of conspiracy to lynch and murder Ed Johnson and Sheriff Shipp specifically was charged with contempt of court (Curriden and Phillips 1999). Testimony was given over several weeks and ultimately the Supreme Court found they could not charge Sheriff Shipp with conspiracy, but they did find that he and four of his deputies were guilty of contempt of court; they were sentenced to 90 days in the United States Jail in the District of Columbia (Curriden and Phillips 1999). Upon his return to Chattanooga, Shipp (who would run again for re-election and lose because of a mobilized Black populace) was met by a

cheering crowd of 10,000 people singing “Dixie” and “Home Sweet Home”  
(*Chattanooga Times*, January 30, 1910; Curriden and Phillips 1999).

Shipp had testified that he had not expected a mob the day the stay of execution was issued by the Supreme Court, in other words, the mob had taken him by surprise (Curriden and Phillips 1999). This would be the response of many officers who would argue that they were unprepared when a mob attacked or that they were unwilling to shoot into the mob, lest they kill innocent men, women and children. Ultimately, most of the officers, according to Chadbourn (1933), Raper (1933) and Myrdal (1944), would testify to the coroner’s juries, as had Sheriff Shipp, that they did not recognize anyone in the mob or that the lynching took place “at the hands of parties unknown.” This assertion, in turn, would quash any effort to indict or prosecute mob members.

Lynching occurred throughout the United States, but according to Chadbourn (1933), Raper (1933) and Gunnar Myrdal, “The Southern states account for nine-tenths of the lynchings. More than two-thirds of the remaining one-tenth occurred in the six states which immediately border the South: Maryland, West Virginia, Ohio, Indiana, Illinois and Kansas” (1944, 560). Raper (1933) found that between 1930 and 1932, thirty-eight lynchings occurred in the United States, eight occurring outside the South.<sup>12</sup> Mississippi had the highest number of lynching victims (581 total: 42 White and 539 Black), followed by Georgia (531 total: 39 White, 492 Black) and Texas (493 total: 141 White and Hispanic, 352 Black) respectively (Gibson 2004). According to Brundage, during the 1880s eighty-two percent of all American lynchings took place in the South and

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<sup>12</sup> Two of the victims were white, lynched in North Dakota and Kansas; six black victims were lynched in Indiana, Missouri, Maryland and West Virginia.

increased to more than ninety-five percent in the 1920s (1997). But every state in the Union, with the exception of Massachusetts, Rhode Island, New Hampshire and Vermont, experienced the tragedy of lynching (Gibson 2004).

Lynching reached its high-point in 1892, with 231 victims that year (Tuskegee Report 1959). Lynchings declined annually from 1892 to 1905, when there were fewer than 50 lynchings annually (Tolnay and Beck 1997). Lynching peaked again in 1908, with 70 victims, and again following World War I, when the Ku Klux Klan reorganized throughout the country and when Black soldiers were returning from World War I, with the number of victims in 1919 being 83 (New York Times, 1919; Tolnay and Beck 1997, Tuskegee Report 1959). In the first few years of the 1920s, the number of victims annually remained in the 60s; but the number would not rise above 30 annual victims again after 1926 (Tuskegee Report 1959).

### **Lynching in Tennessee**

As explained in Chapter One, there are three sources I consulted to identify the Black people lynched in Tennessee between 1865 and 1944 (the year of the last recorded lynching.) First, I copied the data compiled by the NAACP (National Association for the Advancement of Colored People) in *Thirty Years of Lynching in the United States: 1889 – 1919*, first published in 1919. The NAACP finds that 163 Black men were lynched in Tennessee between 1889-1913.<sup>13</sup> Next, I consulted an online data set which

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<sup>13</sup> The NAACP records were updated semi-annually over the following two decades in the NAACP's *The Crisis* periodical. In order to be included in the NAACP data, four criteria must have been met: "1)

chronicles lynching in the South and adds new information as it becomes available:

*Project HAL: Historical American Lynching Data Collection Project.* This database was developed by Elizabeth Hines and Eliza Steelwater at the University of North Carolina at Wilmington. The HAL study (1882 – 1930) lists the number of Tennessee’s black lynching victims at 173.<sup>14</sup> Finally, I consulted Crane and Crane’s study of Tennessee law enforcement and prisons, *Tennessee’s Troubled Roots* (1979) which compiled lynching data from several additional sources and reported that in Tennessee, between 1871 and 1944 (the year the last man was lynched in Tennessee), there were 213 Black and 47 White men lynched.<sup>15</sup> Because Crane and Crane’s focus was on Tennessee, incorporates the same records used by Project Hal, and covers 25 additional years, I have adopted their data set for my research.<sup>16</sup> Lynching by region of the state breaks down as follows:

**Table Four: Lynching by Region of the State**

	West Tennessee	Middle Tennessee	East Tennessee
Tennessee Black Lynching Victims	98	90	25

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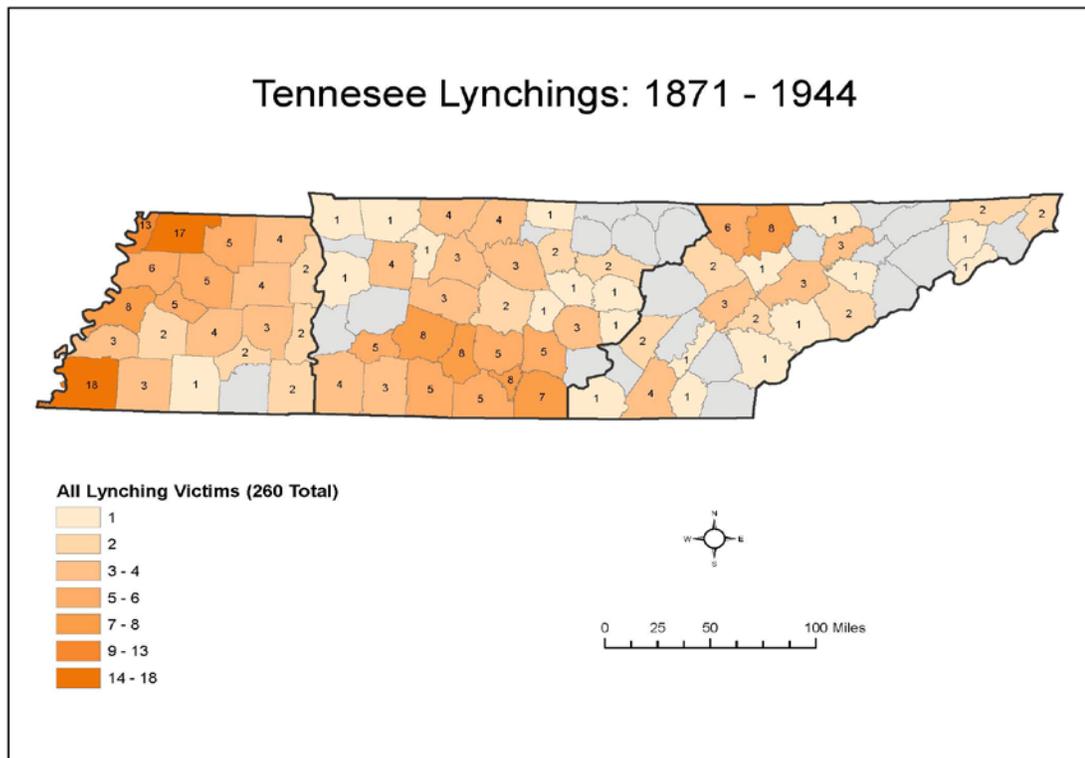
evidence that a person was killed; 2) the victim met death illegally; 3) Three or more persons participated in the killing; 4) the group acted under the pretext of service to justice or tradition” (NAACP 1919).

<sup>14</sup> According to the HAL website, “the original data came from the NAACP Lynching Records at Tuskegee Institute, Tuskegee, Alabama. Stewart Tolnay and E.M. Beck examined these records for name and event duplications and other errors with funding from a National Science Foundation Grant and made their findings available to Project HAL in 1998.” Accessed Spring 2010: <http://people.uncw.edu/hinese/HAL/HAL%20Web%20Page.htm>

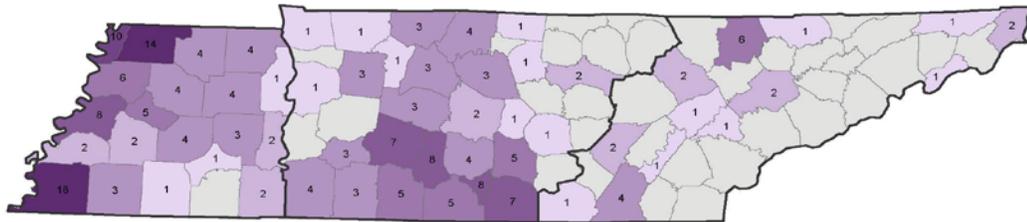
<sup>15</sup> Crane and Crane (1979) gathered their lynching data from: NAACP, *Thirty Years of Lynching 1889-1919*; Records of Daniel Williams, archivist, Hollis Burke Frissell Library, Tuskegee Institute (1916-1934); Jesse Ames, *The Changing Character of Lynching 1931-1941*, Commission on Interracial Cooperation, Atlanta, GA (1942); *The Negro Year Book, 1947*, Dept. of Records and Research, Tuskegee Institute (1947).

<sup>16</sup> I also conducted a census search for each of the 213 Black men lynched in Tennessee. I will report my findings as to their age and any other relevant information in this section.

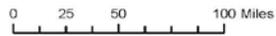
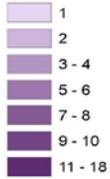
The following maps illustrate lynching distribution across the state. The first map shows the distribution of both Black and White Lynching between 1871 and 1944; the second map illustrates the distribution of Black lynching; and the third map shows the distribution of White lynching. As one can see from the maps, the majority of lynchings in Tennessee took place in Middle and West Tennessee. There are 26 counties in Middle and East Tennessee and one county in West Tennessee, McNairy, where no lynchings, Black or White, occurred. There are 21 counties in East Tennessee where no Black lynchings occurred. The counties with the greatest number of lynchings are Shelby in the far south-west corner and Obion in the far north-west corner where collectively 35 lynchings took place with 32 of the victims being Black.



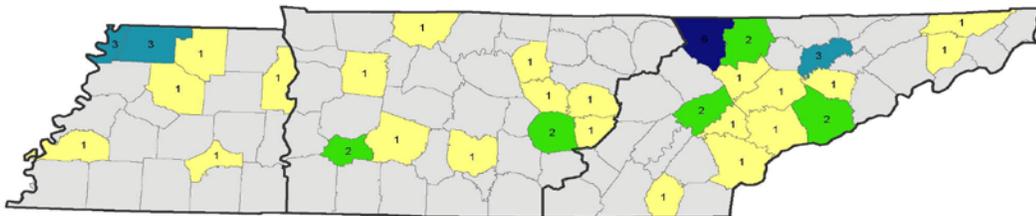
## Tennessee Black Lynchings: 1871 - 1944



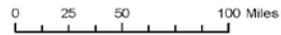
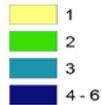
**Black Lynching Victims (213 total)**



## Tennessee White Lynchings: 1871 - 1944



**White Lynching Victims (47 total)**



The first four lynchings to take place in Tennessee took place in Middle Tennessee in Maury County with one occurring in 1861, two in 1868 and one in 1877. The last lynching took place in Southeast Tennessee in Bledsoe County in 1944. Again, the overwhelming majority of lynchings in Tennessee (240 of 260) took place between 1880 and 1920.

Using United States Census data and voting records, I was able to find demographic information for 78 of the 213 Black Tennesseans lynched during this period.<sup>17</sup> The average age of the victims was 24 years old. Many of these men were very young: Henry Noles and Dennis Blackwell were 15; Calvin McDonnell, Thomas Lillard and Henry Montgomery were 16; Freddie King and Thomas Seacy were 17; one of these young men was accused of larceny, the rest were accused of rape. The oldest victim was 66 year-old Hugh Jones of Hardeman County, accused of attempted rape. The young men all lived with their parents or grandparents. The overwhelming majority of Tennessee's Black lynching victims made their livings as tenant farmers, although there were several exceptions.

For example, Ben Pettigrew was 38 when he was killed in 1911. He was a farm owner in Decatur County's second district, who raised cotton with his wife Rae, whom he had married at age 20, and their three children: one son and two daughters, ages 12, 14 and 15 respectively. The *New York Times* reported on December 6, 1911, that Pettigrew, while travelling with his daughters to the cotton Market in Waynesboro, was stopped by a mob that lynched Pettigrew and his daughters. The cotton was presumably stolen and the

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<sup>17</sup> I searched the U.S. Census records for all 213 victims, but was only able to find seventy-eight definitive matches.

census records for Decatur County for 1920 report that Rae and her son were living with relatives in a different district.

Hugh Jones, as mentioned earlier, lived in Hardeman county in 1900 and was married to Amanda when he was killed at age 66 in 1908, having been accused of attempted rape. He owned his farm in the third district of Hardeman County. Per the 1900 census, Robert Alexander lived in Lauderdale County with his wife, Cornelia and their five children. He was a drayman who owned his home and was lynched in 1904 at age 41: the alleged crime was having “race prejudice.” T. George Smith owned his home and was married to Dora in Obion County. Accused of attempted rape, he was killed in 1931 when he was 46.

Of the White men who were lynched in Tennessee, two were killed for “Preaching Mormonism” in Lewis County. One was accused of attempted rape, four were accused of rape, and the rest of the 47 men had been suspected of Murder. Of the 213 Black men lynched in Tennessee, 31 were accused of attempted rape, 34 were accused of rape and 51 were accused of murder. Arson and assault were often listed as causes as were “race prejudice,” “insulting a White woman” and “attempted to testify.” Elbert Williams, who was married to Annie in 1929, was killed at age 31 in Haywood County in 1940 when he attempted to qualify to vote.

And again, no evidence exists to substantiate any action taken on the part of law enforcement officials to prosecute the lynch mob members in the overwhelming majority of these lynchings, Black and White. There are specific instances of prevented lynchings as referenced earlier, and while those are commendable, it speaks to either the honesty of the County Coroner (tasked in Tennessee with declaring the circumstances of every

death) or the apathy of the Sheriff, that so many of these men died at the hands of parties unknown.

*Letter from Charles Cansler*

Charles Cansler was a Black man who worked as a teacher and later principal for Black schools in Knoxville in the early 20<sup>th</sup> Century. A personal friend of Booker T. Washington, he was responsible for convincing the Carnegie family to build a library for Black Knoxvilleans in 1919 (Lamon 1972; Lovett 1996). But in February of 1918, he wrote a letter to then Tennessee Governor Tom Rye referencing the recent lynchings in Memphis, Dyersburg and Estill Springs where Black men had been tortured and burned at the stake in front of crowds numbering into the thousands.<sup>18</sup> Cansler wrote

Without attempting to fix any blame or responsibility for the crimes of Memphis, Dyersburg and Estill Springs, I desire to make inquiry as to what the millions of good people of Tennessee are going to do about such crimes and as to what you, as Chief Executive of the state are going to do about it? Is the reign of the hoodlum and the irresponsible to prevail in Tennessee? If so, God save the state and the sooner the law-abiding colored citizens get out of it, the better off they will be (Lamon 1972, 411)

Cansler requested that the Governor speak out against these recent lynchings and form a committee of loyal Tennesseans who would be willing to address the lawlessness and come up with a plan for redress, but no action would come from the Governor's office (Lamon 1972).

Cansler asserted that Black Tennesseans could not look to Federal Authorities for help:

For wellnigh half a century the colored people of this country have attempted to redress certain wrongs by an appeal to the Federal Government at Washington. That appeal has resulted in nothing of practical or of material value. The so-

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<sup>18</sup> This letter was reproduced in "Charles Cansler to the Honorable Tom C. Rye, Governor of Tennessee, February 1918" by Lester Lamon in *The Journal of Negro History*, volume 57/4 (1972).

called war amendments to the federal constitution are but high sounding verbiage which guarantee much and give but little (Lamon 1971, 412).

Cansler believed that any change that would be made in the law protecting Black Tennesseans would have to come from state and local government (Lamon 1972). He argued that if lynchings were to be prevented, they would have to be prevented in the places where they occurred. He asserted that if “a few influential and determined men” would take some sort of stand, that if the governor would “take some action,” that Tennessee might

no longer be disgraced by such awful crimes...and that the world would know that the Christianity which we preach is also the Christianity which we practice (Lamon 1972, 414.)

But within a year Cansler’s home-town of Knoxville, a town where he believed “no better relations [exist] between the races,” would be the sight of a deadly race riot (Lamon 1972, 414).

### **Pogroms and Race Riots in Tennessee: 1869-1946**

Alongside lynching, other forms of anti-Black violence took root in Tennessee following Reconstruction: Race Riots and Pogroms, and each will be discussed in turn.<sup>19</sup>

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<sup>19</sup> Race Riots have continued well into the late 20<sup>th</sup> and early 21<sup>st</sup> century and have been documented as occurring in sixty-one cities and towns across the country between 1866 and 1946; twenty-seven occurred between 1946 and 1975 (Brown 1975, 324). According to the Encyclopedia of American Race Riots (2005), five race-riots (in Cincinnati, Los Angeles, Pensacola and two in Miami) have occurred between 1975 and 2005. I have found limited evidence of a race riot occurring in Chattanooga in 1980 which I will discuss in the next chapter. These riots have been primarily instigated by minority groups in response to either police violence or court decisions rendered where the minority community felt justice had not been served with property crime being the most prominent outcome. The difference between the modern riot and the riots of the early 20<sup>th</sup> century are found in instigating group, causation and outcome and are thoroughly documented in Graham and Gurr (1969), Grimshaw (1969), Brown (1975) and Waldrep and Bellesiles (2006).

As mentioned in Chapter One, I have found evidence of pogroms and race-riots occurring in the Tennessee Communities detailed in the following table. I also used census data to bolster the evidence that a pogrom took place, finding that indeed in all of these counties, the Black population in the decade after the pogrom had significantly decreased, in several cases to less than ten Black inhabitants.

**Table Five: Pogroms and Race Riots in Tennessee 1866 - 1946**

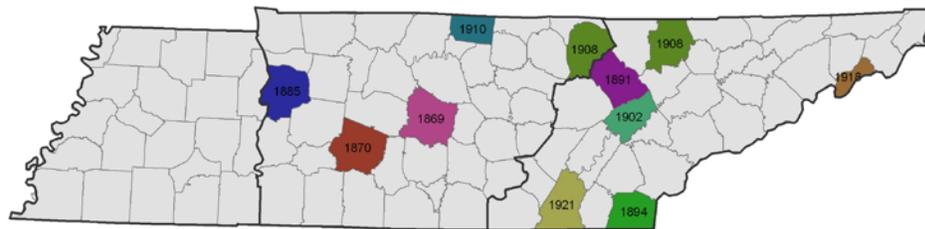
Memphis, Shelby County, urban Race Riot	West Tennessee, 1866	May 1, 1866
Rutherford County- rural pogrom	Middle Tennessee, 1869	August 31, 1869
Maury County- rural pogrom	Middle Tennessee, 1870	January 14, 1870
Clarksville, Montgomery County- urban Race Riot	Middle Tennessee, 1878	April 15, 1878
Humphreys County- rural pogrom	Middle Tennessee, 1885	August 25, 1885
Morgan County – rural pogrom	East Tennessee, 1891	December 2, 1891
Ducktown, Polk County- rural pogrom	East Tennessee, 1894	April 30, 1894
Roane County- rural pogrom	East Tennessee, 1902	February 4, 1902
Campbell and Fentress Counties- rural pogroms	East Tennessee, 1908	August 17, 1908
Macon County- rural pogrom	Middle Tennessee, 1910	June 8, 1910
Unicoi County- rural pogrom	East Tennessee, 1918	May 21, 1918
Knoxville – urban Race Riot	East Tennessee, 1919	August 31, 1919
Montlake, Hamilton County- rural pogrom	East Tennessee, 1921	September 15, 1921
Columbia, Maury County- urban Race Riot	Middle Tennessee, 1946	April 25, 1946

Four urban Race Riots, where city blocks were destroyed and Black Americans were killed, are documented as occurring in each section of the state: Memphis 1866, Clarksville 1878, Knoxville in 1919, and Columbia in 1946. There were other skirmishes

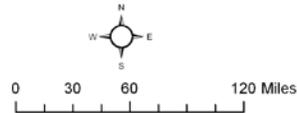
between Blacks and the Ku Klux Klan where both Black and White men fought and died taking place in Middle and West Tennessee in Franklin (July 1867); Brownsville (May 1869); Fayette County (August 1869); Columbia (January 1870); and Wilson County (November 1870) (*The New York Times*). Of the 11 rural pogroms for which we have newspaper and census documentation, four occurred in middle Tennessee, seven occurred in East Tennessee and nine occurred during the “lynching era.”

The dispersion of lynching and mass violence across the state and its implications are interesting. Given the numerical density of Blacks in West and Middle Tennessee, it would appear that Key and Blalock’s theories of “racial-threat” outlined in Chapter One help explain the high numbers of Blacks who were lynched in those regions, and possibly the four pogroms that happened in Middle Tennessee. It is curious that no pogroms occurred in West Tennessee, which had the highest concentration of Black citizens. I would surmise that this was because Black labor on the Delta farms near the Mississippi river was crucial: in Shelby, Fayette, Hardman and Haywood counties, Black tenant farmers outnumbered White tenant farmers 5:1, 5:1, 2:1 and 4:1 respectively (United States Census 1910). Losing all of one’s laborers en masse would be devastating to agriculture. Alternatively, in West Tennessee counties like Hardin, McNairy, Decatur, Dyer, Weakley and Obion, further away from Delta soil, where White tenant farmers outnumbered Black tenants 7:1, 9:1, 9:1, 7:1, 12:1 and 14:1 respectively, the labor competition would be less strenuous and there would be no need to oust one’s Black neighbors en masse (United States Census 1910).

## Tennessee Rural Pogroms 1869 - 1921



Counties	
Pogrom	
<span style="color: #800080;">■</span>	1869 Rutherford
<span style="color: #8B4513;">■</span>	1870 Maury
<span style="color: #0000FF;">■</span>	1885 Humphreys
<span style="color: #800080;">■</span>	1891 Morgan
<span style="color: #008000;">■</span>	1894 Polk
<span style="color: #3CB371;">■</span>	1902 Roane
<span style="color: #6B8E23;">■</span>	1908 Campbell & Fentress
<span style="color: #1E8449;">■</span>	1910 Macon
<span style="color: #A0522D;">■</span>	1918 Unicoi
<span style="color: #B8860B;">■</span>	1921 Hamilton



But East Tennessee, with the smallest Black populations of the three grand divisions and the strongest Republican presence, with by far the fewest lynchings, was also the site of seven of the state's pogroms. The fact that East Tennessee communities with small Black populations would be the sites of much mass misery is a conundrum.

The earliest pogroms took place in Middle Tennessee. In Rutherford and Maury counties in 1869 and 1870 respectively, Blacks were driven from their homes by the Ku Klux Klan (*New York Times*, August 31, 1869; *Nashville Republican Banner*, August 31, 1869; *Chicago Tribune*, January 14, 1870). The Black population in each county decreased by 100 members and it was reported in the papers that the Blacks sought refuge in Nashville. The 1885 pogrom of Humphreys County was also attributed to the

Klan: “Negroes Shot and Whipped: Outrages by Masked Men in Tennessee County...in Humphreys County negro families are forced to leave at threat of death especially negro teachers John Gorin and Samuel Low” (*Chicago Tribune*, August 23, 1885).

But beginning in 1891, the pogroms took on a different cast: they were taking place in the East Tennessee coal fields and almost all were the result of mining labor disputes. Between 1890 and 1910, the coal mining industry in northeast Tennessee increased exponentially as did the demand for labor. Black laborers were willing to work for fewer wages than Whites who generally commanded and demanded \$.50 to \$.75 cents more an hour (Lamon 1977). As such, between 1890 and 1900, the number of Black miners in the region increased from 769 to 3,092 (Lamon 1977). Matters came to a head and made national headlines in December 1891 when the *New York Times* reported: “Negro Miners forced to Leave Olive Springs [Morgan county]...The news today, that negro miners have been forced by white miners to leave that place strengthened the belief that serious trouble may be looked for.” In 1880, there had been 289 Black people living in Morgan County; in 1890, there were 333 Black residents. By 1900 there were only 47 (U.S.Census Data).

Similar circumstances would be reported in Polk County in 1894, Roane County in 1902, and Campbell and Fentress Counties in 1908. For Polk County the headlines read in the *Chattanooga Daily Times*, “Negro Miners Threatened: Lives in Danger from a Mob of White Laborers...50 whites are intimating that if the 250 negroes did not leave today, they would return tonight and kill the last one of them.”

In Roane County the *Chattanooga News Sentinel*, February 4, 1902, reported:

At Millstone, one of the mines of the Cumberland Coal and Coke Company...there is serious trouble between the white and negro miners. The company employs about 150 white men and 40 negroes at this place. The white miners organized to drive the negroes out ...Threatening letters were posted notifying the negroes to leave within a given time. A number of the negroes and their families left, but a few refused to go and on Sunday evening last the mining houses that continued to be occupied by the negro miners were attacked by white men and shots were fired into all of the homes. No one was reportedly injured but all of the negroes left...the white miners are still armed and declare that if the negroes return bloodshed will most certainly follow.

In 1900, 572 Blacks lived in Roane County; in 1910 there were 63 Black residents.

Essentially the same story plays out in Campbell and Fentress counties in 1908 when

White miners refused to work with Black miners. According to the *New York Times*,

August 17, 1908:

Whites drove them and their families from the mining camps. The negroes were allowed but few minutes to pack what articles of necessity they could carry. All day Saturday the band marched the negroes, men, women and children. At night they allowed the women and children to camp and eat what food they had carried. The negro men went on to the mine at Anthras where they joined sixty negro miners. The women and children continued their flight and all day Sunday poured into Jellico and other towns, begging shelter and protection.

The *Fentress County Gazette* on August 18, 1908 explained the next day:

A band of 150 miners and mountaineers have ordered all of the negroes out of the county on penalty of death...Kings Mountain Coal Company's mine at Kings Mountain and Anthras employs 60 negroes who have refused to go...they were given until Monday night to get out or they would be killed and the camp burned...A posse of 50 deputy sheriffs and citizens has been hastened to the scene but it is difficult to get whites to fight for the blacks and civil authorities do not expect to be able to control the situation... news of a race war at Springfield, Illinois lighted the smoldering fire...

In Fentress County in 1900 there were 57 Black residents, in 1910 there were 15 and by 1930 there were zero (U.S.Census).

These were the last of the mining-initiated pogroms. The general trend of mining companies after 1908 was to cease hiring Black labor (Lamon 1977). Black Tennessee

miners made up 28% of all miners in 1900; in 1910 this dropped to 14.5% and to 7.5% in 1920.<sup>20</sup>

The pogroms that took place in Macon County (1910) and Unicoi County (1918), in northern Middle and northern east Tennessee respectively, both occurred after Black men in the communities were accused of crimes and lynched. Dave Winston, of Lafayette, Tennessee, was lynched on June 8, 1910 after allegedly murdering a White Civil War pensioner for his money (Blankenship 1986). Winston was imprisoned but released to a mob that shot him to death (Blankenship 1986). The people of Macon County then informed the Black residents to leave or be killed; they even detonated dynamite in the Black resident's yards (Blankenship 1986). There were 732 Black residents in Macon County in 1910, this decreased to 476 by 1920. In 1910, five Black people owned their homes in Lafayette and their names are not present on the 1920 census. Research into the Macon County property records indicates that their homes were sold in late June and early July in 1910, presumably under duress, for less than what the Black owners had originally paid for them. Two Black families are present in Lafayette on the 1920 census, both were farm owners (U.S. Census data).<sup>21</sup> And of course we discussed in the Prologue the pogrom that took place in Unicoi County after Thomas Devert was lynched in 1918. Both Winston and Devert's death certificates state that they were killed by "unknown persons."

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<sup>20</sup>The race riot in Springfield, Illinois in 1908, will be discussed *supra*.

<sup>21</sup> In 2000, the population of Lafayette was 97.85% White, 0.15% Black, and 2% Hispanic (U.S. Census 2000).

The final pogrom that took place in Tennessee occurred in 1921 in the community of Montlake, outside of Chattanooga. According to the *Chattanooga Daily News*,

“Whites Expel Negroes of Tennessee Village” September 15, 1921,

The trouble which reached a climax Wednesday has been brewing for some time. It originated over the use of water from the spring which furnishes the supply for the mining community. Both white and colored residents have been using it. If whites were in the majority, it is said, they would drive the negroes away. The same was true if the negroes had the greater force. The practice has been to muddy the water, thus preventing the other side from using it, it is charged. Several minor clashes had occurred and the feelings kept growing stronger.

The story goes on to explain that Jewell Clipper, a five year old Black child, went to the spring with her brothers and sisters on Wednesday. Edna Barnett, a 12 year old white girl and her siblings told the Clipper children that they could not use the spring and proceeded to “muddy” the spring when the Clipper clan protested. Jewell went back to her house, got her father’s shotgun, aimed it at Edna Barnett and shot her in the buttocks.

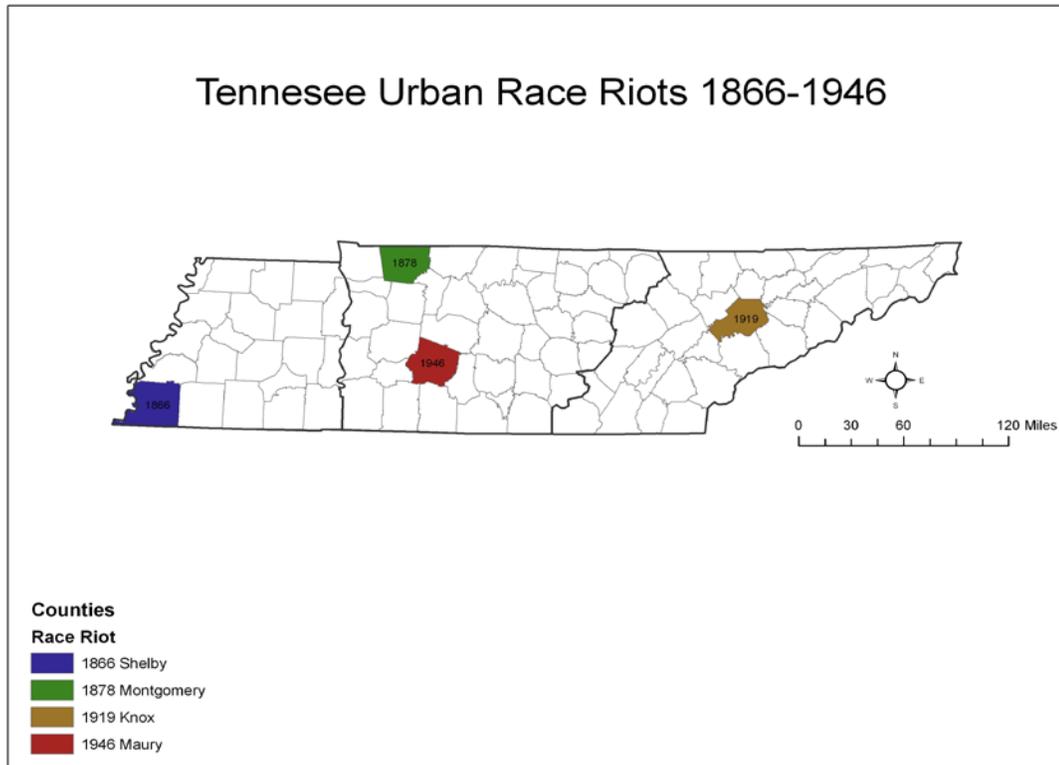
Following the shooting, angry miners numbering about 150 assembled, and in the clash that ensued many shots were fired, but so far as can be determined no one was hurt. Alarmed over the situation, colored residents hastily gathering their belongings departed in groups...When they [the deputies] arrived they found the Clipper family surrounded by angry miners. An officer of the community was attempting to protect the negroes. The father of the child accused of doing the shooting had been struck over the head with a revolver. Taking charge of the situation, Chief Deputy Smith and the squad of officers succeeded in restoring order, but by then all of the negroes had vacated the village for safer quarters. The Clipper family is currently being detained at the county jail.

There are no further newspaper reports as to what happened to the Clipper family. And it is difficult to determine, since it was a mining community where the Blacks did not own their own homes, what happened to the community after the incident. But we do know that no Blacks live in Montlake today. An account of my trip to Montlake and Jellico is attached as Appendix Two.

## **Race Riots in Tennessee**

We have already discussed the race riot that took place in Memphis in 1866. The next race riot to take place in the state occurred in Montgomery County in 1878. At the time, Clarksville's Black population was 13,694 out of 28,481 (U.S. Census data). According to the *Chicago Daily Tribune*, April 15, 1878, and the *New York Times*, April 16, 1878, "Fifty-seven buildings were burned over fifteen city blocks in Clarksville as a result of "an alarming hostility of the races."

In January, 1878 Winton Anderson, a Black man, had been accused of rape and lynched (Crane and Crane 1977). In late March, according to both papers, John Seat, also Black was allegedly resisting arrest and was shot by a police officer. Both papers assert that the Black population was incensed with the police shooting and that certain members had threatened to burn down the Court house. On the evening of April 14, "57 homes, eight grocery stores, two drug stores, two feed stores... the Court House and the County Clerk's office" were all burned." Winn (2002) and the *New York Times* maintained that the Black business district was especially hurt as many of the proprietors did not have insurance. Minor skirmishes took place in the fire's aftermath, shots were fired by Whites and Blacks, but neither paper reports any casualties. The mayor of Clarksville deputized 50 Marshalls to help keep the peace. The story is not repeated in the next day's newspapers and Winn (2002) does not indicate that anyone, Black or White, was arrested.



#### *Knoxville 1919*

Troops Fight Race Rioters in Knoxville...As the crowd and the excitement increased, several leaders called for volunteers to follow them in an attempt to storm the barricaded negro part of town...how many have been killed and wounded remains largely a matter of guesswork (*Knoxville News Sentinel*, August 31, 1919).

Charles Cansler, a Black school principal in Knoxville, had stated in his letter to the Governor in 1918 “in no place in the world can there be found better relations existing between the races than here in our own county of Knox” (Lamon 1972). And yet, in the Red Summer of 1919, when 26 cities across the country suffered from the indiscriminate attack of Whites on Blacks, Knoxville was subjected to a race riot (Williams and Williams 1972).

The riot began with the arrest of Maurice Mayes, the purported (unacknowledged) Black son of Knoxville Mayor John McMillan, who was known for rallying Knoxville's Black voters to vote for McMillan at the polls (Williams and Williams 1972). Mayes had been accused of raping and murdering a White woman. The sheriff arrested Mayes, but had the foresight to move the prisoner to Chattanooga. The lynch mob broke into the jail only to find that Mayes was gone. In response, the mob freed the White prisoners, ransacked the jail, looted the local hardware store and formed an armed posse that made its way to the Black business district.

The Tennessee National Guard was summoned to quell the violence, but when Whites and Blacks started firing at each other, the Guard ultimately joined the White mob and at one point peppered the Black business district with a rapid-fire machine gun, technology which had just been introduced in World War I (Williams and Williams 1972). The total casualties are unknown (Wheeler 2002). The *Knoxville News Sentinel* reported that two men were killed, one White and one Black, and 14 people were injured. Collins (2007) asserts that eye-witness accounts estimated closer to 25 Black people were killed. An all-White jury refused to convict the 35 White men who were arrested for instigating the riot; Mayes was ultimately tried and found guilty by an all White jury and electrocuted (Wheeler 2002).

In a brief submitted to the United States Senate Committee on the Judiciary that heard testimony concerning the riots of 1919, Dr. George Haynes, a Department of Labor employee, explained that the riots that occurred that summer were a consequence of

communist propaganda and labor disputes. But they were also a consequence of lynching:

Persistence of unpunished lynching of negroes fosters lawlessness among white men imbued with the mob spirit and creates a spirit of bitterness among negroes.

The brief also stated that the riots had inevitably harmed industry and property but that they also harmed the psychological health of those who witness or take part in riots, specifically,

such bestiality as was displayed in these riots can be recognized only as a form of perversion. Race violence allows primitive brutality to assert itself and destroys the strongest fabric of civilization.

And lastly Dr. Haynes asserted that international opinion of the United States was suffering because of the riots, because of the nation's "failure to accord protection and trial by law to its own citizens" (Hearings before the Senate Committee on the Judiciary, 66<sup>th</sup> Congress, 1<sup>st</sup> session (1920). Indeed, President Woodrow Wilson, who re-segregated the civil service in Washington and fired Tennessean James Napier from his post in the Treasury department and replaced him with a White man, was criticized by the Black press and the International Community throughout his tenure for committing troops to an international war effort dedicated to democracy abroad when Blacks in America were still being denied the right to vote (and live unmolested) at home (Lamon 1977; Jordan 2001).

Tennessee's riots were unlike the Springfield, Illinois Riot of 1908, where it appeared that Blacks were simply at the mercy of violent Whites. The race riot in Springfield began with the allegation of a White woman, Mrs. Hallam, that she had been raped by a Black man. A young Black gardener was arrested and spirited out of town; after finding the jail empty, a White mob wreaked havoc on the city, destroying the Black

commercial and residential districts and killing two Black men, one of whom was 84 years old (Crouthamel 1960). Out of 117 indictments handed down by the Grand Jury in response to the riot, only two were prosecuted by the District Attorney and only one conviction was secured for disturbing the peace (Crouthamel 1960). On September 1, Mrs. Hallam signed a statement that she had not been raped by a Black man, but a White man whom she refused to identify (Crouthamel 1960). In Clarksville and in Knoxville, the Black populace returned fire, even if they were ultimately outnumbered and out-armed.

The Springfield Riot is accredited with providing the impetus to found the National Association for the Advancement of Colored People (Crouthamel 1960). W.E.B. DuBois would gather with Black and White contemporaries six months after the Springfield Riot occurred and form an organization dedicated to focusing the nation's attention on incidents like the Springfield riot. The group would serve as a sentinel to awake the moral sensibilities of White Americans and a channel for the airing of Black discontent. They would also highlight the common law doctrine of self-defense in America, and at times suggested to its members that, when threatened, they should take up arms. For example, in *The Crisis*, the magazine of the N.A.A.C.P., W.E.B. DuBois countenanced retaliatory violence when he wrote that lynching would end in the South when "the cowardly mob is faced with effective guns in the hands of the people determined to sell their souls dearly" (October 1916).

Especially after the Riots of 1919, it appeared that Blacks everywhere, many returning from fighting in World War I, were ready to fight once again for their freedom.

Black poet Claude McKay wrote *If We Must Die* in 1919:

If we must die, let it not be like hogs  
Hunted and penned in an inglorious spot,  
While round us bark the mad and hungry dogs,  
Making their mock at our accursed lot.  
If we must die, O let us nobly die,  
So that our precious blood may not be shed  
In vain; then even the monsters we defy  
Shall be constrained to honor us though dead!  
O kinsmen we must meet the common foe!  
Though far outnumbered let us show us brave,  
And for their thousand blows deal one deathblow!  
What though before us lies the open grave?  
Like men we'll face the murderous, cowardly pack,  
Pressed to the wall, dying, but fighting back!

A similar “fighting for one’s freedom” spirit would find itself unleashed in Columbia Tennessee in 1946. The last of Tennessee’s race riots and the movement of Black Tennesseans toward greater freedom and efficacy will be discussed in the next chapter.

## CHAPTER FIVE

### TENNESSEE RACE RELATIONS POST-WORLD WAR I

This chapter will address some of the most trying and violent incidents that occurred in Tennessee after World War I. Between 1920 and 1944, there would be 18 lynchings in Tennessee.<sup>1</sup> Columbia Tennessee would experience a race riot in 1946. The first Black graduate of an all-white high-school in the South would earn his diploma in Clinton, Tennessee in 1956; the school would be destroyed by a bomb in 1958. In 1960, there would be a violent White backlash to Black attempts to vote in Fayette and Haywood Counties and the sit-in movement in downtown Nashville would result in the integration of downtown businesses but also the bombing of attorney Alexander Looby's home across from Meharry Medical School. And ultimately, as a tragic coda to the 1960s, Martin Luther King Jr. would be assassinated in Tennessee in 1968.

This chapter addresses these incidents in order to complete the picture of the violence associated with race relations in Tennessee. Aside from bringing all of these incidents, from the Memphis riot of 1866 to the shooting of King in Memphis in 1968, together in one place, while being mindful of the reaction or inaction of Tennessee law makers and law enforcers, this project also argues that justice must still be done. While there may be truth in the assertion that justice delayed is justice denied, it is also true that race relations in Tennessee are still troubled and that many of the patterns that led to injustice in the past still exist today. Further, race relations are troubled not from current

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<sup>1</sup> This would be a marked decrease from the 77 victims between 1900 and 1920.

grievances alone, e.g. White concerns about affirmative action, school busing and Black on White crime, or Black perceptions of racism in employment opportunities or relations with police; but from the culmination of grievances over centuries that were never adequately addressed. How best to address this pattern of injustice will be the subject of the following and final chapter.

### **Tennessee in 1919**

By 1919, Blacks in Knoxville, Chattanooga, Nashville and Memphis had organized to form chapters of the National Association for the Advancement of Colored People (NAACP) (Lamon 1977). Heartened by the work of this inter-racial association nationally, Black Tennesseans in the cities believed the organizations might serve as a force for change in their communities as well (Lamon 1977). Also in 1919, a new Governor, A.H. Roberts was elected, who unlike his predecessor Tom Rye, took a proactive stance toward bettering race relations through his work to end lynching (Lamon 1972). He adopted the rhetoric of the Tennessee Law and Order League, a group initiated in response to a spate of lynchings in 1917 and 1918, and gave stump speeches throughout the state denouncing the recent riot in Knoxville and the illegality of lynch mob violence (Lamon 1977).

Following the Knoxville Riot of 1919, Blacks in Nashville and Memphis formed “People’s Cooperative Leagues” for the purpose of bettering race relations, expanding the rights of citizenship and improving their communities (Lamon 1977, 253). Blacks in Knoxville, worked with White leadership to prosecute 35 of the rioters (although all would be acquitted) and to mount a (futile) legal defense for Maurice Mayes, the young

man whose alleged rape of a White woman was the catalyst of the Knoxville riot (Lamon 1977). In 1921 Knoxville's White Sheriff prevented a mob of 800 men from lynching another alleged Black rapist by fortifying the jail and firing into the mob, injuring several mob members in the process; after an investigation, the alleged assailant was found to be innocent (*Knoxville Journal and Tribune*, August 19, 1921).

The Committee for Interracial Cooperation (CIC) took root in Tennessee in the 1920s. The stated purpose of the group was to foster better communication between Black and White community leaders, but their primary focus was to decrease lynching and mob violence across the state (Lamon 1977). There were 52 lynchings between 1900 and 1910; 25 lynchings between 1910 and 1920; and only nine lynchings between 1920 and 1930. The CIC asserted that its efforts to inform the public of the illegality of lynching and to publicly honor law enforcement officials who were able to prevent lynchings, helped spur this decrease in lynching (Lamon 1977). The CIC also lobbied the Tennessee General Assembly to create legislation suspending Sheriffs in communities where lynchings occurred, but this legislation was never brought to the floor for a vote (Lamon 1977).

During this same period, efforts at the national level to create an anti-lynching bill were moving forward. Republican Representative Dyer of Missouri authored legislation in 1921 that would make lynching a federal crime. Specifically, the bill would have penalized: law enforcement officers who failed to protect victims of the mob or prosecute mob members; citizens who participated in lynching; and counties where lynchings took place with fines directing the money to be given to the victim's family (Report from the

Senate Committee on the Judiciary, House Rule 13, 67th Congress: 2nd Session, 1921-22.)

The Dyer bill passed in the House of Representatives by a vote of 230 to 119, but Southern Senators, like Tennessee's John Shields and Kenneth McKellar, were pivotal in preventing the Dyer bill from coming to a vote in the Senate (Lamon 1977). Senator McKellar would lead the filibuster again when the Costigan-Wagner Act, similar in substance to the Dyer Act, was presented in 1935, and again when the matter was debated in 1940, maintaining that state law enforcement was adequate for the prevention and prosecution of murder (e.g. Hearings on Senate resolution 121 before a subcommittee of the Senate Committee on the Judiciary, 69<sup>th</sup> Congress 1922; Hearings on Senate resolution 24 before a subcommittee of the Senate Committee on the Judiciary, 74<sup>th</sup> Congress 1935; Hearings on House Rule 801 before a subcommittee of the Senate Committee on the Judiciary, 76<sup>th</sup> Congress 1940; Lamon 1977). Both the Dyer and the Costigan-Wagner Act passed in the House of Representatives, but were unable to come to a vote in the Senate because of the filibuster of Southern senators like Kenneth McKellar.

But one of Tennessee's Congressmen, Will Taylor from Knoxville, voted for the Dyer bill stating that lynching was "a disease so deeply rooted and malignant that it would not yield to ordinary treatment" (Hearings before the House Committee on the Judiciary, 67<sup>th</sup> Congress 1921; Lamon 1977). This disease, which had plagued the South for so long, would manifest itself for the tenth time in Maury County since 1860, when in 1933 the second teenager in seven years would be lynched.

## **Columbia, Maury County, Tennessee**

### *Previous Lynchings*

Lynch Law had been practiced on eight occasions in Maury County between 1861 and 1926. In November of 1927, 18 year-old Henry Choate was accused of attacking 16 year-old Sarah Harlan in Maury County as she waited for her school bus (Ikard 1997). Although Harlan asserted twice that Choate was not her assailant and although there was no direct evidence against him, he was arrested and placed in prison (Minor 1946; Ikard 1997.) That night a mob appeared at the prison and the deputy Sherriff handed Choate over to them. Choate was beaten there in the jail and then hung from the second story portico of the Maury County Courthouse (Minor 1946; Ikard 1997). The Deputy Sheriff was exonerated and the grand jury issued no indictments for murder because no one was willing to positively identify the members of the mob (*The Columbia Daily Herald*, November 29, 1927).

In December 1933, 17 year-old Cordie Cheek was working with his mother at the home of her employer, Lauris Moore (Ikard 1997). While chopping wood and tossing the logs and kindling, he accidentally tore the dress of the Moore's 11 year-old daughter, Lady Ann (Ikard 1997). Lady Ann's older brother Henry, who had had an argument with Cordie, convinced Lady Ann to accuse Cordie of rape (Ikard 1997).

Cordie was arrested and moved to the Nashville jail for safe-keeping. The Columbia Grand jury found no evidence against him and he was permitted to leave the Nashville jail and went to stay with his aunt who lived near Fisk University (Minor 1946; Ikard 1997). That afternoon, armed White men arrived at the home and "arrested" Cheek

(Minor 1946; Ikard 1997). Students from Fisk wrote down the license plate numbers and it was discovered that one of the vehicles belonged to Maury County Magistrate Hayes Denton (Minor 1946; Ikard 1997). After dark, at the junction of two rural highways, 17 year-old Cheek was removed from the car, tied and dragged behind the automobile, castrated, hung from a tree and then shot (Minor 1946; Ikard 1997). Despite the positive identification of the license plate numbers and several members of the mob, including Lady Ann's brother, Henry, two successive Grand Juries failed to indict anyone (Ikard 1997).

### *A Race Riot in Columbia*

White leadership in Columbia would describe race relations in the town as “fine,” and that there was a “perfect understanding” between Blacks and Whites as to most aspects of community life (Ikard 1997, 17). But this understanding meant that Blacks knew their “place” and would not challenge White authority, and this understanding proved to be a naïve grasp of race relations in February 1946. World War II veteran, James Stephenson, had lied about his age and left Columbia when he was sixteen to enlist in the U.S. Navy. He had survived a tour in the Pacific and had earned a welter-weight title on the integrated Navy boxing team (Ikard 1997). He was home visiting his mother, Gladys, in Columbia in February 1946, when he threw fellow World War II veteran Billy Fleming through a plate-glass window (Ikard 1997).

James' mother had requested that a radio be repaired at the local Castner Knotts department store (Minor 1946; Ikard 1997). After the radio had been neglected for several days, after the cost of repairs had been substantially increased from the original

quote and after it appeared to still be missing a part, Gladys announced as she was leaving the store that she was taking her business elsewhere and that others might think of doing the same (Ikard 1997).

Billy Fleming, the radio repair man, had also served in the Pacific theatre of World War II and had learned radio repair through the GI Bill (Ikard 1997). He proceeded to follow the Stephensons out of the store. James ushered his mother out first and turned around to glare at Fleming (Ikard 1997).

Billy asked “What you stop back there for, boy, to get your teeth knocked out?” James responded, “Well, if that’s what it takes.” Fleming then punched James in the back of the head but had bitten off far more than he could chew. James quickly turned around and seized Billy by the head, throwing three jabs into his face. For his last quick punch James released his clutch, causing Fleming to crash through Castner Knott’s front window (Ikard 1997, 14).

At the scene, James and Gladys were arrested for disturbing the peace, with \$50 bonds, but Billy Fleming’s father appeared at the jail and wanted the two charged with attempted murder, which Magistrate Hayes Denton, whose car had been used in the lynching of Cordie Cheek, agreed to do (Ikard 1997).

Billy Fleming’s brother Flo was a member of the Tennessee Highway Patrol. He visited James’ cell and told James “lynching talk” was flying around the town (Ikard 1997). Bond had now been set at \$3500 each and James’ Grandmother, Hannah Peppers, who had heard the lynching talk on the streets, went to the wealthiest Black men in town to see if she could secure money for their bail (Ikard 1997).

Julius Blair was the Black community’s patriarch: he owned a Barber-shop, a soda shop and many properties in town (Ikard 1997). James Morton owned the Black funeral home in Columbia and was a community organizer for the Red Cross (Ikard

1997). After the plea from Hannah Peppers, and having heard rumors of a lynching themselves, Blair and Morton agreed to post bond for the Stephensons (Ikard 1997). Blair told Police Chief Griffin that he would take charge of James. He knew that leaving James in jail, even if the officers believed he might be safer there, would in reality be giving the lynch mob a green light to proceed. He told Chief Griffin, “We are not going to have any more social lynchings in Maury County” (Ikard 1997, 17). Blair made arrangements that afternoon for James to be put on a train to Chicago; while James and his heavily armed escorts were on the road to Nashville’s Union Station train depot, four White policemen were shot in downtown Columbia (Minor 1946; Ikard 1997).

Indeed, in the midst of Whites planning an armed assault into the Black part of town to find James Stephenson and lynch him, Blacks, many of whom were World War II veterans, had armed themselves and were prepared to protect their property (Minor 1946; Ikard 1997). Race relations in Tennessee and in the United States, were poised to greatly change after Black World War II veterans returned home. Unwilling to accept their second-class status, particularly in the South, veterans who had risked their lives for their country abroad would once again try to challenge the status quo at home. This proved to be the case in Columbia 1946. After James Stephenson had been safely removed from town, Black home and business owners doused their lights in preparation for an assault; the Black part of Columbia, known as Mink Slide, was very dark and quiet. Black snipers were up on the roof tops and could see the Whites a few blocks away preparing to advance. Four Policemen, led by Chief Griffin, who had always had amicable relations with the Black community, walked into the Black part of town certain they could calm the situation (Ikard 1997). But when one of the officers demanded that

the Black men put down their weapons and brandished his own pistol, sniper fire rang out from the rooftops and all four policemen were shot (Ikard 1997). The wounds of three of the officers were superficial, but one had been shot in the face (Ikard 1997).

The mayor of Columbia called Governor McCord who called Lynn Bomar, commissioner of the Tennessee Highway Patrol (Ikard 1997). Bomar, a former Vanderbilt football star, was also the right-hand man of political boss Edward Crump of Memphis, who ran a machine replete with corruption and violence (Key 1949; Ikard 1997). He arrived and without consultation with local law enforcement, led the Whites who had been gathering to lynch James Stephenson into the Black part of town: gun fire rang out from the rooftops and was returned by the Highway Patrol (Ikard 1997). The Patrol, with the White mob in tow, then proceeded to shoot out store windows up and down the street, loot stores, destroy property and steal cash from the registers (Ikard 1997; Van West 2002). The Highway Patrolmen started breaking down doors, searching homes, arresting people without warrants, and disarming the Blacks (Ikard 1997). Damage to the Black district was immense; not only were windows and doors broken and interiors destroyed, but KKK symbols were painted on coffins in Mortons funeral home, on doors and walls in several businesses and on the mirror in Julius Blair's barber shop (Ikard 1997).

Over 100 Black men and women were arrested by the Highway patrol. Two men were killed while in custody. Though James Stephenson had escaped to Chicago, Columbia's Black community had suffered widespread destruction and the population was now under the control of the Tennessee Highway patrol. No one was granted bail or allowed to speak with an attorney (Ikard 1997; Van West 2002). In order to be freed, the

patrol was mandating that the prisoners give a statement and be interviewed by the District Attorney, again without the assistance of counsel (Ikard 1997). Over the course of the next week, all of the prisoners were released: either on bail or for lack of evidence, but 25 men were charged with attempting to murder the Columbia policemen who had been shot as they entered the Black part of town (Ikard 1997; Van West 2002). Federal authorities were sent to investigate misconduct on the part of the Highway patrol, but the all-White grand jury, despite the destruction of the Black part of town and the death of two inmates, exonerated all of the officers (Ikard 1997; Van West 2002).

The national NAACP would organize the legal defense for the 25 defendants. Black attorney Alexander Looby of Nashville and White attorney Maurice Weaver of Chattanooga were the first to arrive on the scene (Ikard 1997). Again, they were not allowed access to the prisoners. These men would file motions for habeas corpus, motions to quash and motions for summary judgment and would do much of the preliminary fact-gathering as the defendants were released from jail. But as the date of the trial approached, it was decided to bring in a court-room maestro: head attorney for the NAACP, Thurgood Marshall would join Looby and Weaver to defend the 25 men (Ikard 1997; Van West 2002).

Fearing a biased jury if the trial was held in Columbia, the defense attorneys moved for a change of venue, hoping the trial might take place in Nashville (Ikard 1997). The judge granted the change of venue, but moved the trial to Lawrenceburg in neighboring Lawrence County, a place where only two percent of the population was Black, a place where a sign at the edge of town said “Nigger, don’t let the sun set on you in Lawrence County” (U.S. Census 1940; Ikard 1997, 62).

Over the course of two weeks, the trial took place in Lawrence County. On October 2, 1946, the all White Lawrence County jury declared that twenty-three of the men were not guilty; they found two men were guilty of shooting the police officers, but at the appellate hearing, the case against these men was dropped due to lack of evidence. One conviction was secured in a second trial that took place in Columbia in November, alleging that two other Black men were guilty of shooting a Highway patrolman. The jury convicted one of the men, who was sentenced to prison for twenty years; Governor McCord would commute his sentence to one year for “attempt to commit a felony” (Ikard 1997, 113).

While the outcome of the trial was a victory for the Black citizens of Columbia and for the NAACP, the danger was not over. When attorneys Marshall, Looby and Weaver left Columbia for the last time, they were followed by members of the Maury County police department (Ikard 1997; Van West 2002). Three cars pulled the men over near the Duck River, ordered them out of the car and presented a warrant to search the car for liquor: some of the officers man-handled Marshall and referred to him as the “tall, yellow boy” (Ikard 1997, 111). Finding nothing, the officers allowed the car to leave, only to pull them over again two more times and arrest Marshall for drunk driving, even though he had been seated in the back of the car (Ikard 1997). Looby and Weaver followed the patrol car which finally wound its way back into town and the officers again man-handled Marshall and brought him in to the police station: the magistrate in charge asked to smell Marshall’s breath, shook his hand and let him go (Ikard 1997). Out of caution that they would be followed again, the attorneys left their car in Columbia and had someone else drive them to Nashville (Ikard 1997). Marshall would report that of all

the threats he faced for his work in the “South for the NAACP, before and after World War II, he felt the most danger and fear in Columbia, Tennessee” (Ikard 1997, 113).

The collective prevention of James Stephenson’s lynching by Black residents of Columbia represented a sea change in Tennessee race relations as did the acquittal of 23 Black men accused of shooting a White police officer. Although Blacks in Columbia still could not choose their seat on the bus or sit anywhere but the balcony of the local theatre, the riot in Columbia represented that there was no “perfect understanding” between Blacks and Whites in Tennessee. The system of Jim Crow, the lynching and the denigration had been tolerated for decades, but that did not mean they were acceptable to Black Tennesseans. And many would work in Tennessee, Black and White, to challenge the legitimacy of the “understanding.” This work to rectify the “failure to accord protection and trial by law to” Black American citizens, and to secure “the enjoyment of privileges belonging, under the law, to them as a component part of the [American] people for whose welfare and happiness government is ordained” would come to be known as the Civil Rights Movement (Justice Harlan in *U.S. vs. Harris* 1883, 13).

### **The Civil Rights Movement in Tennessee**

The Civil Rights Movement in Tennessee did not begin in the 1950s. It began with abolitionists in East Tennessee in the 1820s who truly believed and publicly asserted that Blacks deserved to be treated in every regard the same as Whites were treated. The movement was catapulted forward by Black Tennesseans who took up arms for the Union during the Civil War, knowing a Northern victory would secure the end of slavery. The movement was sustained through the work of Ida B. Wells Barnett, editor of the

*Memphis Free Speech* newspaper, who in the 1880s denounced White supremacy and terror, particularly when three of her friends who owned a Black grocery store in Memphis were murdered for no other reason than they were competing with Whites for business (Duster 1970). The Civil Rights Movement would find voice in the bills of Tennessee's Black legislators Green Evans and Samuel McElwee that sought to end the poll tax, to prevent discrimination on public conveyances and to provide greater penalties for lynching. And of course the Civil Rights movement in Tennessee would find voice through the NAACP, with chapters forming across the state throughout the first half of the 20<sup>th</sup> Century, which lobbied for due process and the equal protection of law.

#### *The Highlander Folk School*

The Civil Rights movement would also find voice, almost literally, in the Highlander Folk School located in Monteagle, Tennessee. Started in the 1930s by Myles Horton, a Hardin County native, the Highlander school's original mission was to educate and train "rural and industrial leaders for a new social order" (Horton et al 1997, v). By supporting laborers and organizing strikes, the Highlander staff sought to empower workers to press for better working conditions and to train leaders who could make effective change in their communities. In 1942, the school became fully integrated because they believed "the success of the labor movement required confronting racism and the evils of segregation" (Horton et al 1007, vii).

Hosting integrated workshops for employees from all types of industries, starting in the 1940s, the Highlander School drew the ire of segregationists in Tennessee. Efforts to shut the school down began with the school's decision to integrate and would come to

fruition in 1961; but in between that time, the school changed its focus from labor rights to civil rights.<sup>2</sup> Beginning with a focus on school desegregation, the school soon became a training center for non-violent protest, voter registration and training teachers of “freedom schools,” schools set up throughout the rural south to teach the disfranchised to read and the prerequisites necessary to pass literacy and citizenship tests (Horton et al 1997). It was also at Highlander school that the freedom song “We Shall Overcome” was written by Pete Seeger and adopted by the leaders of the Civil Rights movement (Horton et al 1997). Rosa Parks attended a Highlander seminar on school desegregation in the summer of 1955. She said it was at this meeting that for the first time she had experienced "an atmosphere of equality with members of the other race."<sup>3</sup> In December 1955, Rosa Parks would make history when she was arrested for refusing to give up her seat on a Montgomery, Alabama bus.<sup>4</sup>

On Labor Day weekend of 1957, Martin Luther King would be a guest speaker at the 25<sup>th</sup> anniversary of the Highlander School (Horton et al 1997). That summer, the Georgia Commission on Education would publish *Highlander Folk School: Communist Training School, Monteagle, Tennessee*, featuring pictures of Blacks and Whites, including Martin Luther King, singing and eating and laughing together.<sup>5</sup> Full-fledged

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<sup>2</sup> The school was also the subject of scrutiny by the FBI. 1100 pages detailing their observations, released under the Freedom of Information Act, can be accessed here: <http://foia.fbi.gov/foiaindex/hfschool.htm>

<sup>3</sup> From the Highlander School website accessed June 1, 2010 (<http://www.highlandercenter.org/n-rosa-parks.asp>).

<sup>4</sup> From the Highlander School website accessed June 1, 2010 (<http://www.highlandercenter.org/n-rosa-parks.asp>).

<sup>5</sup> For a copy of the pamphlet, accessed June 1, 2010, see: <http://dlg.galileo.usg.edu/highlander/efhf003.pdf>

efforts to shut the school down followed shortly after the publication (Horton et al 1997). In 1959, the Tennessee General Assembly formed a joint committee to investigate the activities of the school, which was followed by a raid by the Grundy County Sheriff's office (Horton et al 1997). On the grounds that the Highlander School was providing liquor to its attendees without a license, the School was padlocked. After two trials appealing the legality of the raid and the veracity of the raid's findings, the state of Tennessee revoked Highlander's charter and confiscated its property in 1962 (Biggers 2007).<sup>6</sup> But the training sessions attended by those interested in school desegregation, members of the Southern Christian Leadership Conference and the Student Nonviolent Coordinating Committee would prove invaluable to participants in Tennessee's modern Civil Rights movement. As Myles Horton, founder of the Highlander Folk School, explained when the Center was confiscated, "You can shut down a place, but you can't shut down an idea" (Biggers 2007, 2).

#### *Clinton High School 1956*

In 1954, the United States Supreme Court issued its order in *Brown vs Board of Education*, 347 U.S. 483, finding that separate was not equal when it came to public education in the United States. Like the *Civil Rights Cases* of 1875, the Brown decision was a compilation of cases from Kansas, Virginia, Delaware and South Carolina, all challenging segregated public schools. The court found

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<sup>6</sup> The Highlander Center relocated to Knoxville, Tennessee and later to New Market, Tennessee and continues to serve as a meeting place and training center for community activists.  
[www.highlandercenter.org/](http://www.highlandercenter.org/)

To separate [children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone...We conclude that in the field of public education the doctrine of "separate but equal" has no place (347 U.S. 495).

Specifically, the court found that segregated schools denied Blacks the equal protection of law and that segregation of public schools was unconstitutional.<sup>7</sup>

But this decision did not sit well with many Southern communities (Vander Zanden 1958). States like Arkansas would attempt to stop segregation with armed guards; states like Virginia would simply shut down schools all together (Vander Zanden 1958). While some school systems in Tennessee, like Oakridge, had quietly integrated their schools without the need for court orders, others like schools in Clinton, Tennessee, where Black parents had previously filed lawsuits for integration (*McSwain et al. vs. County Board of Education of Anderson County, Tennessee*), were mandated by the courts to integrate (Vander Zanden 1958).<sup>8</sup>

In August 1956, twelve Black high school students from Tennessee, often referred to as the "Clinton Twelve" became the first Black students in the South to integrate a public high school (Van West 2002; Lovett 2005). On the first day of school, there were no violent incidents. But on the second day of school, segregationists from other parts of the country, specifically White Citizens Council leaders John Kaspar from Washington, D.C. and Asa Carter from Alabama, descended on Clinton and whipped local bad

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<sup>7</sup> A year later the Supreme Court would hear appeals from states asking for time to implement the *Brown* decision. The Court ordered that schools were to integrate with "all deliberate speed" in a process to be overseen by Federal District Courts (103 F. Supp. 337).

<sup>8</sup> Thurgood Marshall and Alexander Looby would again team up in Tennessee to press for the rights of the Clinton teenagers to attend Clinton High School as opposed to having to ride an hour in a bus to Knoxville (Van West 2002).

elements into a frenzy (Vander Zanden 1958; Van West 2002; Lovett 2005). Throughout the week, shots were fired and dynamite was thrown into Black people's houses, rioters took to the streets and Governor Clement called in the Tennessee National Guard to restore order (Vander Zanden 1958; Van West 2002; Lovett 2005). Violence escalated to the point that the Clinton twelve and their parents decided it was not worth the personal risk to continue attending the school, at which point a handful of White community members, including Reverend Paul Turner of the all-White First Baptist Church, volunteered to escort the students to school (Van West 2002; Lovett 2005). After depositing the students at the school, Reverend Turner was beaten mercilessly by a White mob (Van West 2002; Lovett 2005). Following the beating, the school principle closed the school for a week (Van West 2002; Lovett 2005).

In December, the CBS program "See it Now" produced a program on integration in Clinton, entitled "Clinton and the Law" (Van West 2002; Cronkite 2005). The national attention brought to the town probably aided in bringing much of the violence to a rest and the school year ended without further incident (Van West 2002). In May 1957, Bobby Cain was the first Black student to graduate from an integrated public high school in the South; the next spring, Gail Ann Epps would be the first Black woman to secure the same achievement (Van West 2002). But in the Fall of 1958, Clinton High School was bombed, completely destroying the school (Van West 2002; Lovett 2005). Clinton's Elementary School, the Green McAdoo school, named after Buffalo Soldier McAdoo a native of Clinton, would not fully integrate until 1965 (Van West 2002; Lovett 2005).<sup>9</sup>

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<sup>9</sup> On September 10, 1957, Hattie Cotton Elementary School in Nashville was bombed at night after one day of integrated attendance, destroying one wing of the school (Vander Zanden 1958).

*Tent City, 1959*

While it was true that in Tennessee, per laws of the 1889 General Assembly, there was a literacy test to vote and one must have also paid a non-cumulative poll tax, Blacks in Tennessee cities like Knoxville, Nashville and Memphis had been able to vote with relatively little opposition since the 1880s (Key 1949; Kousser 1974).<sup>10</sup> In Memphis, the Black vote was controlled by the infamous political boss Edward Crump, who depended upon their votes to stay in power (Key 1949). Crump would pay the poll tax for many of the city's Black residents, provide transportation to the polls and provide some patronage in exchange for their votes (Key 1949). But contrary to Key's assertion that there was "no common obstacle to voting in Tennessee" for Blacks, Blacks in rural Tennessee, particularly rural West Tennessee experienced economic and physical obstacles to voting, often imposed by White law enforcement (Key 1949, 75).

In 1940, Elbert Williams, a Black business owner in Haywood County was lynched after he attempted to register to vote and establish a NAACP chapter in Brownsville: "His bullet riddled body was recovered from the Hatchie River" (Crane and Crane 1977; Couto 1993). His death certificate states that he was killed by "unknown parties," as such no one was prosecuted for his murder. Seven other Black men and women who were working with Williams to register Blacks in Haywood County to vote would be driven from town by a White mob, aided by Law enforcement (Couto 1993).

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<sup>10</sup> In some states, like Mississippi, the poll tax was cumulative. If you had missed payment of the tax the year before, even if you didn't vote, you would have to pay two years worth of taxes to vote in the current year. One can imagine how this would discourage poor voters from casting their ballots.

When the poll tax was abolished in 1953, 29% of the Black population in Tennessee was registered to vote (Couto 1993). In Haywood County, out of the total population of 26, 212 in 1955, the Black population was 16,220 and only 420 Black people were registered to vote (Couto 1993; U.S. Census data for 1950). The same story held true for neighboring Fayette County, where out of a total Black population of 15,000, only 59 people were registered to vote (Couto 1993). The United States Commission on Civil Rights reported in 1959 that

[W]hen a Negro [in Fayette County] registers, the sheriff is quickly informed and he...informs the Negro's landowner or employer. Those who register are soon discharged from their positions and ordered to move from their home. The police arrest them and impose fines...In Haywood County, Tennessee, no Negro has been permitted to vote for 50 years despite the fact that the Negroes own more land and pay more taxes than white residents of the County.

In 1959, Burton Dodson, a 71 year old Black man was arrested in Fayette County for the murder of a White man that had occurred in 1941 (Couto 1993; Springfield 2000). Dodson had left Fayette County after the incident and witnesses disagreed as to what exactly happened (Couto 1993; Springfield 2000). Dodson had periodically returned over the years to visit family, but in 1959 he was arrested while visiting and when his case went to trial, there were no Black jurors called (Couto 1993; Springfield 2000). Dodson, at age 71, was sentenced to twenty years in prison (Couto 1993; Springfield 2000).

In most jurisdictions, jurors are called from voter registration rolls; i.e. in order to serve on a jury, you have to be registered to vote. Thus *de facto* disfranchisement not only kept Black Southerners from being able to choose their representatives, it also precluded Blacks from serving on juries. The conviction of 71 year-old Dodson rallied

Black people in Fayette County to register to vote (Couto 1993; Springfield 2000). Despite the fact that White government officials made registration incredibly difficult, thousands of Black Fayette County residents registered before the next election took place in August of 1959 (Couto 1993; Springfield 2000). But when they turned out to the polls, they were told it was a “Whites only” primary (Couto 1993; Springfield 2000). The Federal Government stepped in and in November filed a lawsuit on behalf of the Black voters against the Fayette County Democratic Party, charging them with violation of the 1957 Civil Rights Act (Couto 1993; Springfield 2000).

The 1957 Civil Rights Act created the United States Civil Rights Commission and also established that

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce or attempt to intimidate, threaten or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose (Civil Rights Act of 1957, Part IV, §1 (C)(13)(b)).

Whites in Fayette and Haywood Counties were furious that the Federal Government had been brought to bear down on the White political establishment (Couto 1993; Springfield 2000). They refused to sell groceries or gasoline to Blacks; some White physicians refused to provide medical care to Blacks (Couto 1993). And in the winter of 1960, White property owners evicted hundreds of Black tenant farmers from their homes (Couto 1993; Springfield 2000).

In response, two Black property owners set up surplus army tents on their farms where literally hundreds of families endured a harsh, hungry and dangerous winter (Couto 1993; Springfield 2000). Having lost their share-cropping livelihoods, these people had no money and no food (Couto 1993; Springfield 2000). One night, members

of the local White Citizens Council and the Ku Klux Klan fired into the tents, injuring several and killing a family pet (Springfield 2000). And the injured had to travel the 65 miles to Memphis to be treated, because the Fayette County hospital would not admit Black patients (Couto 1993; Springfield 2000).<sup>11</sup>

John McFerren, one of the Black men who had led the voting drive in Fayette County, drove to Washington, D.C. in March to ask for help from then Attorney General, Robert Kennedy (Couto 1993; Springfield 2000). He convinced the Federal Government to again intervene on behalf of Blacks in Fayette County, and a temporary injunction was filed against landowners who had evicted their Black tenants (Couto 1993; Springfield 2000). In July 1962, a consent decree was agreed to by the White landowners pledging that they would not “engage in any acts . . . for the purpose of interfering with the right to vote” (*Memphis Commercial Appeal*, July 27, 1962).

#### *Integration of Public Places*

As Black Tennesseans were gaining the right to vote and the right to attend integrated public schools, they were also pressing for the end of Jim Crow discrimination that forbade them from eating at particular restaurants, sitting in particular waiting rooms or enjoying places of public amusement like parks and zoos. Driven in large part by Tennessee college students attending Vanderbilt, Fisk University, American Baptist Theological Seminary and Tennessee A&I (what would later become Tennessee State University), after being trained in non-violent protest by Vanderbilt divinity student

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<sup>11</sup> For a comprehensive account, see “Tent City” by the *Jackson [TN] Sun*, [http://orig.jacksonsun.com/civilrights/sec4\\_tent\\_city.shtml](http://orig.jacksonsun.com/civilrights/sec4_tent_city.shtml)

James Lawson and the Reverend Kelly Smith, Black and White students worked together in the Spring of 1960 to desegregate lunch counters in downtown Nashville (Wynn 1991; Robertson 2010).<sup>12</sup> Similar efforts would take place by high school students in Chattanooga and college students in Knoxville, Memphis and Jackson (Robertson 2010). Through non-violent protest, students would enter downtown restaurants and when they were not served, would sit there all day refusing to leave (Wynn 1991; Lovett 2005; Robertson 2010). They endured slapping, kicking, condiments being poured on their heads, but the men and women had been trained not to respond and to accept arrest if necessary (Wynn 1991; Robertson 2010).

The students in Nashville were arrested on several occasions and one of the men who represented them in court was the Black Tennessean who had represented the defendants in the Columbia Race Riot trial, Alexander Looby (Wynn 1991; Lovett 2005). On April 19, 1960, a bomb was thrown through the window of Looby's home (Wynn 1991; Lovett 2005). Although no one was hurt, the bomb caused damage to other homes and blew out 150 windows at Meharry Medical College across the street (Robertson 2010). No one was ever arrested in association with this crime (Robertson 2010). That afternoon, a crowd of 3,000 Black Nashvillians marched to the Davidson County Courthouse (Wynn 1991; Lovett 2005). When they arrived, Nashville Mayor Ben West met them on the Courthouse steps; when Fisk student Diane Nash asked him "Do you feel it is wrong to discriminate against a person solely on the basis of their race or color?" Mayor West replied yes he did (Robertson 2010, 18; interview with Ben West, Jr.

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<sup>12</sup> Lawson would be expelled from Vanderbilt divinity school for his role in the peaceful protests (Wynn 1991).

December 18, 2009). Within weeks, six lunch counters in downtown Nashville were integrated and by May 10, 1960 Nashville became the first major Southern city to desegregate its public facilities (Wynn 1991; Robertson 2010).

Tennessee would continue to make steps in its effort to peacefully desegregate schools and public places. And in 1964, Black voters from Memphis would elect the first Black state legislator to serve in the Tennessee General Assembly since Representative McElwee from Haywood County left in 1888 (Lovett 2005). Two years later the first African American woman, Dr. Dorothy Brown, would be elected to represent Nashville in the state legislature (Lovett 2005).

In response to the violent reaction of Southern Whites to the persistent, though non-violent, protest of Blacks for recognition of their civil rights, the Federal Government would enact the Civil Rights Act of 1964 which forbade racial discrimination in public places. In 1965, the Federal Government would enact the Voting Rights Act, which gave the Federal Government the power to oversee voter registration in the South. These pieces of legislation in many ways simply restated what had been stated 100 years earlier in the first Civil Rights Amendments of 1871 and 1875. As stated by Justice Harlan in 1896:

The one underlying purpose of congressional legislation has been to enable the black race to take the rank of mere citizens. The difficulty has been to compel recognition of their legal right to take that rank, and to secure the enjoyment of privileges belonging, under the law, to them as a component part of the people for whose welfare and happiness government is ordained...(*Plessy vs. Ferguson* 1896).

The 1960s South was in some locales incredibly violent. In 1963, Civil Rights leader Medgar Evers' home in Jackson Mississippi would be bombed in May and he would be

assassinated outside his home by a Klan member in 1964. Also in 1963, Klan members would bomb the 16<sup>th</sup> street Baptist Church in Birmingham killing four young girls. In 1964, three Civil Rights workers, two White and one Black, would be assassinated in Mississippi, again by Klan members with the assistance of local law enforcement.<sup>13</sup> And yet it would appear that Tennesseans were making real racial progress toward providing the equal protection of law and due process for all. But in many arenas, Blacks were still being discriminated against.

### *The Sanitation Workers' Strike*

In 1967 Memphis, Blacks were still being relegated to balconies in movie theatres and being barred from public pools (Lovett 2005). Black sanitation workers were paid \$1.50 a day, which was 50 cents less than what White sanitation workers were paid (Lovett 2005; Little 2009). White sanitation workers drove the trucks while Black workers would haul the trash over and throw it in the back of the truck to be crushed (Lovett 2005). On a rainy day in February 1967, two Black sanitation workers were crushed to death when their garbage truck malfunctioned (Little 2009).

The all-Black Memphis local 1733 of the American Federation of State, Local and Municipal Employees, (AFSCME), a union affiliated with the AFL-CIO, was composed of 1300 Black Memphis Sanitation workers (Lovett 1995). They had been asking to meet with the Memphis City Council for weeks, to ask for pay equity and better

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<sup>13</sup> These cases were reopened in the 1990s and 2000s and convictions of some participants, now in their 80s, in the assassinations and the church bombing were secured. See <http://www.pbs.org/newshour/media/clarion/index.html> accessed June 3, 2010.

working conditions. The Mayor and the City Council refused to recognize the union and refused to engage in negotiations (Lovett 1995; Little 2009). Two weeks after their coworkers died by being crushed to death, the sanitation workers went on strike.

Reverend James Lawson had been transferred by the Methodist Church to Memphis after he led the successful sit-in movement in Nashville (Lovett 1995). Lawson and other ministers in Memphis including Reverend Billy Kyles endorsed the sanitation workers' strike and after further attempts to negotiate with the Mayor and again with the City Council proved fruitless, the ministers began to organize boycotts and marches. Lawson and Kyles asked Reverend Martin Luther King, Jr. who was in the midst of setting up his "Poor People's Campaign" to come to Memphis and aid the sanitation workers in their efforts to seek recognition (Lovett 1995; Little 2009). The cause of the sanitation workers, who were every city's lowliest laborers, fit into the agenda of the Poor People's campaign, which was to lift all poor people, and especially Blacks, out of poverty toward economic parity with Whites.

On March 18, King came to Memphis and spoke at the Mason Temple (Lovett 1995; Little 2009). On March 28 he returned and led a march through downtown Memphis on behalf of the sanitation workers: this would be the first march led by King where members of the crowd would become violent, specifically breaking the display windows of downtown businesses (Lovett 1995; Little 2009). The march soon turned into a riot: the police were ordered to shut down the march and used billy-clubs, tear gas and mace on the crowd; 16 year old Larry Payne was shot and killed by police, there were dozens of injuries and over 100 people were arrested (Lovett 1995).

That the march had turned into a riot and resulted in the death of a young Black man saddened Lawson, Kyles and King (Lovett 1995). Local White papers and members of the House of Representatives from Tennessee announced on the House floor that King's presence in Memphis is what had incited the violence (Lovett 1995). But King and the Memphis ministers decided that a peaceful march through Memphis in support of the strike was now more necessary than ever- to show that the sanitation workers were men with dignity who deserved better pay and safer working conditions, and that the Black community in Memphis could peacefully protest the policies of the Mayor's office (Lovett 1995; Little 2009).

King would return to Memphis on April 2, 1968 and on April 3 he would give his "I have been to the Mountaintop speech" at Mason Temple. He would remind his crowd that they were God's children; he would remind them that they didn't "have to live as [they] were being forced to live," and he told them:

Now we're going to march again, and we've got to march again, in order to put the issue where it is supposed to be -- and force everybody to see that there are thirteen hundred of God's children here suffering, sometimes going hungry, going through dark and dreary nights wondering how this thing is going to come out. That's the issue. And we've got to say to the nation: We know how it's coming out. For when people get caught up with that which is right and they are willing to sacrifice for it, there is no stopping point short of victory... And then I got into Memphis. And some began to say the threats, or talk about the threats that were out. What would happen to me from some of our sick white brothers? Well, I don't know what will happen now. We've got some difficult days ahead. But it really doesn't matter with me now, because I've been to the mountaintop... Like anybody, I would like to live a long life. Longevity has its place. But I'm not concerned about that now. I just want to do God's will. And He's allowed me to go up to the mountain. And I've looked over. And I've seen the Promised Land. I may not get there with you. But I want you to know tonight, that we, as a people, will get to the promised land!

Despite the fact that FBI agents had been trailing every move King made while he was in Memphis, on April 4, 1968, James Earl Ray shot King while he was standing on the balcony outside of his room at the Lorraine Motel (Lovett 1995). Two weeks later, on April 16, the City Council recognized the sanitation workers union and provided a raise of fifteen cents an hour as well as eligibility for promotions (Lovett 2005).

### **Riots in Chattanooga**

This would not be the end of racially motivated violence in Tennessee. In 1971, Chattanooga would experience three days of rioting where one man was killed and 400 people arrested, sparked by the integration of Chattanooga public schools (*Chattanooga Times Free Press*, July 27, 1980). And Chattanooga would erupt in violence again on July 22, 1980.

The front-page headline of the *Chattanooga Times Free Press* on April 20, 1980 read: “Four Shot on 9<sup>th</sup> Street: KKK Linked; Black Women Wounded as Crosses Burn Nearby.” On the night of Saturday, April 19, 1980, five members of the Ku Klux Klan, after having covered their license plate, went into a Black Chattanooga neighborhood and lit two crosses on a train trestle. They then drove to a busy avenue where Black people were gathered and Marshall Thrash shot into the crowd using bird-shot fired from a 12-gauge shot gun. Four Black women in their 60s were wounded, two were in serious condition. The men were quickly arrested at a local bar. According to the newspaper, “one suspect smiled while being photographed in the back seat of the police car.”

The District Attorney prosecuted these men for committing felony aggravated assault with intent to kill. On Tuesday, July 22, an all-White jury of six men and six women deliberated for five hours and found two of the men “not guilty” and convicted Thrash of assault and battery. Thrash was fined \$250 and sentenced to nine to 20 months in the county work-house (*Chattanooga Times Free Press*, July 22, 1980).

Leader of the local chapter of the NAACP, George Key said “The decision I think was racist in the highest priority” (*Chattanooga Times Free Press*, July 22, 1980, p.1). In the courtroom, the victims of the shooting, one of whom’s leg had been sprayed with bird-shot and was now forced to walk with a cane, were clearly outraged. And the outrage spilled into the streets. Hundreds of Black people began fire-bombing buildings, eight policemen were shot with bird-shot and over the course of four days 108 Black people were arrested. The riots were met with counter-marches by KKK supporters and the police were caught in the cross-fire. The newspaper reported that the “community turbulence...actually started in March when NAACP leader George Key and Klansman William Church held an impromptu meeting under the auspices of bettering race relations in town” (*Chattanooga Times Free Press*, July 23, 1980, p.1). Nothing came of the meeting and a month later, William Church and four friends lit two eight-foot crosses on the 9<sup>th</sup> street rail-road trestles and shot into a crowd of Black Chattanoogaans.

On July 25, Jesse Jackson arrived and spoke at a gathering at a local church about how violence was not the appropriate reaction to the injustice of the court decision (*Chattanooga Times Free Press*, July 25, 1980, p.1). He vowed to ensure that the FBI and the U.S. Civil Rights Commission would investigate the case. He met with the

mayor and police chiefs and convinced the city leadership to remove the armed patrols from the Black neighborhoods and to let the Black community leaders conduct “peace patrols.” The *Chattanooga Times Free Press* reported that that evening “Relative Calm Return[ed] to the Streets.”

On July 26, Bill Wilkinson, a Louisianan and national leader of the Ku Klux Klan, arrived in Chattanooga saying that he and his organization would “picket city hall and take control of the housing projects if police fail to quash riots there” (*Nashville Tennessean*, July 26, 1980, p.1). The Chattanooga Mayor assured Wilkinson that their assistance would not be necessary. The Mayor then met with Jesse Jackson and other Black Chattanooga leaders who petitioned the Mayor to better the living conditions in the Black housing projects and to place more Black policemen on the Chattanooga force (*Nashville Tennessean*, July 26, 1980, p.1).

The next day, July 27, was a busy day for race relations in Tennessee. Three Klan members were arrested in Chattanooga in possession of a home-made bomb, after having thrown dynamite at a police car. Don Black, of Alabama came to Pulaski, Tennessee to announce that he, not Bill Wilkinson, is the national leader of the Ku Klux Klan. And the Justice department announced it would investigate the possibility of charging the three Chattanooga men who had burned the crosses and shot into the crowd with Civil Rights violations, but made no promises to prosecute (*Chattanooga Times Free Press*, July 27, 1980, p.1; *Nashville Tennessean*, July 27, 1980, p.1).

Stories regarding the riot and its aftermath remained on the front page of the Chattanooga newspaper through August 6, 1980. But after that, the demands of the

Black community for better housing and more Black officers are not mentioned and no reference is made to further federal investigation. Although the Federal Government could have conceivably prosecuted the three Chattanooga Klan members under Federal laws which made it illegal to conspire to injure, oppress or intimidate anyone who is lawfully exercising their political or civil rights, i.e. the right to peaceably assemble (United States Code Title 18 §§ 241, 245), the United States Civil Rights Commission Government ultimately decided not to bring charges against the three men (Zeskind 2009).

### **Tennessee Race Relations After 1980**

Over a decade later, the Civil Rights Commission would investigate the burning of eight Black churches in Tennessee between January 1995 and June 1996. Five of these church fires were located in West Tennessee, two of which were started on Martin Luther King Day. Two churches were burned in Middle Tennessee (both outside of Columbia in Maury County), and the other church was located in Knoxville. In a report titled “Burning of African American Churches in Tennessee and Perceptions of Race Relations” the Commission found that at five of the churches, there was evidence that the crimes were racially motivated- from “KKK” being painted on the side-walks to a tip communicated to the Knoxville police by someone claiming that mixing of the races must be stopped and that the Inter-city Community Church would be destroyed. Three men were arrested in association with the Maury County burnings and sentenced to three years in jail and \$20,000 in damages. The other church burnings have never been solved (Tennessee Advisory Committee to the U.S. Commission on Civil Rights 1996).

In Meetings convened by the Tennessee Advisory Committee to the U.S. Commission on Civil Rights in Memphis, Nashville and Knoxville in 1996, Black and White Community leaders met to discuss not only the church burnings but race relations in general and in all three cities came to similar conclusions. In a report titled "Racial Tensions in Tennessee," city leaders stated that racial tension was worse in the state than it had been the decade before. They also felt that very little dialogue took place between Blacks and Whites in an effort to ease racial tensions. They also agreed, in each of these cities that sour economic conditions played a leading role in all inter-racial violence and that work must be done to improve employment and housing opportunities for all Tennesseans.

It was also in 1996, that news stories broke of an annual gathering in Southeastern Tennessee, known as the "Good ol' Boy Roundup" where ATF agents and other law enforcement officials from throughout the South would gather for a weekend of debauchery and racism. The officers entertained themselves with racist skits, such as men in Klan robes sexually assaulting men in Black-face, and signs upon entry which read: "Nigger check point," "Any niggers in that car?," and "17¢ lb." These reports resulted in a Senate Judiciary Committee hearing and a report from the Department of Justice.<sup>14</sup> Senator Fred Thompson found out that two attendees were also in charge of investigating the Tennessee church arson cases and while the officers were not fired, they were removed from the arson investigation.<sup>15</sup>

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<sup>14</sup> <http://www.justice.gov/oig/special/9603/exec.htm> accessed June 4, 2010.

<sup>15</sup> "Burning of African American Churches in Tennessee and Perceptions of Race Relations" Tennessee Advisory Committee to the U.S. Commission on Civil Rights, July 10, 1996, p. 10.

In some places, Tennessee has continued to endure tense race relations in the 2000s. The young men arrested by the FBI in 2008 who planned to assassinate President Obama and go on a racial killing spree were White teenagers from Bells in West Tennessee.<sup>16</sup> Knoxville, Tennessee has recently experienced heightened racial tensions over the rape and murder of a young White couple by a group of five Black individuals in 2007.<sup>17</sup> Black Democrat Representative Ulysses Jones and White Republican Representative Jim Coley, both members of the Tennessee General Assembly from West Tennessee stated to me in 2009 that race relations in Tennessee were in desperate need of improvement.<sup>18</sup>

Tennessee's past is not overshadowed by incidents of racially motivated violence. Black communities have thrived in Tennessee. The majority of Tennesseans are law-abiding egalitarians. Martin Luther King called Nashville's sit in movement an exemplary example of what can be achieved through non-violent protest. But there are violent incidents in Tennessee's past that are only now finding voice and even when given voice, are still not easily talked about. But that doesn't mean they should not be addressed and dealt with as instances of historical injustice.

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<sup>16</sup> "[Judge refuses to dismiss charge in Obama threat](#)", *The Commercial Appeal* March 25, 2009 accessed June 4, 2010.

<sup>17</sup> "[Details of double slaying emerge](#)". *Knoxville News Sentinel*. [http://www.knoxnews.com/kns/local\\_news/article/0,1406,KNS\\_347\\_5277265,00.html](http://www.knoxnews.com/kns/local_news/article/0,1406,KNS_347_5277265,00.html). Accessed June 4, 2010.

<sup>18</sup> Interview with Representative Jim Coley, December 10, 2009; Interview with Representative Ulysses Jones, December 18, 2009.

Memphis City Councilman J.O. Patterson , after the City Council approved of a 15 cent raise for the Black Sanitation workers in 1968, said “We could have avoided all this, including the death of Dr. King” (Lovett 1995, 223). Perhaps it is an exercise in futility to imagine what else could have been avoided if not for the inability of some to recognize the humanity of others. What would America look like today, what tragedies could have been avoided, if Reconstruction policies had not been abandoned or if Jim Crow legislation had never been ratified? The reality of the situation is that these practices were not avoided, rather they were legalized. But persistent violence against Black Americans was never legalized and therefore cannot be excused. While nothing can ever be done to change the past, there may be a place for atonement for past injustices and there is still much to be done to change the future. We will address this in the next and final chapter.

## CONCLUSION

### MOVING FORWARD FROM A LEGACY OF VIOLENCE

Progress, far from consisting in change, depends on retentiveness. When change is absolute there remains no being to improve and no direction is set for possible improvement: and when experience is not retained... infancy is perpetual. Those who cannot remember the past are condemned to repeat it (Santayana 1905, 285).

Progress, according to Santayana, depends upon remembering. Most communities have no trouble remembering the beneficent and brave acts of their ancestors. This is done in order to give thanks and inspire emulation. But communities must also remember unjust and inhumane practices of the past for the purpose of identifying and abandoning oppressive behavior and giving voice to the victims of those practices. By remembering, delineating and pledging not to repeat the unjust acts of the past, and acknowledging the victims, communities take steps toward restorative and prospective justice.

Ralph Ellison (2003, 280) stated in "Blues People," that with regard to race, memory and justice

Americans have been locked in a deadly struggle with time, with history. We've fled the past and trained ourselves to suppress, if not forget troublesome details of the national memory.

Booth (2008, 250) states that

In the American context, race, memory and forgetting are central. Their uneasy relationship inflects the everydayness of our life in common, our identity, and our moral fabric. Its attendant injuries and injustices are also a part of that memory, present and so woven into what we are as a political community that they work among us even if not always at the forefront of our consciousness...The past of

racial injustice is, in a central and normative sense, on our national ledger and that despite the passage of time and the changes that time has brought to this country.

By officially remembering the “troublesome details,” by giving voice to the victims of unjust acts that remain on Tennessee’s ledger, there may still be hope for bettering our life in common. By choosing not to remember, by choosing not to see the links between the past and the present, we only ignore and thereby perpetuate the injuries and injustice.

On the indebted side of the ledger we have the immorality of slavery which, despite the text of the Declaration of Independence pronouncing that all men were created equal, was ultimately supported by the governments of the United States and of Tennessee, the official voices of the people. We then have the hypocrisy of Jim Crow legislation which, despite the intent of the Reconstruction Amendments, explicitly sanctioned and perpetuated the social, political and economic oppression of Blacks. The ledger also contains the inhumanity and brutality of widespread violence committed against Black citizens in the form of lynching, race riots and pogroms. To balance the other side of the ledger will require goodwill, persistence, the attention of public policy makers and must begin with active remembrance.

This project has been a call for active remembrance. It does not aim to embarrass or punish current generations of Tennesseans. When it comes to race relations, Tennessee has had several shining moments of which to be proud such as the history of Southern abolitionist activity, the (short-lived) presence of Black Tennesseans in the state legislature after the Civil War, the creation of Fisk University and the inter-racial collaboration for justice undertaken by the Highlander Folk Center. Race relations between individual Tennesseans were on the whole non-violent, if disjointed and caste-

like. Despite the economic and political disparities between Blacks and Whites, the majority of Tennesseans did not engage in lynching or rioting against one another. Most Tennesseans physically got along with each other most of the time, even in a context of post-Civil war strife and later during the era of institutionalized segregation.

And Tennesseans today continue to work together to address injustice. Located outside of Knoxville, Tennessee, the Highlander Folk Center continues to present workshops addressing Civil and Human Rights, Workers Rights, Immigration Reform and Environmental degradation. In furtherance of its earliest work in the South, the Center remains dedicated to bringing people together, across races, classes, genders and ages for the purpose of building

strong and successful social-change activism and community organizing led by the people who suffer most from the injustices of society. Highlander helps activists to become more effective community educators and organizers, informed about the important issues driving conditions in communities today.<sup>1</sup>

Tennessee is also home to the Tennessee Human Rights Commission, an independent agency authorized by the state for the purpose of “preventing and eradicating discrimination in employment, public accommodations, and housing.” With offices in Nashville, Knoxville, Chattanooga and Memphis, the Commission was created by Governor Clement in 1963 for the purpose of bettering race relations as well as investigating incidents of discrimination in housing and employment.<sup>2</sup> Today, its primary purpose is to

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<sup>1</sup> “About Us: The Highlander Research and Education Center” accessed June 30, 2010.  
<http://www.highlandercenter.org/about.asp>

<sup>2</sup> “Tennessee Human Rights Commission: Annual Report,” accessed June 30, 2010.  
[http://www.state.tn.us/humanrights/publications/2008\\_2009AnnualReport.pdf](http://www.state.tn.us/humanrights/publications/2008_2009AnnualReport.pdf)

identify, prevent and eliminate discrimination in housing, employment and public accommodations through the receipt, investigation, and litigation of allegations of discrimination.<sup>3</sup>

There are also myriad grassroots organizations in Tennessee that work for social and racial justice, such as the Race Relations Center of East Tennessee, the Nashville Coalition for Economic and Racial Justice and the Midsouth Peace and Justice Center in Memphis which all work for the purpose of, among other things, bettering race relations in Tennessee.<sup>4</sup>

But despite the efforts of groups like these, whose work undoubtedly makes Tennessee a better place to live, the legacies of slavery, Jim Crow legislation and crime committed that went unpunished, persist. And these legacies have manifested themselves in manifold forms.

## **Legacies of Injustice**

### *Persistent Disparity*

One of these forms is the persistent economic and educational disparity between White and Black Tennesseans. For decades Tennessee paid Black public school teachers less than White public school teachers, provided fewer days (on average two months less) of elementary and secondary education to Black students, and this trend of discrimination extended to Black school infrastructure as well (Lamon 1977). Blacks continue to lag

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<sup>3</sup> "Tennessee Human Rights Commission: Annual Report," accessed June 30, 2010. [http://www.state.tn.us/humanrights/publications/2008\\_2009AnnualReport.pdf](http://www.state.tn.us/humanrights/publications/2008_2009AnnualReport.pdf)

<sup>4</sup> See the East Tennessee Race Relations Center, accessed June 30, 2010: <http://racerelationscenter.org/>; The Coalition for Economic and Racial Justice, accessed June 30, 2010: <http://www.thenashvillemovement.org/>; and the Midsouth Peace and Justice Center, accessed June 30, 2010: <http://www.midsouthpeace.org/index.html>

behind Whites in terms of the percentage of Tennessee students who graduate from high school, 59.4% vs. 68.2% respectively, and college, 11.4% vs. 21.5% (United States Department of Education 2006). By consciously underfunding Black education in the past and failing to address the issues of failing public education today, the Tennessee legislature made it all the more difficult for Black Tennesseans to rise out of poverty.<sup>5</sup>

Black landowners in Tennessee were excluded by tradition and later by credit lenders, including the Federal government, through the Federal Housing Authority and the U.S. Department of Agriculture, from owning the most valuable pieces of real property in the state (Ikard 1997; Oliver and Shapiro 1997).<sup>6</sup> In so doing, Black ability to accumulate wealth in the form of land or property, which could then be leveraged to finance entrepreneurship or education, was circumscribed, again perpetuating Black poverty (Mandle 1978; McGee and Boone 1979).

The vast majority of Black Tennesseans after the Civil War were relegated to low-wage employment as share-croppers, domestic servants and the bottom-rung positions in the mines, at the wharfs and on trains, further stunting the ability of Black Tennesseans to accumulate wealth (Lamon 1977; Vile and Byrnes 1998). As Oliver and Shapiro (1997, 108) find through statistical research regarding differences between Black

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<sup>5</sup> Tennessee's public schools will hopefully be improving in terms of teacher efficacy and student achievement. In 2010, Tennessee was awarded \$500 million dollars in "Race to the Top" money from the Federal Government for the purpose of education reform. In 2009, Bill and Melinda Gates donated \$90 million dollars to the Memphis City School system to help alleviate the impact of "a child-poverty rate that is among the highest in the nation as well as a history of reforms that have not had lasting impact." See <http://www.gatesfoundation.org/united-states/pages/memphis-city-schools-fact-sheet.aspx> accessed June 24, 2010.

<sup>6</sup> Black farmers ultimately sued the U.S.D.A. for racial discrimination in its allocation of farm loans and assistance: *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999). In 1999, the case was settled out of court with the Federal government agreeing to pay \$50,000 to every Black farmer that could provide "substantial evidence" that they had been discriminated against.

and White educational, occupational and inherited wealth opportunities “unequal background and social conditions result in unequal resources.”

The absolute income gap between Blacks and Whites in Tennessee remains where it did in 1970: Black Tennesseans earn \$0.63 for every dollar White Tennesseans earn (O’Neal 2007). In 2007, Black Tennesseans’ median income was \$33,500 compared to a median income for White families of \$52,800 (O’Neal 2007). In 2000, 14% of White Tennesseans lived below the poverty line; Black Tennesseans, who make up roughly 16% of the state population, made up 35% of the people living below the poverty line in 2000 (U.S. Census Data 2000).

Of course these indices of inequality are not completely unique to Tennessee. To put Tennessee’s figures in national context, similar to Tennessee, in 2000, the median income of Blacks nationwide was 62 % of White median income (Brown et al 2007). Thirty-two percent of Blacks live below the poverty-line nation-wide as compared with roughly 10% of Whites, meaning that more Tennesseans, Black and White, live in poverty compared with the national average (DeNavas-Walt et. al 2004). The total median income for a White family nationwide was \$64,427 in 2007 compared to \$40,143 for Black families, incomes that are roughly \$10,000 higher than the average for Blacks and Whites in Tennessee (U.S. Census Bureau). Similarly, high-school dropout rates for Whites across the country is 7.9% and for Blacks is 12.2%, showing that Tennessee’s drop-out rates are comparatively quite high for both races (Shin 2005). Greene (2002) reports that Tennessee has the fourth worst Black graduation rate in the country and the sixth worst graduation rate overall.

### *Inter-racial Violence*

Tennessee's legacy of inter-racial violence can also be seen in crimes committed in Tennessee on the basis of a victim's race. We have explored the breadth and depth of crimes committed against Black Tennesseans after the Civil War through the Civil Rights movement, but the trends continue to be disturbing. Of the 413 "Racial Bias" Hate Crimes committed in Tennessee between 2007 and 2009, crimes where a fact-finder could reasonably determine that the offenders actions were motivated in whole or in part by the race of the victim, 97 or 25% were committed against Whites and 288 or 69% were committed against Blacks (Tennessee Bureau of Investigation 2009).<sup>7</sup> This compares to Hate Crime statistics nationwide where 18% of "Racial Bias" Hate crimes were committed against Whites and 69% were committed against Blacks during the same time period (Department of Justice 2007).<sup>8</sup>

Some argue that Blacks who commit crimes against Whites, even if the crimes seem to be racially motivated, are rarely charged with Hate Crimes. This came to a head in Tennessee in 2007 when two young White Knoxvilleans, Channon Christian and Chris Newsome, were both car-jacked, raped and brutally murdered by four Black individuals, three men and one woman. Despite assertions by the District Attorney and the Chief of Police that there was absolutely no evidence to substantiate that this crime was motivated by the race of the victims, pundits like Michelle Malkin, a conservative newspaper

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<sup>7</sup> Every jurisdiction in Tennessee is required, per Tennessee Code Annotated 38-10-101, to report Hate Crimes to the Tennessee Bureau of Investigation. This is different than the standard at the Federal level, where reporting Hate Crimes is in practice voluntary, e.g. Mississippi does not report Hate Crimes to the F.B. I. (Fears 2007).

<sup>8</sup> Department of Justice Hate Crime Statistics accessed June 30, 2010:  
[http://www.fbi.gov/ucr/hc2007/table\\_01.htm](http://www.fbi.gov/ucr/hc2007/table_01.htm)

columnist and blogger, country music singer Charlie Daniels and the parents of Chris Newsome have argued that if four White individuals had tortured and brutally murdered a young Black couple, that they would have been charged with a Hate Crime (Witt 2007).<sup>9</sup>

James Edwards, host of the weekly White supremacist radio show, “The Political Cesspool” is a 30 year-old Tennessee resident, who lives outside of Memphis. Edwards, along with other White Supremacists, has been outspoken about the fact that the Christian/Newsome murders should have been labeled Hate Crimes. Appearing with the President of the Knoxville chapter of the NAACP, Ezra Mayes, on CNN’s Paula Zahn NOW in May 2007, Edwards was asked why the murders had become a rallying cry for White Supremacists. He responded, “Had the roles been reversed, had the victims been Black and the murderers White, this would have been the biggest news story in America.” When the question was posed to NAACP representative Mayes, he stated that everyone in Knoxville, including the Law enforcement officials knew the crime was not motivated by race. He said that the White Supremacists who descended upon Knoxville in the aftermath of the murder weren’t even from Tennessee and that these outsiders seemed to be exploiting the situation, to which Edwards replied “The NAACP never believes that brutal acts of violence committed by Blacks against Whites are motivated by racial hatred. The NAACP couldn’t even come up with an equivalent case of Whites against Blacks that could compare to this massacre.”<sup>10</sup>

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<sup>9</sup> The parents of Channon Christian have denied that the murders were motivated by race. See Paula Zahn NOW, accessed July 3, 2010: <http://www.youtube.com/watch?v=OJiQxi00Q4E>

<sup>10</sup> Paula Zahn NOW on CNN with James Edwards and Knoxville NAACP leader Ezra Mayes , May 30, 2007, accessed July 3, 2010: <http://www.youtube.com/watch?v=OJiQxi00Q4E>

Edwards nationally syndicated radio show broadcasts across the country from 6pm to 9pm on Saturday nights from Memphis with guest appearances from David Duke and sponsorships from the Council of Conservative Citizens, *The Occidental Quarterly* and the Dixie Republic, all organizations and publications that tout White supremacy. On his blog, he persistently degrades Black people, Jews, Hispanics and homosexuals.<sup>11</sup> On an April 13, 2007 broadcast of CNN's Paula Zahn NOW Edwards stated, "Crime and violence follow African-Americans wherever they go... And if you think that is racist, then spend some time on the mean streets of south Memphis."<sup>12</sup>

While Edward's statement is undeniably racist and a blanket assertion that unfairly disparages all Black people, FBI crime statistics do paint a complicated picture. Black people constitute the overwhelming majority of victims of violent crimes generally and Hate Crimes specifically (FBI Hate Crime Statistics 2007). But

when overall cross-racial violent crimes are tabulated—including incidents not formally classified as racially motivated hate crimes—Justice Department statistics show that blacks attack whites far more often than whites attack blacks. In 2005, there were more than 645,000 victims of cross-racial violent crimes between blacks and whites in the U.S. In 90 percent of those crimes, black offenders attacked white victims (Witt 2007).

These statistics and all violent crimes are sobering. And they highlight the need for civil, but brutally honest dialogue, not only in Tennessee, but nationwide, that addresses the underlying motivations of violent crime and the responsibility of Blacks and Whites in every community to work together to stem it.

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<sup>11</sup> See <http://www.thepoliticalcesspool.org/jamesedwards/category/blacks/> accessed June 24, 2010.

<sup>12</sup> See <http://www.youtube.com/watch?v=Erjefy-1q5k>

Part one of three where James Edwards participates in Paula Zahn's round-table on race relations.

### *Residential Segregation*

The legacy of the pogroms committed in Tennessee is evidenced in the all-White enclaves created in their wake. Other all-White enclaves also exist, not because of pogroms, but because of unwritten policy that Black people are not allowed to live there. Loewen (2005), through census, newspaper and oral history research, has identified 25 “sun down” communities in Tennessee where Blacks were essentially banned from living, creating communities that were all-White on purpose. These were not places like Erwin, or Lafayette or Ducktown in Polk County, Tennessee where an established Black community was forced to leave at gunpoint. These were places where it was either mandated by city ordinance, as it was in Louisville, Kentucky and “North Chattanooga” in 1915, or simply understood that Black people were not allowed to live; and if Black people tried to live there, they would be violently evicted.<sup>13</sup>

In some of these communities, such as Erwin, Tennessee, citizens continue to deny the truth of what happened to their White ancestors’ Black neighbors. Perhaps this denial is evidence of shame or guilt or fear of reprisal. Perhaps it is understandable that people today do not want to admit that in their communities Black neighbors lost their lives, all of them lost their livelihoods and others were forced to sell real property under duress. But this denial creates a contested and unjust legacy. It isn’t that Black people could live there but decided not to; Black people *weren’t allowed* to live in these communities. By failing to shed light on these stories, communities promote the façade that the lack of Black residents is simply coincidence, when in reality violently enforced Black exodus and exclusion was intentional and systematic.

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<sup>13</sup> “North Chattanooga Is Exclusively White Now” *Chattanooga Daily Times*, November 10, 1915.

And this trend of residential segregation across the country continues today, though typically not enforced by the same violent mechanisms. As Douglas Massey (1994) states, residential segregation is a primary causal factor of Black poverty. Because Blacks remain involuntarily segregated, they are forced to endure life in places where poverty, crime and educational failure are the norm.

Because of the persistence of white prejudice against black neighbors and the continuation of pervasive discrimination in the real estate and banking industries, a series of barriers exist in the path of black social and geographic mobility. The Federal government has not only tolerated this state of affairs but...has intervened actively to sustain it (Massey 1994, 471).

According to recent research, Northern and Midwestern cities remain more segregated than Southern cities, which remain more segregated from Western cities nationwide, and this trend has been in place since the 1920s (Iceland 2000). The Racial Residential Segregation Measurement Project from the University of Michigan, investigates

whether two or more groups tend to live in the same neighborhoods or different neighborhoods. The most commonly used measure of neighborhood segregation is the *index of dissimilarity*. This is a measure of the evenness with which two groups are distributed across the component geographic areas that make up a larger area (emphasis in original),<sup>14</sup>

According to this rubric, Memphis is Tennessee's most segregated city with a dissimilarity index of 72.3, followed closely by Chattanooga (72.2), then Knoxville (66), then Nashville (63) (Farley 2000). Clarksville, the only other city in Tennessee with more than 100,000 people, has a dissimilarity index of 40.<sup>15</sup> Comparatively, in other

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<sup>14</sup> Racial Residential Segregation Measurement Project, accessed July 3, 2010: <http://enceladus.isr.umich.edu/race/seg.html>

<sup>15</sup> Presumably, this is because of the presence of the Fort Campbell military base where families of all races live and work side by side. The counties where the pogroms in Tennessee took place have the

Southern cities, like Atlanta, the index is 86; Charlotte, North Carolina's is 66 and Virginia Beach's index is 48. Midwestern cities have indexes of 88.5 in Chicago and 75.3 in St. Louis. The Northeastern cities have indexes of 82 in Philadelphia, Washington, DC's is 84, and New York City's is 77. The Western cities have dissimilarity indexes of 77 in Los Angeles, Las Vegas is 48.4 and Honolulu is 54.

A contributor to residential segregation is real-estate steering. Galster (1987) found that in Memphis, racial-steering, a practice where real estate agents intentionally steer clients to either Black neighborhoods or White neighborhoods, occurred in roughly 50% of all real-estate transactions sampled. Further racism continues to influence White attitudes toward living next to Black neighbors (Massey 1994). This is supported by Krysan (2006), using Gallup data, who reports that 24% of Whites report that they would not want to live in a neighborhood that was 50% Black, as compared to 7% of Blacks who would not want to live in a neighborhood that was 50% White. These figures indicate that Whites and Blacks need to talk about daily life- about the communities where they live and why some Whites do not want to live in neighborhoods where half of their neighbors would be Black. There are real problems of prejudice and entrenched poverty and crime that deserve the nation's sustained attention and that manifest themselves in residential segregation. These problems deserve to be addressed not only by government officials, but by residents and neighbors so that every neighborhood can be a safe and prosperous place to live.

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following dissimilarity indexes: Rutherford County = 46; Maury County = 66; Humphreys County = 85; Morgan = 88; Polk = 96; Roane = 76; Campbell = 93; Fentress = 98; Macon = 96; Unicoi = 97.

### *Efforts to Address the Disparities*

I believe that many White Tennesseans and White Americans in general, while aware of the cruelty and oppression associated with slavery, are oblivious to the breadth and depth of the oppression experienced by Blacks Americans after the Civil War. Bringing these stories together and bringing some of them to light for the first time in a very long time, may aid Tennesseans in the process of remembering and racially reconciling. Indeed, intentional remembrance may create a springboard for a progressive, inclusive inter-racial dialogue for the purpose of bettering race relations and addressing the continued economic and educational disparities between Blacks and Whites in Tennessee. This dialogue could focus on how best to shape Tennessee's future while being mindful of the documented injustice of the past. And I believe that this can be done in a meaningful way that brings a sense of justice and acceptance and hopefully reconciliation to White and Black Tennesseans.

### **Previous Efforts of the Federal Government to Address Slavery and Jim Crow**

#### *President Clinton's Initiative on Race*

An effort to create this kind of honest dialogue was initiated at the national level in June of 1997, when President Bill Clinton, at a commencement speech in California, announced the creation of a new commission: "One America in the 21<sup>st</sup> Century: The President's Initiative on Race." Clinton's speech introducing the initiative makes clear that he was hoping to inspire Americans to let go of old racial prejudices and to embrace and create strength from ever-increasing and impending diversity. He charged this commission with conducting an "unprecedented conversation about race" and promoting

a “transcendent goal of national unity.” Clinton proclaimed, “Now is the time to learn together, talk together and act together... to lift the burden of race and redeem the promise of America.”<sup>16</sup>

But from the start, the program was viewed cynically. The news media interpreted the speech as a vigorous defense of affirmative action, which had recently come under attack in California (Kuyper 2002). Indeed, no one was appointed to the advisory board who expressed concerns about affirmative action until critics raised the issue (Dionne 1997; Thernstrom 1997; Swain 2002). The community dialogue conducted at town-hall meetings was criticized as being intolerant of those who expressed concerns about the lack of Black married couples or Black-on-White crime; and most problematic, the program was viewed as all talk and no action (Kim 2000). In January 1998, the Monica Lewinsky scandal took center stage and the President’s initiative on race fell off the nation’s radar.

One must wonder what might have changed if these conversations had been taken to heart by the American people, had been truly inclusive of all opinions and had not been moved to the back-burner of the national agenda. I would suggest that many of the most intractable issues facing Americans with regard to race-relations could have been frankly discussed. The initiative established the infrastructure for such conversations to take place, where crime, affirmative action, the legacy of slavery and Jim Crow, the continuing disparities between Black and White educational and economic opportunities and all other issues that continue to divide Black and White Americans could have all

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<sup>16</sup> “Initiative announcement,” <http://clinton4.nara.gov/Initiatives/OneAmerica/announcement.html> accessed June 1, 2010.

been addressed with the purpose of finding solutions. Perhaps White and Black Americans would have become more empathetic toward each others' beliefs, attitudes and concerns after watching their community leaders engage in frank conversation for the purpose of social progress. The fact that the nation missed this opportunity to truly discuss the way our country's history of race relations continues to shape reality today is disappointing, but it also makes the need for such dialogue even more important today.

### *Efforts of the Obama Administration*

In March 2008, then candidate Barack Obama's delivered a speech, "A More Perfect Union," on the realities of race and race prejudice in America, where he lamented the "chasm of misunderstanding that exists between the races."<sup>17</sup> His speech was heralded by most Americans as an honest, heartfelt assessment of racial realities in America. But since that speech, President Obama has been fairly silent on how to better race relations. Despite the "beer summit" initiated by the President following his caustic comments about a White police officer arresting a Black Harvard Professor outside of the Professor's home for disorderly conduct, President Obama has not taken overt steps toward racial reconciliation since his election.<sup>18</sup> Perhaps this is because he is not a White man and believes that any attempt to whole-heartedly address the American past when it comes to race-relations and the disparities that follow in this wake might appear to some as overreaching.

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<sup>17</sup> Barack Obama's Speech on Race, a transcript, accessed July 3, 2010: <http://www.npr.org/templates/story/story.php?storyId=88478467>

<sup>18</sup> "Harvard Professor Gates Arrested at Cambridge Home," *Boston Globe*, July 20, 2009.

Obama's Attorney General Eric Holder has spoken frankly on the topic of race-relations, stating on February 18, 2009 that race

is an issue we have never been at ease with and, given our nation's history, this is in some ways understandable. . . . If we are to make progress in this area, we must feel comfortable enough with one another and tolerant enough of each other to have frank conversations about the racial matters that continue to divide us.<sup>19</sup>

It remains to be seen whether the Executive Branch of government will take steps to initiate frank conversations about racial issues like crime and economic and educational disparities that continue to plague American race relations. And yet, it would appear that the time is ripe for such conversations, given the fact that the complexion of America, its populace and its leadership, is continuing to change and that the solutions to our nation's racial disparities, continue to remain unsolved.

#### *Congressional Efforts*

Other efforts by federal institutions to better race relations, or at least address the discrimination of the past, have taken place in Congress. Since 1989, Democratic Representative John Conyers of Michigan continues to Introduce House Resolution 40, which seeks

To acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States . . . and to establish a commission to examine the institution of slavery, subsequent de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes.

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<sup>19</sup> "Holder says Americans Afraid to talk about Race" accessed July 3, 2010: [http://www.boston.com/news/nation/washington/articles/2009/02/19/holder\\_says\\_americans\\_afraid\\_to\\_talk\\_about\\_race/](http://www.boston.com/news/nation/washington/articles/2009/02/19/holder_says_americans_afraid_to_talk_about_race/)

Senator Sam Brownback of the Republican Party has publicly supported this resolution since 2002, but the resolution has never been able to make it out of committee hearings. Other resolutions have been successfully issued that address slavery and Jim Crow. Since 2005, leaders in both houses of Congress have issued political apologies on behalf of the role the separate chambers played in perpetuating slavery, racial violence and the political oppression of Black Americans.

In June 2005, the United States Senate issued a “Resolution Apologizing for Failure to Enact Anti-Lynching Legislation” (Senate Resolution 39). The Resolution apologized to the victims of lynching and their descendants; it apologized specifically on behalf of the Senate for failing to enact any of the anti-lynching bills (according to one source there were over 200 of them between 1890 and 1950) that were introduced in both chambers of Congress (Reeder 1952). Among these bills were the Dyer Bill, which originated and passed in the House of Representatives (1922), and the Costigan-Wagner Bill (1935) which began in the Senate. Both bills, which would have given power to the federal government to prosecute lynch mob members when states refused to do so, were defeated in the Senate after the filibuster of Southern Senators. The 2005 Resolution also noted that the Senate failed to listen to the Presidents (including William Henry Harrison, Theodore Roosevelt and Harry Truman) who petitioned Congress to enact anti-lynching legislation. The bill was capped by a solemn ceremony on Capitol Hill, where the descendants of lynching victims were invited to participate and speak with Congress members. Ninety-two Senators signed a poster-size statement of regret, which stated “only by coming to terms with [American] history can the United States effectively

champion human rights abroad.”<sup>20</sup> Tennessee’s Lamar Alexander was not among the signatories.

In July 2008, the House of Representatives, through a resolution brought by Tennessee Congressman Steve Cohen of Memphis, issued an apology for the role it played in perpetuating slavery and Jim Crow legislation. Representative Cohen is a White Jewish man who served 24 years in the state legislature. In 2006 he was elected by a majority- Black district of Memphis to serve in the United States House of Representatives. He is one of the two non-Black Congressmen that represent majority Black districts. The resolution he crafted

Acknowledges the fundamental injustice, cruelty, brutality and inhumanity of slavery and Jim Crow; apologizes to African-Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow; and expresses its commitment to rectify the lingering consequences of the misdeeds committed against African-Americans under slavery and Jim Crow and to stop the occurrence of human rights violations in the future (House Resolution 194, 2008).

Like the Senate’s apology for failing to enact anti-lynching legislation, the House of Representatives apology was a non-binding resolution which passed by a voice-vote, i.e. the votes of the individual members were not recorded and nothing in the resolution binds any member to a future course of action.

In 2008 both houses of Congress approved the “Emmett Till Unsolved Civil Rights Crime Act” appropriating \$10 million dollars to pursue 95 cold cases identified by the FBI as warranting further investigation. The introduction to the bill states

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<sup>20</sup> 92 Senators (three sponsors and 89 cosponsors) signed on to the statement of regret. The eight senators that refused to support the bill were: Lamar Alexander (R-Tennessee), Thad Cochran (R-Mississippi), John Cornyn (R-Texas), Michael Enzi (R-Wyoming), Judd Gregg (R-New Hampshire), Trent Lott (R-Mississippi), John Sununu (R-New Hampshire), and Craig Thomas (R-Wyoming).

It is the sense of Congress that all authorities with jurisdiction, including the Federal Bureau of Investigation and other entities within the Department of Justice, should: (1) expeditiously investigate unsolved civil rights murders, those that occurred before 1970, due to the amount of time that has passed since the murders and the age of potential witnesses; and (2) provide all the resources necessary to ensure timely and thorough investigations in the cases involved.

All but two members of the House of Representatives voted in favor of the bill with the Senate issuing a statement of unanimous consent. The Department of Justice in February 2007 announced that it would investigate these cold cases, but to date “not a single case has been prosecuted” using this legislation (Silverman 2008, 12A, Groos 2009).<sup>21</sup> In fact, the FBI reported in February 2010, that it was closing, out of the 95 cases, all but five due to either lack of evidence or death of the assailants (Johnson 2010).

The final Congressional resolution came in June 2009 when the Senate issued an apology, with 49 sponsors and co-sponsors, for slavery and Jim Crow, that stated, in part,

It is important for the people of the United States, who legally recognized slavery through the Constitution and the laws of the United States, to make a formal apology for slavery and for its successor, Jim Crow, so they can move forward and seek reconciliation, justice, and harmony for all people of the United States.<sup>22</sup>

Some commentators view these resolutions as encouraging, even if overdue and non-binding (DeWolf 2009). The bills acknowledge the horrors the United States government helped perpetuate. But many feel the steps to their passage were not

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<sup>21</sup> There have been modern investigations of Civil Rights era murders that have recently been prosecuted however. In 1994, Byron De la Beckwith was convicted in state court for murdering Mississippi Civil Rights leader Medgar Evers (Ifill 2010). In 2001, federal prosecutor Douglas Jones reopened the 1963 Birmingham 16th Street Baptist Church bombing case, and obtained a conviction against Klansman Bobby Cherry who was sentenced to life in prison (Groos 2009). In 2005 Edgar Killen was convicted on three counts of manslaughter for the deaths of three missing Freedom Summer workers, Michael Goodman, James Chaney and James Schwerner (Ifill 2010). In 2007, James Seale, age 72 was arrested and prosecuted in Federal court for the torture and murder of two young Black men in Mississippi and received two life-sentences (Greenberg 2010).

<sup>22</sup> It is interesting that only half of the Senate signed on as sponsor/cosponsor of this bill whereas ultimately 92 senators signed on to the apology for not passing anti-lynching legislation.

inclusive, are not the reflection of a dialogical process and are simply too little too late (Lester 2005).

Swain (2005) argued that an appropriate resolution addressing the injustice of slavery would be a joint resolution, passed by both Chambers of Congress and signed into law by the President of the United States. Further, that President, given the “Southern Strategy” embraced by Richard Nixon, George W. Bush and Ronald Reagan, and numerous Southern Congressional Candidates, of prodding the most racist elements of the White South to associate the Democratic Party with Black interests, needed to be a White Republican (Swain 2005). A resolution offered by White Republicans would appear less an act of appeasement to Black constituents, and more an act of contrition on the part of a party that lost its association with Lincoln decades ago (Swain 2005). An official apology, issued by both the Legislative and Executive Branches in the form of a joint resolution, where the President would sign the legislation in front of a nation of witnesses, would provide an opportunity for the country to come together and collectively and symbolically turn the page. An official apology, such as those offered by the governments of Germany to the victims of the Holocaust, by Great Britain to the Irish, by the Australians to the Aborigines and by the American government to the Japanese interned during World War II, would signify “a collective response to a past collective injustice” (Swain 2005).<sup>23</sup>

At present the only “Act of Congress,” legislation passed by both Houses of Congress and signed into law by the President, with reference to Black-White race

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<sup>23</sup> A Chronological List of Official Political Apologies, the University of Pennsylvania, accessed July 3, 2010: <http://www.upenn.edu/pnc/politicalapologies.html>

relations is the “Emmett Till Unsolved Civil Rights Crime Act” of 2008, and again, the FBI announced in 2010 that that program had come to an end.

### **State and Local Action Addressing Jim Crow Era Violence**

Several states have attempted to address their own local histories of violence and oppression through investigations of particular incidents and through broad resolutions apologizing for slavery and Jim Crow.

State legislators in Florida and Oklahoma have undertaken investigations of Race Riots and pogroms that took place in their states in the early 1920s. Both states, through officially authorizing these investigations, have taken positive action to atone for horrible displays of violence in their collective pasts. But ultimately, the outcomes of these investigations have led to substantively different results.

#### *Rosewood, Florida*

In 1992, Historians from Florida State University, Florida A&M University and the University of Florida were commissioned by the Florida state legislature to investigate what has become known as the Rosewood Massacre. The Commission delivered a 100-page report (with 400 pages of attached documentation) entitled, “The Documented History of the Incident which Occurred at Rosewood, Florida in January 1923,” to the Florida Board of Regents and the report eventually became part of Florida’s legislative record.

The Commission used period documentation (newspaper articles, autopsy reports) and interviewed both Black and White survivors of the incident. According to the report,

on January of 1923, eight people were killed and the majority-Black community of Rosewood, Florida, population 638, was burned to the ground after Black town leaders attempted to rally Blacks to vote for a Republican Gubernatorial candidate. Established in 1847, Rosewood was a majority Black voting district by 1920 and home to several Black churches, a Black Masonic lodge, a Black schoolhouse, general store, undertaker, canery, livery and approximately twenty homesteads owned by Black citizens. But by February 1923, nothing remained of Rosewood. According to the Commission, in the week following the massacre a grand jury was charged with the responsibility to

see that the "guilty parties are brought to justice." The Judge declared that mob violence had brought disgrace upon Levy County and the entire state. Examination of witnesses was begun the next morning, and a grand jury composed of farmers and merchants was selected... On February the sixteenth, the grand jury's foreman...reported that the jurors regretted being unable to find evidence on which to base any indictments...(The Rosewood Report 1993).<sup>24</sup>

According to the Commission's findings, Black people were terrorized and murdered, a thriving community destroyed and no one was ever made to answer for the violence.

In 1993, as a result of the efforts of Florida residents as well as the Rosewood Commission, Democratic Florida governor Lawton Chiles signed the "Rosewood Compensation Bill" on December 22. The bill admitted that Florida government authorities had failed to secure justice for the residents of Rosewood. The bill mandated that the Florida Department of Law Enforcement interview the available witnesses to determine if any criminal proceedings may still be pursued; it was determined that all known offenders were deceased (Jones 1999). The bill also appropriated \$2 million for the purpose of compensating families able to demonstrate loss of property following the

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<sup>24</sup> Accessed June 30, 2010, the most thorough analysis of the massacre, the aftermath and the work of the commission in 1993 can be found at <http://www.displaysforschools.com/rosewoodrp.html>

pogrom. The bill awarded compensation for survivors who suffered emotional trauma resulting from the pogrom and ultimately,

Compensation for property loss and/or emotional trauma was provided to 172 persons ranging from \$220 to \$450,000. The total amount of compensation was \$1.85 million. Finally, the bill established a state university scholarship fund for the families and descendants of the Rosewood massacre (Jones 1999).<sup>25</sup>

### *Tulsa, Oklahoma*

Tulsa in 1921, following an accusation that a young Black man had assaulted a White woman, erupted in a race riot. Tulsa's "Black Wall Street," a business district where Blacks who had become wealthy from the oil boom in Oklahoma maintained their businesses, was the first and last place, besides Pearl Harbor, to be aurally bombed in the United States. Whites commandeered aircraft and munitions from a local National Guard base and dropped bombs on the community (Willows 1993). "Three hundred black men and women were killed, over 800 hospitalized and 10,000 left homeless" (Willows 1993, 6).

The "1921 Tulsa Race Riot Commission" originated in 1997 with [Oklahoma] House Joint Resolution No. 1035 and became law three years later with Republican Governor Frank Keating's signature on April 6, 2000 (Goble 2001).<sup>26</sup> Charged with

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<sup>25</sup> Address to the Black Reparations and Self-Determination Conference, Daryl L. Jones, June 11, 1999- accessed December 10, 2008: <http://www.directblackaction.com/roserep.htm>

<sup>26</sup> Report of the 1921 Tulsa Race Riot Commission, accessed December 10, 2008: <http://www.tulsareparations.org/FinalReport.htm>

investigating the incident and reporting back to the legislature, the Commission found that in addition to violence perpetrated by individual Whites,

The Oklahoma National Guard also joined the fray on behalf of the whites, carrying out mass arrests of nearly every black resident and marching them to detention centers. Looters followed in their wake, stealing from empty houses and then burning them... a total of 1256 homes were destroyed along with virtually every other structure, including churches businesses, schools, even the hospital and the library.<sup>27</sup>

No one was ever arrested or prosecuted for these atrocities (Willows 1993). Despite the Commission's findings, and unlike the state of Florida, Oklahoma State government failed to officially acknowledge any wrongdoing on the part of the state.

As a result, in 2003, lawsuits were filed on behalf of 150 claimants and their descendants, several of whom were children who endured the riot (Savage 2005). In March 2004, Federal Judge Ellison held that while there might be a moral claim against the government, legally the statute of limitations for any damages against the government had lapsed (Savage 2005). The lawyers for the claimants, who included Harvard Professor Charles Ogletree and litigator Johnny Cochran, appealed the case to the United States Supreme Court, (*Alexander et. al vs. State of Oklahoma* (2005)) but the court refused to hear their appeal.

The fact that this case, where there were living victims of the violence, was unable to succeed in state or Federal court is indicative of most attempts to secure remedies through litigation for slavery or past violence that took place at the hands of the state. Again, while there may be a moral obligation on behalf of the state to atone for the

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<sup>27</sup> Report of the 1921 Tulsa Race Riot Commission, accessed December 10, 2008: <http://www.tulsareparations.org/FinalReport.htm>

past injustice, the United States courts at every level have yet to find legal obligation. In most cases the courts find the parties bringing the suit have no standing, i.e. were not the people originally harmed. In addition, the doctrine of sovereign immunity typically applies, meaning that government institutions cannot be sued for damages unless they consent to the suit. In practice when consent is given, immunity serves as a defense to liability, not immunity from trial. Further, in most cases seeking damages from the government for slavery or Jim Crow, the fact that the practices were legal when enacted bars any relief. In Oklahoma's case where the government was accused of condoning illegal violence, the court found that the statute of limitations had run on civil liability claims and thus there was no duty to provide remedies to the Plaintiffs.

*Franklin County, Mississippi*

However, different outcomes can be found when the government is accused of committing or facilitating a murder. In the United States, there is no statute of limitations on murder. If a perpetrator can be found, even decades after the fact, that person can be prosecuted, convicted and dealt with by the state through imprisonment or death. Most recently, in Franklin County, Mississippi, 72 year old James Earl Seale was convicted in 2007 for the 1964 kidnapping, torture and murder of two 19 year-old Black men. During the trial it was brought to light that the Sherriff and his deputies aided in the kidnapping and misled the victims' family members and the Federal Bureau of Investigation as to the location of the bodies and the identities of the perpetrators.

After the conviction of Seale was secured, family members filed a Civil Law Suit against the county alleging that the Sherriff and his deputies in 1964 aided and covered

up the murders. The United States District Court found that because there is no statute of limitations for murder, there was no statute of limitations bar to the Civil suit against the county government, and with that ruling, the County settled the case before trial. While this case cannot serve as binding precedent in Tennessee cases (or anywhere other than Mississippi), the decision by a Federal judge that a case such as this one could stand, so many years later, may open the door to other cases filed in Federal Court against local officials who aided and abetted the lynching of Black Tennesseans decades ago.

### **State Resolutions Addressing Slavery and Jim Crow**

In addition to efforts by states to create commissions for the purpose of addressing historical injustice, several states have also taken up the mantle of issuing apologies or “statements of profound regret” for slavery and Jim Crow legislation. These have been passed by the legislative assemblies of five former Confederate states between 2007 and 2009 in Arkansas, Virginia, North Carolina, Alabama and Florida (AR Interim Resolution 2007-7; VA House Joint Resolution 728; NC Senate Joint Resolution 1557; AL House Joint Resolution 321; FL Senate Joint Resolution 2930).<sup>28</sup>

#### *Tennessee House Resolution 0007*

A similar effort was initiated in Tennessee. Brenda Gilmore, a 58 year-old Black Democrat representing Nashville, says she offered House Resolution 0007, expressing profound regret for slavery on behalf of the Tennessee legislature, for several reasons.<sup>29</sup>

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<sup>28</sup> Maryland (2007), New Jersey (2008), and Connecticut (2009) have also passed apologies for the role their state governments’ played in perpetuating slavery.

<sup>29</sup> I interviewed Brenda Gilmore on November 18, 2009 in her office in Tennessee’s Legislative Plaza. All other interviews of Tennessee State and Local Government committee members took place in their respective legislative offices unless otherwise noted. Gilmore’s resolution also addressed the state’s

She was optimistic about Obama's campaign and election, especially the number of young Tennesseans and White Tennesseans who supported his candidacy. She saw this support as a sign that race relations were improving in Tennessee. But she was also realistic that race relations in Tennessee still needed work, referencing the racially-charged campaign ads against Harold Ford, Jr. sponsored by Tennessee's Republican party in 2006 and the racist anti-Obama jokes coming from Republican Tennessee legislators' offices, jokes that made national newspaper headlines in 2008 (Johnson 2006; Underwood 2009). She thought her resolution might offer the Tennessee legislature and the people of Tennessee an opportunity to show the rest of the country that Tennessee was not a racist state, but a state striving for progress with regard to race relations.

But Gilmore ultimately withdrew her resolution. After a contentious hearing before the "State and Local Government" Committee, where Gilmore was chastised for speaking to local media, Gilmore recognized that the resolution did not have the votes needed to make it out of committee hearings.<sup>30</sup> She said that if she were to present the resolution again, she would go about it differently: she would spend more time building a coalition of supporters amongst her fellow legislators and trying to convince White legislators that a statement of regret for slavery and Jim Crow would bring healing not only to Black Tennesseans but to White Tennesseans as well.

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history of Jim Crow segregation. However, in the committee hearings and the personal interviews, Jim Crow was rarely referenced. Therefore, the following discussion will focus almost exclusively on the expression of regret for slavery.

<sup>30</sup> One can watch the hearing on-line, accessed December 1, 2009, at:

[http://tnga.granicus.com/MediaPlayer.php?view\\_id=78&clip\\_id=1008&meta\\_id=10612](http://tnga.granicus.com/MediaPlayer.php?view_id=78&clip_id=1008&meta_id=10612)

*State and Local Government Committee Hearing*

Gilmore believes that talking about the wrongs of the past can begin a process of rebuilding trust. She stated at the hearing, “a good, honest discussion about race can promote racial healing” between Black and White Tennesseans. But throughout the hearing, vocal opposition overwhelmed statements of support.

Representative Carr of Middle Tennessee expressed concern that the resolution would perpetuate sentiments of victimhood among African Americans and calls for restitution. Representative Coley from West Tennessee stated that he too was deeply concerned with racial reconciliation, but that revisiting slavery, and admonishing Tennesseans today for the sins of their forebears would be retroactive. Representative Watson of East Tennessee said it was time that Tennessee “move on” and “put this [discussion of slavery] behind us.” Representative Swafford of Middle Tennessee stated that “talk about slavery...doesn’t promote racial healing, it creates division.”

Gilmore and the Black members of the State and Local government committee were taken aback by the resistance her resolution engendered. Representative Jones of Memphis stated in the hearing that members were “putting their heads in the sand” by insisting on expressing regret for the enslavement of other races. Representative Miller also from Memphis stated that he was “surprised and shocked” at the opposition. “It’s amazing and somewhat embarrassing that compromise can’t be reached on a simple resolution.” Miller and Gilmore didn’t think a resolution like this, that made no overtures toward reparations, would encounter active opposition or antagonism. In Gilmore’s eyes, a formal expression of regret was a low-cost solution to an age-old problem: how to

start a discussion of the legacy of slavery and Jim Crow segregation in Tennessee. She believed this resolution would constructively address the fact that racism in the past has impacted race relations in the present; that racism affects all Tennesseans, Black and White, and that government has a role to play in addressing the persistence of racism.

Representative Moore from Middle Tennessee had the last word at the hearing, stating that he would support the resolution as a statement of regret because while we should never forget the dark moments in Tennessee history, we can try to heal. “I cannot apologize for anything that my ancestors may have done, but I can regret the things that my ancestors may have done...separating the two [sentiments] is a very important issue.”

#### *State and Local Government Committee Interviews*

I was able to interview ten of the seventeen members of the State and Local government committee.<sup>31</sup> Of the ten members, all were men; seven were Republicans and three were Democrats.<sup>32</sup> Two of the Democrats were Black and from West Tennessee, one was White and from Middle Tennessee. The Republicans were White:

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<sup>31</sup> I began the process of soliciting interviews by sending letters and e-mail of inquiry to the legislators' offices in Nashville. After receiving one response, I began calling their offices. This resulted in three interviews. I then went door-to-door in the legislative buildings which resulted in six additional interviews. I told the members that, if they preferred, they could remain anonymous but that they would be identified by political party and/or region of the state (West, Middle or East) that they represented. Of the seventeen members, one is no longer in office; one was on medical-leave; three members told me that they were not interested in talking about this subject; two other members said that they didn't have time at present and did not, at a later date, return my calls.

<sup>32</sup> The demographic and partisan breakdown of the entire committee is as follows: sixteen men, one woman; three Blacks, fourteen Whites; four from West Tennessee, Six from Middle Tennessee and Seven from East Tennessee; seven Democrats, ten Republicans.

two were from West Tennessee, one was from Middle Tennessee and four were from East Tennessee.<sup>33</sup>

Of the members I interviewed, the three Democrats supported the resolution where the Republicans opposed it for different reasons. Despite the fact that several members said this resolution had nothing to do with partisanship, opposition and support among those interviewed fell along party lines. Presumably this is because constituents represented by Republicans and Democrats would differ in their support of such a resolution and their understandings of what such resolution was designed to do. And of course the political incentives to support or oppose the resolution are different for Democratic Representatives whose constituents are Black or liberal than for Republicans whose constituencies are majority White or conservative. Most of the representatives requested anonymity and are hereafter identified by political party and the region of the state they represent: West, Middle or East. Others wanted to speak on the record and will be identified by party, region of the state and name.

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<sup>33</sup> Anecdotally I would expect the opinions of the White members to differ depending upon party affiliation and the region of the state they represent, with Democrats in support and Republicans opposed. During the committee hearing, the Democrats who spoke indicated support. West Tennessee has the highest concentration of Black people of the three regions, with Middle Tennessee having the next highest and East Tennessee having the lowest. I would expect the salience of race relations to be greatest among Representatives from West Tennessee and the least amongst the East Tennesseans. But this is counter-balanced by whether the Representatives hail from an urban or rural setting: presumably because 80% of Blacks living in Tennessee live in the five largest cities (Memphis, Jackson, Nashville, Chattanooga and Knoxville), race relations would be more salient in urban settings (United States Census Data 2000). Lastly, the White Representatives from West Tennessee both live in Memphis suburbs, both communities being approximately 90% White per the 2000 census; but these men had markedly different opinions as to the salience of racial reconciliation between Black and White Tennesseans. This difference in opinion cannot be attributed to race, party or region and seems to be a reflection of occupation, a variable not considered for the other members per se. The Representative who saw racial reconciliation as being imperative is a school teacher; the other representative is a retired law enforcement officer.

*Those in Favor*

Representative Larry Miller, a fifty-six year old Black man from Memphis, supported Gilmore's resolution because he believes that adults should be able to rationally talk about contentious issues and that her resolution was a rational attempt to address a dark era in Tennessee history, one not often discussed in the Tennessee legislature. He said ignoring touchy subjects like slavery does not make them go away; it only passes the burden of discussion on to future generations.

He believes government has a role to play in facilitating difficult conversations and encouraging positive, beneficial relationships and better communication between White and Black Tennesseans. Miller argued it was Government intervention that ended slavery, Jim Crow segregation, and afforded Black Tennesseans the right to vote. Without government, Tennessee would potentially be less tolerant, educated and understanding. Government, said Miller, is on the frontline of alleviating poverty, fighting crime and improving public education and therefore Government has a role to play regarding racial reconciliation.

But true reconciliation, according to Miller, will take Blacks and Whites making the effort to hear each other and understand each other and this will take leadership. He is hopeful that Black and White leaders will take the initiative to work together on resolutions like Gilmore's, "simple resolutions" that should be easy for Blacks and Whites to agree on. "No one is asking anyone to take responsibility" for slavery or Jim Crow in her resolution. The resolution "simply asks that we as legislators today express regret for the role our government played" in supporting slavery and Jim Crow. Miller was

surprised at the opposition to the resolution and is hopeful that legislation will pass that will promote greater understanding of how the policies of the past affect present realities, economic and civic, for all Tennesseans.

Representative Ulysses Jones of Memphis, a 59 year old Black firefighter, supported Gilmore's resolution because he believes Gilmore's resolution would have helped all Tennesseans understand the struggles of slavery and Jim Crow and "how those struggles still matter today." He has "experienced first-hand the effects of prejudice in Tennessee." He was hired by the Memphis fire department in the 1970s because of a Federal consent decree mandating the Memphis fire department hire Black firemen. He "still sees discrimination in employment, housing and education in Memphis." Representative Jones believes that race relations in Tennessee have a lot of room for improvement. He said the Black community in Tennessee "thinks that parts of Tennessee are more racist than Mississippi, and you know that's saying a lot."

Representative Jones isn't sure if talking about slavery or Jim Crow is helpful at this point because in his experience, "people's minds are already made up." Some people, he believes "simply don't care about improving race relations" or addressing the disparities that exist between Black and White Tennesseans. So he felt talking about slavery or Jim Crow "when that is the mind-set you're dealing with" probably won't lead to changing hearts or minds.

The belief that an acknowledgment of slavery is the same thing as an admission of guilt plagues efforts to issue resolutions addressing slavery and its aftermath. But arguments that the resolution would lead to an admission of guilt or reparations are

unfounded according to Jones. The resolution “makes no reference to reparations, that was not the resolution’s intent and that argument is simply an excuse to block the resolution.” But Jones still believes Tennessee has an opportunity to pass Gilmore’s resolution. This could only happen if Tennessee’s Legislative leadership was “willing to take a stand and set an example for their constituents.” He said that too often Legislators throw up their hands and say “I’m expressing the views of my constituents when really they need to take a stand for what is the right thing to do.” For Jones, passing this resolution would express to the people of Tennessee and the nation “that Tennessee is willing to be progressive when it comes to race relations and take ownership of its past” in order to create a more inclusive future. And he believes this is more important now than ever. He sees Tennessee sliding backward with regard to race relations and wants to do what he can to move race relations forward; he just isn’t sure if progress will come with his generation. He believes it may take a new generation of leadership to sincerely move past the old wounds of segregation and take ownership of Tennessee’s past in order to improve the present.

A Democrat from a suburb of Nashville, presumably with both Black and White constituents, supported the resolution because he believed it was “the right thing to do.” The Tennessee legislature crafted slavery and Jim Crow statutes in the first place and therefore the legislature, the legatees of those “forbearers,” “could address that legislation today and express their regret for its previous actions.” He saw the legislation as “a win-win scenario.” Tennessee might make progress on race relations by passing the resolution without having to apologize or admit any wrong-doing per se. The resolution wouldn’t cost the tax-payers anything but had the potential to send a signal that

Tennessee's leadership was sensitive to the legacy of slavery and Jim Crow and how these institutions have affected Tennessee's Black population. He believed the Tennessee legislature could express regret "without opening the barn-door to reparations."

### *Those Opposed*

Republican Representative Jim Coley, a fifty-nine year old White man from Bartlett, Tennessee, a suburb of Memphis, stated in his interview that "racial reconciliation is one of the most important issues that Tennesseans and Southerners have to deal with." Coley spends "a lot of political capital trying to convince others that racial reconciliation is important." But for Coley, framing is key: discussions of slavery and Jim Crow legislation cannot be framed as "blame-games." He understands the desire for a "post-civil rights era" acknowledgment of the pain of slavery and Jim Crow, but he believes the acknowledgement should be coupled with a statement of forgiveness. "It can't always be one party apologizing and hoping the other party will forgive, I want Tennesseans to look at Black/White issues in a way that focuses on how we can help each other, develop trust and build friendships...I have no doubt that slavery and Jim Crow have had real effects on Black health statistics, economic and educational opportunities, but I don't think Gilmore's resolution really addressed these issues."<sup>34</sup>

Another younger Republican from a large town in East Tennessee believes that "talking about race and race relations is important, but it should be done in schools and universities, not on the state-house floor." According to this Representative, "History is

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<sup>34</sup> I interviewed Representative Coley by phone December 3, 2009.

important, but one has to live in the present.” He saw Gilmore’s resolution as an attempt to “politicize race, and politicizing race is wrong.”

He was “inundated by letters from constituents opposing the resolution.” “People were upset that the committee was even considering this legislation; they felt it was a waste of time and resources.” He believes that if the resolution came to a vote on the floor of the House in the 2010 session that “it might pass, if for no other reason than people just want to get it out of the way.”

He believes race relations in his district are positive overall and as time passes, the country will continue to move forward with regard to race relations, e.g. “just look at the election of Obama” (but one must remember that Obama only won 8 out of 95 counties in Tennessee, where John Kerry in 2004 had won 18). He said the best way to help race relations today is to “make sure Tennessee provides an A+ education to all of its students- a quality education is the cure for most social ills. I hope President Obama makes a consistent effort to talk to inner-city communities about prioritizing education. If all Tennesseans did that, race relations would definitely improve.”

Another Republican representative from rural East Tennessee said that while he understood Representative Gilmore’s point of view, he didn’t support the resolution because he found the “language to be inflammatory and [was] offended by the press conference.”<sup>35</sup> He believes it would be “negative to reestablish Tennessee’s history” of slavery and Jim Crow. The Tennessee legislature “has made lots of effort to improve the lives of minorities and Gilmore’s resolution was simply too divisive. Further, reparations

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<sup>35</sup> Committee Hearing testimony referencing the press conference, accessed December 1, 2009 can be seen at: <http://www.wsmv.com/video/19119214/index.html>

in the present economy would be devastating to the State treasury.” “Tennessee does need to work on racial reconciliation, but discussion today would be negative and counterproductive given the current economic atmosphere. Good citizens should care about the welfare of other citizens, but apologies aren’t going to be helpful at this point.”

This Representative stated that State government, not local government, will have to take the lead on racial reconciliation and dealing with racism. “Localities are too varied in their responses to racism.” He stated that some communities have made great strides where others still have real problems, even in rural East Tennessee where the Black population is still very small. For example, he referenced a community which continued to fly the rebel flag at high school basketball games in 2007. This same high school, where less than 10% of the student population is Black, banned wearing rebel flags on clothing after racist graffiti was spray-painted on school property, death threats were made against Black students and fights broke out after racial epithets were shouted at basket-ball games and in gym class.<sup>36</sup> “Improving race relations will have to come from state leadership.” Because his district’s minority population (3% Black, 1.4% Hispanic) “is so miniscule, it’s hard to say what the state of race relations are there.”

Most of the constituents that he talked to were against the resolution and 100% of the emails he received were in opposition. While “state government should take an active role in maximizing opportunity for all,” he found Gilmore’s resolution too divisive and would be more amenable to a resolution that called for a modern investigation into the lasting effects of slavery than a statement of profound regret.

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<sup>36</sup> The ban on rebel flag clothing at this high-school was legally challenged all the way to the United States Supreme Court, which upheld the ban and denied review in *Barr et. al. v. Lafon et. al* (2007).

Another Republican from rural East Tennessee said that race relations in his district (0.14% Black, 2.4% Hispanic) “are a non-issue.” “The sooner we get rid of differentiating ourselves and [start] seeing ourselves as Americans, the better.” He thought Gilmore’s resolution was “political grand-standing.” Talking about race “just drives a wedge between us and Government does not have a role to play in bettering race relations; Government needs to stay out of it.”

Joe Carr, a Republican from Middle Tennessee, is the parent of an adopted bi-racial child and stated “I will not shy away from the topic of race or race-relations.” He did not support Gilmore’s resolution because it simply “salted old wounds,” wounds he admitted are still felt by older Tennesseans. “How does a resolution help people forgive and forget? Don’t we as a society eventually have to forgive and forget?”

Carr states resolutions like these are “tough for White people. They feel beat up over the race issue.” He also thinks the resolution “perpetuates the notion of victimhood and I don’t want my son to believe that because he’s bi-racial, he’s a victim.” “I also get the feeling that it’s a very small minority that is calling for an apology, and I’m afraid that it won’t stop at an apology, but will end in a call for reparations.”

Carr also highlights what turned out to be one of the most divisive issues of the resolution: where Gilmore repeatedly stated that the resolution did not ask for reparations or an apology, only a statement of regret, the text of the resolution stated

Be it resolved...that this body expresses our deepest sympathies and *solemn apology* for the official acts that sanctioned and perpetuated the denial of basic human rights (emphasis added).

Carr stated, “Someone had to bring this to her attention that the word apology was at the end of the resolution. It made people wonder what her intentions truly were.” And this proved to be a sticking point for several legislators.

Specifically, one Republican legislator from a suburb of one of Tennessee’s largest metropolitan areas said that Gilmore had “an agenda” and “we caught her in a lie. She said the resolution didn’t contain an apology, but it did. You have to know what’s in your own bill.”

He believes that Gilmore’s resolution was “sorry,” “silly,” and “unnecessary” and was only offered “to stir old wounds, particularly about slavery.” He then read an antebellum statute aloud: “Tennessee law required that masters provide their slaves with adequate shelter, food and clothing...the Tennessee legislature made sure that slaves were taken care of.” He also said “75% of Tennesseans didn’t own slaves, I bet you didn’t know that” and that “Slavery wasn’t Blacks only- the Irish, the Poles, the Jews, the Asians also suffered from slavery in America.” Further, “Slavery still exists today and you don’t see these people speaking out against that. So it seems to me that these efforts were made to dredge up old wounds and cause problems.”

My final interview was with another Republican from a larger town in East Tennessee, where the population is 36% Black. He said that he would bet the Republicans in other Southern states voted for resolutions expressing regret for slavery “because they wanted to get the issue over with and behind them.” He believes that mainstream media and academia portray the Republican Party as the bastion of racists

and therefore voting for a resolution expressing regret, even though he refused to do so, is an opportunity for Republicans to counter that image.

He heard from constituents in support of the resolution, but he said most constituents were opposed. One Black constituent called him saying that members of the Black community wanted the Representative to support the resolution, that it would help the Black community put slavery in the past. “But most of my constituents were afraid it would lead to cash payments or reparations for descendants.”

The Representative asserted that he believed Gilmore’s resolution was “political posturing,” and that he had to “do some posturing too to reflect the will of his own constituency.” But even though he vocally opposed the resolution at the subcommittee and committee level, he had recently come to the conclusion that “it might be appropriate for the chamber to apologize for the laws passed by previous chambers...I do feel a tie to the men who have gone before me, like a legacy, and maybe that would be the right way to go about this.”

Ultimately, he could not support the resolution because of the threat of reparations. He said that talking about race and racism “could be helpful”; it is good “to acknowledge the past and have discussions about those topics.” But “when even a hint of reparations are brought up, all discussion breaks down. I’m willing to talk about race and racism if we’re confronting the present and the future, but not if we’re talking about it just to dwell on bad acts of the past.”

But I would argue that one cannot talk about race and racism today without addressing the bad acts of the past. The bad acts of the past have everything to do with the racial climate we find ourselves in today.

### **A Better Resolution?**

Does Tennessee need to pass a resolution expressing regret for the role the state government played in perpetuating slavery and Jim Crow? I am unconvinced that the resolutions passed by the Federal government or by other southern states have made tangible changes in race relations or bridged the gaps in Black and White wealth, employment or education. The Federal Resolutions have been non-binding and are not truly acts of Congress where both Chambers pass and the President signs the legislation into law. These efforts, while symbolically relevant, are simply pieces of parchment with no mandates for dialogue, investigation and change. To truly be effective, these resolutions must follow up on their concluding sentences, which call for remembrance and the promotion of justice and reconciliation amongst all Americans today. An effective effort would call for communal dialogue about improving race relations in the 21<sup>st</sup> Century and then acting on the information gathered. If Tennessee were to reconsider and pass such a resolution, it should mandate the creation of reconciliation commissions that take place at the county level.

Admittedly, there were multiple problems with Tennessee's resolution. Tennessee's resolution did not have a sponsor in the Senate. The tactical decision to present similar resolutions in the House and Senate in other Southern states like Virginia and Alabama proved to be successful strategy. Tennessee might try the same tact in an

effort to get the ball rolling in more than one chamber and thus increase the chances of consideration and passage.

Proponents of Tennessee's resolution might have also considered recruiting a White sponsor or co-sponsor. Despite assertions to the contrary by Representative Gilmore, who believed that a resolution coming from a White delegate would not be sincere, I would argue an expression of regret from Black legislators to Black Tennesseans in some ways seems disingenuous as well. Further, a sincere expression of regret from a White legislator on behalf of an overwhelmingly White legislative assembly would carry more moral weight and might inspire White Tennesseans to take the resolution seriously. While there were some Black slave owners in Tennessee, the overwhelming majority of slave owners in Tennessee were White (Sledge 2007). While there were 47 White lynching victims in Tennessee, 213 Tennessee lynching victims were Black. There is no evidence of White Tennesseans being driven from their homes after the Civil War, while it has been documented that Black Tennesseans suffered this fate multiple times in Tennessee. The legacy of slavery and Jim Crow disproportionately affects Black Tennesseans economically and educationally. In sum, any statement of regret for the injustice of the past, to truly manifest an expression of regret, should come from a White Tennessean whose ancestors perpetuated, explicitly and implicitly, the oppression of Black Tennesseans. White co-sponsorship might also draw in more supporters within the legislature itself.<sup>37</sup>

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<sup>37</sup> I asked Representative Gilmore if she thought a statement of regret would be more meaningful if it came from a White person and she replied that it might get more support, but that she would be suspect of its sincerity.

Gilmore repeatedly stated that the resolution made no overtures toward an apology or reparations, but the resolution language specifically expressed an apology on behalf of the Tennessee legislature, causing some members of the committee to believe that Gilmore intended to mislead them. If a new resolution were to be offered, this issue must be addressed. Considering that some White members suggested in the committee hearing that they would support the resolution if the term “apology” was removed, removal would be the logical route to passage.

Several committee members expressed that they might support the resolution if regret was extended to groups beyond Black Tennesseans. At first glance this seems to be a dubious request. White immigrants were not enslaved in Tennessee. Where some came to Tennessee as indentured servants- promising to work for three to seven years in return for passage to America, they signed contracts stating they willingly entered into the relationship; and where this may have felt like virtual slavery for a period of years, there was still the opportunity to work ones way to freedom (Hofstadter 1970). Black slaves had no such option. Kidnapped in Africa and sold at auction in America, Blacks did not have the opportunity to work their way out of bondage. Beneficent masters may have taken it upon themselves to free their slaves, but Tennessee statutes never bound a master to do so and in practice made emancipation difficult.

However one could legitimately include an expression of regret for the official treatment of Native Americans in Tennessee. The fact that the enslavement of Native Americans and their forcible removal from Tennessee were sponsored by the laws of the state seems worthy of a statement of regret by the legislature (Gallay 2002). Like Virginia’s resolution, including Native Americans in a resolution addressing slavery

might be a viable option for a resolution expressing regret for legislative behavior.<sup>38</sup> The resolution would not have to shy away from admonition of slavery and Jim Crow legislation, but might appeal to a broader audience in the legislature if it addressed mistreatment of Native Americans as well.

The resolution might also include a specific disclaimer or caveat that the legislation could in no way serve as a basis for litigation or the award of reparations. As stated earlier, attempts to litigate for reparations have been unsuccessful. Legislators who opposed the resolution repeatedly mentioned this particular fear and perhaps a specific caveat would speak to their concerns.

The resolution might benefit from an historical overview of the direct role played by the legislature in creating and enforcing slavery. Legislators who feel they have nothing to apologize for might be amenable to an expression of regret when the historical legislative record of supporting slavery and Jim Crow by the legislature, of which they are the legatees, is brought to their attention. One could preface the resolution by reading into the record the Tennessee slave narratives recorded during the Roosevelt administration, narratives that truly give voice to the experience of slavery in Tennessee. One could also read aloud the speech given by Black Representative Samuel McElwee in 1887 on the floor of the Tennessee legislature where he stated in response to recent lynchings “I stand here today and wave the flag of truce between the races and demand a reformation in southern society.”

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<sup>38</sup> Senate Joint Resolution 114 was brought in the Tennessee Senate last spring and has been sent over for consideration by the State and Local Government Committee in the House addressing the forcible removal of Native Americans from Tennessee.

The resolution could also include the language of forgiveness. While racial reconciliation and healing is referenced, perhaps an overture of forgiveness would be welcomed as a sign that the resolution is truly an effort to learn from the past and create an inclusive future.

I believe the resolution should also call for the creation of reconciliation commissions, where Black and White citizens would come together in their towns and counties to discuss the realities of slavery and Jim Crow and in some communities the violence that took place within their borders. I think the logical time for these meetings to take place would be during Black history month. At these meetings the citizens would discuss how the institutions of slavery and Jim Crow, lynching and violence have shaped the present lived experience of Blacks and Whites. And from there the citizens could address where they want their communities, and Tennessee writ large, to go in the future and chart the best way to get there together.

### **Reconciliation Commissions**

I believe the towns of Chattanooga, Columbia and Memphis, would be natural places for pilot community reconciliation commissions to be set up, with the goal of initiating commissions in all of the places where Black and White Tennesseans experienced strife in the past or continue to struggle to live peacefully and respectfully with one another. Chattanooga in Hamilton County, with its history of the *Shipp* (1906) lynching case, its 1915 city mandate preventing Blacks from living in certain places, the 1921 Montlake pogrom and the relatively recent race riots of the 1970s and 1980s, might benefit from such an effort, as could Columbia, Tennessee, with its long history of racial

strife, the riot of the 1940s and the two Black churches burned in 1996 still accessible to memory. Memphis' history of the race riot of 1866 would provide important foreshadowing for the suffering that continues to weigh on the city due to its chronic poverty and the legacy of Martin Luther King's death. With the National Civil Rights Museum located there, that entity should dedicate itself to ongoing efforts to bring Black and White Memphians together in dialogue for the betterment of life for all Memphians and the betterment of race relations.

The reconciliation commissions would be charged with not only remembering and speaking truth about the reality of slavery, Jim Crow, violence and Civil Rights, but the commissions should also acknowledge how far Tennessee has come with regard to race relations. They could also serve as forums for the acknowledgement of the concerns of many White Tennesseans: about their perceptions and the experience of Black on White crime, the perceived dysfunction in Black family units, the disparate realities of Affirmative Action, etc. Presumably some Whites might like to express that their ancestors were: abolitionists who signed petitions opposing slavery or Union Soldiers from East Tennessee, or immigrants who didn't arrive until the 20<sup>th</sup> century or participants in the Highland Folk Center seminars or advocates for Civil Rights. All of these concerns and stories are relevant because they all address collective memory and collective responsibility.

A conversation that hashed out all of these topics could be modeled after the Greensboro, North Carolina Truth and Reconciliation Commission, which was inspired by the commissions created in post-apartheid South Africa. Greensboro, North Carolina experienced an incident similar to the one that took place in Chattanooga in 1980. In

Greensboro, in 1979, five protest marchers who gathered to unionize Black industrial workers were shot and killed by members of the Ku Klux Klan. In 2005, a Truth and Reconciliation Commission was established by local community leaders and university professors for the purpose of recording public testimony and examining the causes and consequences of the shooting. The commission came up with suggestions for healing the city through education and ongoing dialogue. This type of movement, promoting dialogue between Black and White Southerners, worked to bring closure to open wounds in Greensboro because it provided a safe, moderated, public venue for people to gather, ask questions and chart a course for the future (Williams 2009).

This type of commission is necessary in Tennessee towns as well. While I am uncertain as to the plausibility of any effort by the current Tennessee legislature to take action on remembrance or reconciliation, this does not mean that the project of improving race relations state wide should be abandoned. I do not believe that race relations in Tennessee are improving at present. The election of Barack Obama has confounded the issue in Tennessee, where a strong majority of registered Democrats voted for Hillary Clinton in the Democratic primary and 57% of citizens in the general election, including many Democrats, voted for John McCain (Woods 2008; Woods 2010). Many of the Representatives interviewed for this project stated that the election of Obama was evidence that racism in the United States was a non-issue. Yet, in March 2010, Daniel Cowart of West Tennessee plead guilty to eight counts in a federal indictment charging him with crimes related to a racially-motivated plot to murder then candidate Obama and Black school children (2010 Department of Justice Press release). Pointing to Attorney General Holder's dismissal of the voter-intimidation case against the Black Panthers of

Philadelphia, the appointment of Justice Sonia Sotomayor to the Supreme Court, whose “wise-latina-woman” comment incensed many White Americans and Obama’s relative silence about improving race relations, many Americans remain unconvinced that Obama’s administration even wants to promote inter-racial dialogue for the betterment of communities (Fund 2009; Savage 2009; Ageista and Cohen 2010).

Thus Obama’s election and the promise of a post-racial America should not stall efforts by states and local governments to address race relations. I would argue Reconciliation Commissions are necessary for the purpose of addressing race relations in Tennessee in a safe, mediated, respectful but un-filtered environment. They would require the presence of local legal mediators, law enforcement officers, news cameras, bloggers, pastors and priests, licensed psychological counselors and vested community members who would share collective memories through a process of dialogical listening and truth-telling; many have advocated a process like this as the most likely to produce understanding and progress (Dawson 1995; Sunstein 1996; Swain 2002; Loewen 2005). The chances of having a meaningful discussion and coming to relevant and inclusive agreements about how to deal with a community’s past and the problems of the present will be greater if the local community members are invested in the community’s future and can hold each other accountable.

These meetings could be facilitated by a group like the Highlander Folk School or the “Search for Common Ground,” a nonprofit organization dedicated to moving away from inter-group conflict and toward cooperative dialogue and better race relations.<sup>39</sup>

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<sup>39</sup> Search for Common Ground, One America Project: [http://www.sfcg.org/programmes/us/programmes\\_us.html](http://www.sfcg.org/programmes/us/programmes_us.html) accessed June 24, 2010.

With the help of community leadership and a vision to create a more inclusive future, citizens could gather at local high schools or courthouses and consider particular tasks that would address the dark parts of Tennessee's past in order to create a brighter future.

These efforts might include a conscious effort to educate, through literature, their community members about the past. Localized Tennessee history books rarely chronicle the specifics of the lack of equal protection of law afforded Black Tennesseans. While many contain sections on the Civil Rights movement, most continue to admonish Reconstruction as a flawed experiment and most skate over the realities of slavery and lynching (See Turner 1955; Armstrong 1993).

Tennessee communities where pogroms and mass lynchings took place might consider whether a public record of the acts of violence should be created and how it would be disseminated; whether the community should pursue any form of criminal or civil litigation; and whether there should be a monument erected or educational funds established for the descendants of the victims. Apologies on behalf of the local government might also be considered, not for the violent acts alone, but for failing to ever do anything about it. Members of the local Black community (or communities in surrounding counties) could be invited to speak on behalf of the Black citizens driven from their homes, particularly if descendants could be found. And most importantly, there should be an expression of remorse, dedication to prevent violence in the future and perhaps symbolic forgiveness could be extended so that the incident can truly serve as a tool of not only communal justice but renewal.

This type of in-depth process is only possible at the local level because, ultimately the type of remedies suggested will necessarily vary from place to place. Some communities in Tennessee have come further than others when it comes to amicably embracing neighbors of a different race. While the state should play a role in charging communities with establishing these commissions for the betterment of race relations, the real work will be done at the neighborhood and community level, where people would have an opportunity to truly learn from each other and focus on a life in common. In sum, it is at the local level that groups could explore what could be done to truly build a “climate of mutual respect and peaceful co-existence” (Arendt 1963, 3.)

What follows is my draft resolution to be presented to the Tennessee State legislature. I believe that if proponents of the 2009 resolution worked to build a coalition of Black and White members from both political parties, Tennessee could begin a new journey toward mutual respect and understanding. It is my sincere hope that Tennesseans will take time to understand how the past has created the present and how the present will shape the future. By remembering we can take first steps toward ensuring an inclusive future that would secure liberty and justice for all.

**GENERAL ASSEMBLY OF TENNESSEE**

**SESSION 2011**

**DRAFT JOINT RESOLUTION 1776**

**A JOINT RESOLUTION ACKNOWLEDGING THE PROFOUND INJUSTICE OF SLAVERY, JIM CROW LEGISLATION AND ACTS OF INTER-RACIAL VIOLENCE AS WELL AS THE INJUSTICE OF FORCED REMOVAL OF NATIVE AMERICAN TRIBES ON BEHALF OF THE TENNESSEE GENERAL ASSEMBLY**

**AND A CALL TO ALL TENNESSEEANS TO PARTICIPATE IN RACIAL RECONCILIATION COMMISSIONS FOR THE FURTHERANCE OF EMPATHY, FORGIVENESS AND UNDERSTANDING AND COMMUNAL PROGRESS.**

Whereas, slavery, an institution antithetical to and irreconcilable with the fundamental principles of human equality and freedom, was sanctioned and enforced through laws enacted by Tennessee's General Assembly from the date of the state's founding in 1796 until Tennessee's ratification of the 13<sup>th</sup> Amendment to the United States Constitution in 1865;

Whereas, the General Assembly countenanced the enslavement of Native Americans before the Civil War; restricted their rights and liberties including the ability to travel and testify in court and aided in the forcible removal of the Cherokee, the Muscogee (Creek), the Chickasaw, and other Native Americans from their original Tennessee homelands in 1838;

Whereas, the General Assembly constructed a legal frame-work that perpetuated slavery for eighty years, despite repeated petitions from thousands of Tennesseans to abolish the practice within the state, resulting in the enslavement of one-fourth of Tennessee's population by 1865;

Whereas, the General Assembly mandated in 1831 that masters who freed their slaves must remove the freed slaves from the state, and in 1854 mandated that any slaves freed must be sent to Liberia;

Whereas, the General Assembly, which had allowed Free Blacks to vote in Tennessee between 1796 and 1834 repealed that right in 1834 and further forbade Free Blacks from immigrating to Tennessee in 1849;

Whereas the General Assembly was the last of the Confederate states to secede from the Union, and thereafter sanctioned the military occupation of Unionist East Tennessee throughout the Civil War, further straining relations between Tennesseans;

Whereas after the Civil War, violence against Blacks took place across the state, including: 11 rural pogroms, 4 urban race riots, the deaths of 213 Black men and women from lynch mobs for which no one, in any of these incidents was ever convicted for participating in the mobs;

Whereas the legacy of this unpunished violence continued well into the 1960s with the bombing of schools and homes to prevent integration in Tennessee and the assassination of Martin Luther King in Memphis in 1968;

Whereas Tennessee, through the General Assembly, was the first state in the Union to pass Jim Crow legislation in 1875, ensuring that Blacks and Whites would remain separate in all public places, including public schools;

Whereas the General Assembly in 1961 would further hamper racial progress in the South by shutting down the Highlander Folk School, in Monteagle,

Tennessee, the only venue in the South where Blacks and Whites could meet together socially for the purpose of bettering race relations;

Whereas even though laws permitting the injustices of slavery and maltreatment of Black Tennesseans and Native Americans have been repealed, the Tennessee General Assembly recognizes that expressing sincere regret for: oppressive legislation crafted by their forebears and the failure to insist that violence against Black Tennesseans be punished, could promote reconciliation and forgiveness amongst members of the Assembly and the people of Tennessee;

Whereas discussion of the repressive parts of Tennessee history- such as the particularities of slavery, the removal of Native Americans, Jim Crow legislation and violence against Blacks- in schools, churches and civic organizations, can promote empathy and understanding;

**Be it resolved by the General Assembly the State of Tennessee,**

That the legislature acknowledges the profound injustice of, and the role the legislature played in, sanctioning and perpetuating slavery upon generations of Black Tennesseans;

That the legislature acknowledges the profound injustice of removing Native American peoples from their homelands;

That the legislature acknowledges the profound injustice of Jim Crow legislation and the history of unpunished violence against Black Tennesseans;

That the legislature calls for forgiveness amongst all Tennesseans so that the lessons of slavery, Native American removal, Jim Crow and unpunished violence against Black Tennesseans can be catalysts for change, and this resolution a signal that Tennesseans are ready to use the lessons of the past to create an inclusive future;

That the legislature calls for reconciliation amongst all Tennesseans and the creation of reconciliation commissions, where Tennessee citizens annually come together in churches and civic organizations during Black history month to discuss the legacies of slavery, Native American removal, Jim Crow, and unpunished violence against Black Tennesseans. In these forums Tennesseans would also discuss issues that most impact race relations today such as economic and educational disparity, and the problems of crime and lingering segregation.

That these forums would be mediated by professionals versed in conflict resolution. These forums would be piloted in Chattanooga, Columbia and Memphis, due to their unique histories, and later extended to other communities. These forums would exist for the purpose of putting to rest dark chapters of the past and turning the page toward brighter, empathetic, inclusive and optimistic futures.

That it is the intent of the Tennessee General Assembly that this resolution shall not be used in, or be the basis of, any type of litigation. Further the state of Tennessee is exempt from such litigation through the exercise of sovereign immunity;

That a copy of this resolution be transmitted to each state elected official; the Directors of Tennessee's Commission for Elementary, Secondary and Higher Education for dissemination in Tennessee's public schools; and made available to the people of Tennessee through the website of the General Assembly.

**APPENDIX ONE:**

Tennessee Lynchings reported in the *New York Times* or *Chicago Tribune* as having crowds of over 50 people (two indictments, one conviction found of law enforcement officers).

Language of Tennessee Death Certificates, to be filled in by the county coroner:

“State the disease causing death or in deaths from violent causes state 1) means of injury;  
2) whether accidental, suicidal or homicidal.”

<b>Name</b>	<b>Date Reported</b>	<b>County</b>	<b>Crow Size</b>	<b>Alleged Crime</b>	<b>Death Certificate or other report</b>
Henry Alexander	12/16/1877	Rutherford	60	murder	No report found
Nine Black men* %	2/20/1881	Robertson	200	murder	No Death Certificate found, Newspaper reports the men died “at the hands of parties unknown”
Six Black men** %	9/9/1894	Shelby	300	murder	“at the hands of parties unknown” but indictment of Sherriff for his complicit role in letting the mob take the prisoners
Joe Robertson and Skace McGaha	11/29/1895	Lincoln	300	Attempted rape	No report found
Anthony Williams	7/16/1897	Lawrence	200 – body was shot and burned	Rape and murder	No report found
Charles Washington #	6/24/1898	Putnam	3000	Criminal Assault	“at the hands of unknown persons”
Wyatt Mallory %	4/24/1901	Smith	100	Murder	“at the hands of parties unknown”

<b>Name</b>	<b>Date Reported</b>	<b>County</b>	<b>Crow Size</b>	<b>Alleged Crime</b>	<b>Death Certificate or other report</b>
Garfield Burley and Curtis Brown %	10/9/1902	Dyer	500	Murder	“lynched at the hands of parties unknown”
Ed Johnson	3/20/1906	Hamilton	1000	Rape	Indictment and conviction of Sherriff by U.S.S.Ct
George Johnston%	8/28/1908	Rutherford	600	Attempted rape	No death certificate found, Newspaper reports he was taken from prison
Johnson Grenson	3/22/1913	Obion	1000	Murder	No report found
Ell Persons	5/23/1917	Shelby	5000- body mutilated and burned at stake	Murder	“unknown causes after confessed to slaying”
Ligon Scott	12/13/1917	Dyer	8000 – body burned at stake	Assault	“at the hands of parties unknown”
Thomas Devert	5/19/1918	Unicoi	200- shot and body burned	Murder	“killed by unknown persons- burned by mob”
James McIlheron and Rev.G.Lynch	2/13/1918	Franklin	1000- burned at stake	Murder and housing a fugitive	“lynching at hands of unknown parties”
Berry Noyes%	4/23/1918	Henderson	50- burned at stake	Murder	“hanged by a mob”
Rip Bell%	10/9/1926	Stewart	75 – shot and hung	Murder	“hand of a mob- tied to a tree and shot to death by unknown”
Joseph Upchurch%	6/18/27	Henry	50	Murder	“lynching at hands of unknown parties”

<b>Name</b>	<b>Date Reported</b>	<b>County</b>	<b>Crow Size</b>	<b>Alleged Crime</b>	<b>Death Certificate or other report</b>
Joe Boxley%	5/30/29	Crockett	2000	Assault	“at the hands of parties unknown”

\*Jack Bell, Andrew Duffy, James Elder, James Higgins, Archie Jameson, Luke Mallory, William Murphy, Thomas Small and Lon Thweat.

\*\*Warner Williams, Daniel Hawkins, Robert Haynes, Edward Hall, John Haynes, Graham White.

% indicates taken from prison

# Charles Washington’s lynching was advertised the day before in the *Cookeville Press*, June 23, 1898, “a burning to take place on June 24 at 10 o’clock.”

## APPENDIX 2

### Field Research Notes: Summer 2008 Montlake and Jellico, Tennessee

#### *Montlake, Hamilton County*

Montlake is an unincorporated ridgetop mining community outside of Chattanooga.

According to the *Chattanooga Daily News*, September 15, 1921,

the trouble which reached a climax Wednesday has been brewing for some time. It originated over the use of water from the spring which furnishes the supply for the mining community. Both white and colored residents have been using it. If whites were in the majority, it is said, they would drive the negroes away. The same was true if the negroes had the greater force. The practice has been to muddy the water, thus preventing the other side from using it, it is charged. Several minor clashes had occurred and the feelings kept growing stronger.

The story goes on to explain that Jewell Clipper, a five year old Black girl, went to the spring with her brothers and sisters on Wednesday. Edna Barnett, a 12 year old White girl and her siblings told the Clipper children that they could not use the spring and proceeded to “muddy” the spring when the Clipper clan protested. Jewell went back to her house, got her father’s shotgun, aimed it at Edna Barnett and shot her in the buttocks.

Following the shooting, angry miners numbering about 150 assembled, and in the clash that ensued many shots were fired, but so far as can be determined no one was hurt. Alarmed over the situation, colored residents hastily gathering their belongings departed in groups...When they [the deputies] arrived they found the Clipper family surrounded by angry miners. An officer of the community was attempting to protect the negroes. The father of the child accused of doing the shooting had been struck over the head with a revolver. Taking charge of the situation, Chief Deputy Smith and the squad of officers succeeded in restoring order, but by then all of the negroes had vacated the village for safer quarters. The Clipper family is currently being detained at the county jail.

*Wednesday, June 11, 2008:* Armed with a Tennessee atlas and my newspaper articles, I set out to investigate the incident at Montlake. I pull off Interstate 24, and head north on Tennessee Highway 29. I notice a few businesses related to Copper mining. As the map

indicates, Montlake Road is off of TN Hwy 29. The road is very windy, with hairpin curves and when I reach the top of the ridge ten minutes later, the vista is beautiful overlooking Nickajack Lake. Montlake Road dead ends into a new development of luxury homes built around a golf course.

I decide to stop in at the clubhouse and I meet Mr. Shelton the proprietor. I show him the article from the *Chattanooga Daily News* (I assume he might scoff at the *New York Times*). He tells me it doesn't surprise him. He says he is from Grundy County (where the Klan originated) and that the Klan still has a very strong presence there. He says he remembers the Klan dragging his step-father out of his home in the 1950s, dressed in their robes and beating the man mercilessly, and the impression that made upon him as a child. He said his step-father was a heavy drinker and that the Klan told him to clean up his act and that the man did for four or five years, primarily out of fear.

The lady behind the clubhouse lunch counter says she had never heard about the incident I was asking about, but that she had been born and raised there on Montlake ridge. She said that people may not be willing to talk about it to strangers, but that racism was still very strong in that community, to the point that Black people would not be welcome there today. She tells me to go to the Bible Book Store at the bottom of the hill in Soddy Daisy, Tennessee and to ask for a man by name, a local historian of the area. I thank them both for their time and I head down to the book store.

At the Book store I ask the lady behind the counter if the historian is available and she tells me no, but she gives me his phone number. I call him and ask him about the

article from 1921 about Montlake. He tells me he has never heard of anything like that happening in Montlake. But that if I were smart, I wouldn't be going around asking questions about things like that. I thank him for the advice and make my way to the Hamilton County Courthouse, to see what the deed history looks like for the property on Montlake ridge. After finding Montlake in the Platt books, I see that the ridge was owned by the Tennessee Sulphur, Copper and Iron Company, headquartered in London, England from 1865 until the 1940s when it was sold back to Hamilton County. Most recently, the ridge was purchased by Montlake Properties, Inc. which lists its real estate assets for 2000 as \$2.5 million.

So this incident was not a case of a Black families being run off of property they owned- because the mine owned the homesteads. And in the end, I have not been able to discover whether or not the Black families returned to their jobs working for the mines as there are no further newspaper accounts. But I surmise that this was a case of two groups competing for jobs alongside a scarce resource: clean water from a community spring. And we do know superior numbers forced the minority group to pack up and leave their homesteads.

*Jellico, Campbell County*

*Friday, June 24, 2008-* On my way back to Nashville I decided to make the trip up to Campbell County, an hour north of Knoxville, near the Kentucky line. The *New York Times* story begins,

August 17, 1908- Race troubles have broken out in the mining district near Jellico, Tenn. Tonight, seventy one armed negroes, strongly fortified in a comissoary house, are surrounded by a band of 200 white miners and mountaineers who are threatening to attack them...The trouble started over a determination of the Kings Mountain Coal Company to work negro miners with whites in its mines between Jellico and Middlesboro Kentucky. The negroes have been there nearly a month, and the whites have been threatening them. Reports of the Springfield (Illinois) riots lighted the fire that had been smoldering. On Saturday, 150 white miners and mountaineers went to the Kings Mountain Mine, heavily armed, collected the twelve negro miners and their families and started down the railroad. The negroes were allowed but few minutes to pack what articles of necessity they could carry. All day Saturday the band marched the negroes, men women and children. At night they allowed the women and children to camp and eat what food they had carried. The negro men went on to the mine at Antras where they joined sixty negro miners. The women and children continued their flight and all day Sunday poured into Jellico and other towns, begging shelter and protection.

August 18, the *Bristol Herald Courier* reports

Sherriff Huddleston of Campbell County has at last reached the scene and is summoning every available citizen to protect the negroes. The trouble which has been brewing for several months broke out afresh Saturday when one hundred and fifty white miners went to the Kings Mountain mine and drove twelve negroes and their families away. General Manager Gordon of the Anthras mine and the county authorities are doing everything in their power to avert trouble but it is feared that a serious battle will occur before morning.

August 19, 1908, the same newspaper asserts

It is difficult to obtain any direct information owing to the remoteness of the area...but according to an eyewitness, early today a band drove fifty negroes out of their homes at Campbell's mine near Anthras, rousing them from their sleep and forcing them to leave hastily, some half clad. It is said that members of the band have notified the negroes of eight or ten camps scattered over several mines to leave within three days or they will be killed.

August 21, again in the *Bristol Herald Courier*

Following close upon the heels of the Springfield race riots, news has been received in Bristol of disturbances of a similar nature in the Tennessee mountains several miles east of Jellico near the Anthras mining section, where a negro shanty town inhabited by helpless negroes, women and children was burned to the ground. None of the negroes escaped the fire's fury. The burning is supposed to have been the work of white miners and mountaineers who objected to the

negroes remaining in the region...The following morning notices were posted ordering the negroes to leave and notifying the mine's manager, Mr. Gorman, that if the blacks were not removed at one, his blood would pay the price...at 1 o'clock in the morning, white miners hurried to Campbell a small station where thirty negro families had lived. They awoke the negroes and ordered them to leave immediately. The negroes, numbering more and 150 men, women and children gathered a few belongings and left in the darkness, going toward Jellico. A railroad official gave a number of the men work. The women and children are camped along the road and are fearful of being killed. Along the railroad track, scores of notices were found posted on trees and conspicuous places. These read: "Any negroes found on the east side of this line will certainly die at once." The negroes were seized with fear and are panic stricken...more trouble is confidently looked for.

I begin my day in Jellico at the Campbell County Historical Museum, in Jellico. I meet Mr. Paul Wayne who said that he believed he had heard about this incident. He went to his file cabinet and pulled out an article from the *Fentress County Gazette* located in Jamestown Tennessee, dated August 18, 1908. The story is similar and uses the same "smoldering fire" language as was found in the *New York Times* article. I ask him if he had ever heard about the story, anywhere other than the newspaper and he told me no, unfortunately he had not. I ask him if he knows of any Black families living in Jellico that might be willing to talk to me, whose ancestors may have experienced the expulsion. He said, in all honesty, he didn't know of any Black people that lived in Jellico. I ask if there are any other people, local historians who might be willing to talk to me. He says that my best bet would probably be to contact someone from the Knoxville Historical society. I thank him for his time.

The town of Jellico really only has one street to speak of. There are two churches, a beauty parlor/florist, a bank and a funeral home. As I reach the end of the street, which is turning into a windy road, I turn around and see a stone column which states "Jellico,

Tennessee- Established 1902". I stop to get out of the car and take a picture of the column and I see two teenagers walking toward me: one Black and one White. I gather up my courage and walk toward the young men. I introduce myself and say I'm from Nashville doing some research in the area. I show the young men the newspaper articles and ask if they've ever heard anything about this incident. Both young men say they have never heard this story. The young Black man volunteers, "I've never had any trouble here...but you might want to talk to my Grandmama. She's lived here all her life. She'd probably have lots to tell you." I ask him if his Grandmama was home and if he could show me where she lived. He said she was home and that the house was easy to find, just go back down the way I came, turn right at Coal street before the bright green house on the corner. He and his Grandmama lived in the fifth trailer on the left, probably a mile up the holler. There would be a "boxer dog" laying in the yard...did I know what a boxer dog looked like? "Yes" I said, "I love boxers." He smiled and the teens walked on to wherever it was they were going.

The house was easy to find. I pulled into the gravel drive and the boxer raised his head, looked at me and laid back down. I knocked on the screen door. No answer. I knocked again and said "Woo hoo, anybody home?" A minute later, a little gray haired lady opens the door and says "I knew you were coming. I knew it when I was drinking my coffee this morning." I introduce myself and tell her I had met her grandson on the road and that he said that she had lived her all of her life and that she might know about a story I was looking into. She said "Come in, I'm Argeley" and she put on her glasses and started to read the newspaper articles. She said, "My Mama told me about this. She was

born and raised here too.” Argeley was born in 1940, there on Coal Street. Argeley said that her grandparents, Charlie and June Kellogg, were born into slavery in Rome Georgia. They had moved to Tennessee after the Civil War and were both buried there in Jellico. They owned a little piece of property further up the hill and had worked as hog farmers. She said that the way she understood it, the black miners were run out of Anthras, five miles away, almost on the Kentucky line and that they had been given shelter in Jellico. But that was not what she had wanted to talk about.

Argeley went back into her bedroom and came back with a manila file folder. She showed me a copy of a deed from the Campbell County Clerk’s office which stated that 802 Coal Street had belonged to Charley and June Kellogg and in 1940 was deeded to Agnes Kellogg, Argeley’s mother, for consideration paid of \$1. She walked to the screen door and pointed a good distance up the hill, where there was construction equipment sitting idle. She said, “this here, where we are is 339 Coal street. Up where that equipment is 802 Coal Street. That ain’t never been sold to nobody, but the County made me move my trailer down here in 1992 and they put me on this spot and never paid me for that property.” I ask her, did they make her pay for this piece of property, 339 Coal street? She said no, the county said it was an “even swap.” I asked her if she knew what the construction equipment further up the hill was for and she said, “That’s what I’m talking about. They say they’re going to be building a golf course up there. They told all us that we’re going to have to move off this street when it gets finished- they’re going to move our trailers to a spot in town, on the other side of the railroad tracks.” I

told her that was interesting, had she looked into hiring an attorney? She said yes, a lady at Campbell County legal aid had all of her paperwork.

She went on to tell me lots of things about Jellico: that Blacks couldn't get jobs in Jellico; that her street was always called "nigger hill" until the 1990s when 9-1-1 was established in town and everything had to be given a street name. She had gone to school in Lafollette, Tennessee because Black children couldn't go to school in Jellico. She said that she knew not all White people were bad because her lawyer was White and I had come to talk to her and I was White. She asked me what I was going to do with my research. I told her I wanted to petition local Tennessee governments to apologize for not protecting Black people against these instances of mob violence and maybe convince the Governor or Harold Ford, Jr. to help me set up a Truth and Reconciliation committee so that these stories could be given the light of day and Tennesseans today could think about how these ethnic cleansings affected the current generation of Black Tennesseans. She nodded approvingly. It was getting late and I made an excuse about needing to get back to Nashville. I gave her my contact information and said I would keep tabs on the golf course. I hadn't learned much about the incident in 1908, but I had learned a lot about life for the granddaughter of a slave living in Jellico a century later.

## APPENDIX 3

### List of Persons Interviewed

- 1) Elliot Jaspin, author of *Buried in the Bitter Waters*, by phone, May 15, 2008.
- 2) Ms. Martha, President of the Unicoi County Historical Society, June 1, 2008.
- 3) Mark Stevens, editor of the *Erwin Record*, June 1, 2008.
- 4) Starlet Williams, granddaughter of Erwin residents banished in 1918, March 19, 2010.
- 5) T.K.Owens, Johnson City Resident, the first Black candidate for Tennessee Senate District Three, March 19, 2010.
- 6) Lewis Thornberry, Retired Professor from E.T.S.U, correspondence dated June 21, 2008.
- 7) Mary Young Edwards, granddaughter of General Manager Phettaplace, June 15, 2008.
- 8) Paul Wayne, Campbell County Historical Museum, June 24, 2008.
- 9) Argeley Kellogg, Resident of Jellico, June 24, 2008.
- 10) Brenda Gilmore, Tennessee State Legislator, November 18, 2009.
- 11) Jim Coley, Tennessee State Legislator, December 10, 2009.
- 12) Joe Carr, Tennessee State Legislator, December 12, 2009.
- 13) Larry Miller, Tennessee State Legislator, December 16, 2009.
- 14) Ulysses Jones, Tennessee State Legislator, December 18, 2009.
- 15) Ben West, Jr. Tennessee State Legislator, December 18, 2009.
- 16) Anonymous Democratic Representative, Tennessee State Legislature, December 18, 2009.
- 17) Anonymous Republican Representatives, Tennessee State Legislature, December 12-18, 2009.

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