

Chapter 130 and the Black Vote in Tennessee

by Kathy Lauder¹

Tennessee was the last Confederate state to secede from the Union (June 8, 1861) and the first to return (July 24, 1866), having already rewritten the state constitution to prohibit slavery, and having swiftly ratified both the 13th and 14th Amendments to the U.S. Constitution. In May 1866 the Tennessee General Assembly had passed legislation giving African Americans the right to make contracts, to inherit property, to sue, and to hold equal benefits and protections under the laws . . . except for the right to vote. However, two

apparently unrelated events were aligning to produce important changes.

First, a group of influential black leaders (Sampson Keeble, Nelson G. Merry, Samuel and Peter Lowery, and many others) organized the second State Colored Men's Convention, which met in Nashville in August 1866. A major outcome of the convention was the organization of daily demonstrations at the Capitol to urge passage of a law giving black men the right to vote. A second factor in the coming change was William Gannaway Brownlow's election as governor. "Parson" Brownlow, who took office in 1865, knew he could cling to political power only as long as Confederate sympathizers had none (many were still restricted from voting or holding office), since Brownlow's outspoken pro-Union views had earned him many enemies in Middle and West Tennessee. Realizing that votes from African Americans could broaden his voter base, he began to pressure the legislature to change the law. In March 1867 the Tennessee General Assembly granted African American men the right to vote and to hold political office – almost three full years before the passage of the 15th Amendment! In fact, by the time the 15th Amendment arrived for ratification, state lawmakers were trying to figure out how to undo their own law, and they refused to ratify the Federal proposal.

What the legislature had not counted on, however, was the determination, intelligence, and organizational skill of Tennessee's black community. Within six months Nashville voters had elected an African American to the city council; a year later there were six black councilmen and a city alderman.² Memphis and Chattanooga quickly followed suit. In 1872 the first African American – Nashville barber Sampson W. Keeble – was elected to the Tennessee House of Representatives.³ Keeble served one term, 1873-1874, but was not reelected the following year, in part because of a backlash among white voters, who were startled by the number of blacks suddenly holding positions of authority. The stage was now set for Tennessee's first Jim Crow law.

During the 1875 Session of the General Assembly, State Representative R. P. Cole, a Democrat representing Carroll, Gibson, Henry, and Weakley counties, drafted a hand-written bill (Document 1) designed to deny many

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² Rabinowitz, Howard N. *Race Relations in the Urban South, 1865-1890*, and Cartwright, Joseph H. *The Triumph of Jim Crow: Tennessee Race Relations in the 1880s*. Knoxville: UT Press 1976.

³ McBride, Robert M., and Dan Robinson. *Biographical Directory of the Tennessee General Assembly, Vol. II, 1861-1901*. Nashville: Tennessee State Library and Archives and the Tennessee Historical Commission, 1979.

freedoms to African Americans. Cole's bill, filled with the insulting language of racism, was introduced on March 9th. It was the last bit of business of the afternoon session of the House, where it was approved upon its first reading and passed on to the Judiciary Committee for approval.

Early in the morning session of the next day, March 10th, the Judiciary Committee returned the bill to the House. Various notes and amendments were added by the committee (Documents 2, 3 and 4), who obviously concurred with the spirit of the original bill and edited its blatantly racist language only in order to ensure its passage. It is clear that the members of the committee were already familiar with the bill, because they barely had time to meet before returning the amended bill with a recommendation for passage. Their notes are included with the original legislative records.

On March 11th the new version was introduced as House Bill 527, which adopted the amendment and added another one "giving certain right to inn-keepers," and then passed the bill as amended with a vote of 67 to 3. Voting against the bill were Nimrod Dodson (a farmer and a Democrat from McMinn County), Napoleon Bonaparte Spears (a Democratic attorney representing Hamilton, Bledsoe, Grundy, Sequatchie, and Van Buren counties), and House Speaker Lewis Bond (a Democrat, also an attorney, from Haywood County).

The bill sailed quickly and smoothly through the Senate, though again a few brave men opposed it. Introduced during the evening session on March 12, it passed the first reading and was sent to the Judiciary Committee, who held onto it for several days but made no changes and recommended passage. The bill returned to the Senate floor early on March 22, where it quickly passed the second reading. At the end of the morning session the next day (March 23), it passed the third reading with no apparent discussion, with 20 Senators voting for the bill and two against. Voting against the bill were Democrats Lawrence Slaughter Marye and Peyton J. Smith. Marye, who had ended the Civil War as the assistant inspector of ordnance for the Confederacy, represented the counties of Hamilton, Bledsoe, Grundy, James, Marion, Rhea, Sequatchie, and Van Buren. Smith, also a Confederate veteran, was a lawyer in Tipton County. He represented Tipton, Fayette, and Shelby counties.

House Bill 527 was entered into law as *Chapter 130, 1875*, transcribed below (Document 5). Tennessee had passed a law discriminating against one-fourth of its own citizens.

One final note: when Congress sent the 15th Amendment to the states for ratification, Tennessee, which had been so quick to ratify the two previous amendments, refused to sign this one. Over the following decades, every other state signed on until Tennessee became the last holdout. In 1997, under a resolution introduced by Chattanooga Representative Tommie Brown, Tennessee's General Assembly post-ratified the 15th Amendment, 127 years after it became law.]

Chapter 130, Acts of Tennessee, 1875⁴

Introduced as House Bill No. 527 by Representative R. P. Cole, Paris, Tennessee

DOCUMENT ONE [*Original bill as first presented; this bill passed its first reading*]

H. B. 527

A bill to define the rights, duties & liabilities of Innkeepers – Common Carriers – Proprietors of places of public amusements

⁴ Original bills of the Tennessee General Assembly: 39th General Assembly, 1875-1876. Record Group 60, Tennessee State Library and Archives.

Passed 1st Rg. Mch 9
Referred to J. C.
Passed 2 Rg Mch 10
S.O. 1042.11 Mch. 10
Amended & Passed 3d Rg Mch 11
R. P. Cole
Henry

A bill, to define the rights, duties, and liabilities of Inn Keepers, Common Carriers and Proprietors of places of public amusement, ~~in view of the passage of the Act of Congress, commonly called the Civil rights bill.~~

1st Be it enacted by the General

Assembly of the State of Tennessee [written in pencil, "here see ament."]: That it shall be lawful, for the Keeper of any public inn, hotel or restaurant, the proprietors officers or employees of any stage, hack or omnibus line, of any railroad, steamboat or other water craft, or of any conveyance, engaged in whole or in part, in the business of carrying and transporting passengers, the proprietor or manager of any theater Circus, menagerie, museum or other place of amusement in this State, to make additional charges rates and fares for, or to exclude them from, in his discretion, any person or persons, whose hair has a spiral curvature, not greater than one fourth of one inch radius, without regard to race color or previous condition of servitude.

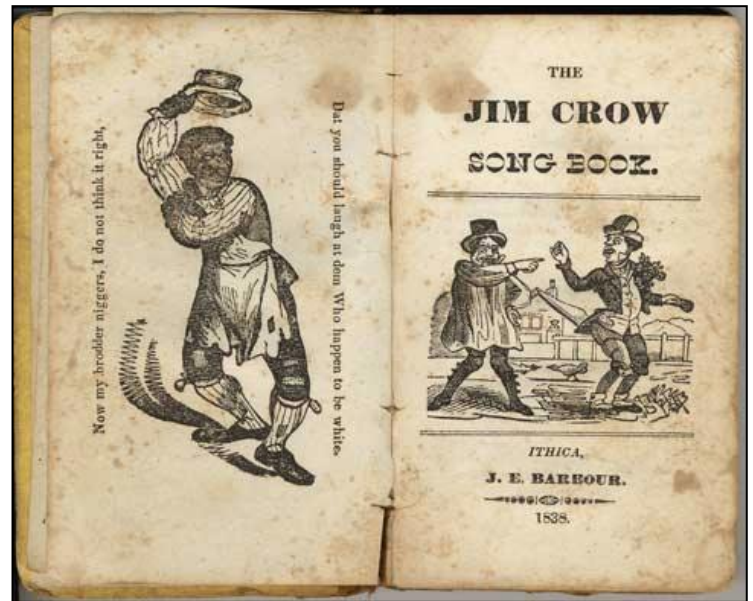
[A notation in the margin next to Section 1 says "out."]

2. Be it further enacted: That it shall be lawful for such inn-keeper, hotel keeper, or restaurateur, Carriers of passengers by land or by water, and proprietors or managers of places of public amusement, to discriminate, in these charges rates and fares, or to exclude from their places of business conveyances and places of amusement, at their discretion, any person or persons, who are unable to draw a perpendicular from the occipital bone to the ground, without impinging the heel or os calcis of such person or persons, without regard to race color or previous condition of servitude.

3 Be it further enacted: That it shall be lawful for the persons aforesaid to make such discrimination in charges rates and fares against, or to exclude from their said places of business and amusement and from their conveyances aforesaid, any and all person or persons, as in their discretion shall seem right and proper, whose nasal bone does not present an elevation of one fourth of one inch, at a point three fourths of one inch below its incidence with the os frontis, of such person or persons, without regard to race color or previous condition of servitude.

4 Be it further enacted: That it shall be lawful for such persons by regulating their charges rates and fares, or by any other lawful means, to exclude, from their said places of business or amusement, or from their said conveyances by land or by water, any person or persons, the bottom of whose feet describes a parabolic curve, the asymptote of which, is equidistant from the point of departure and incidence, without regard to race color or previous condition of servitude.

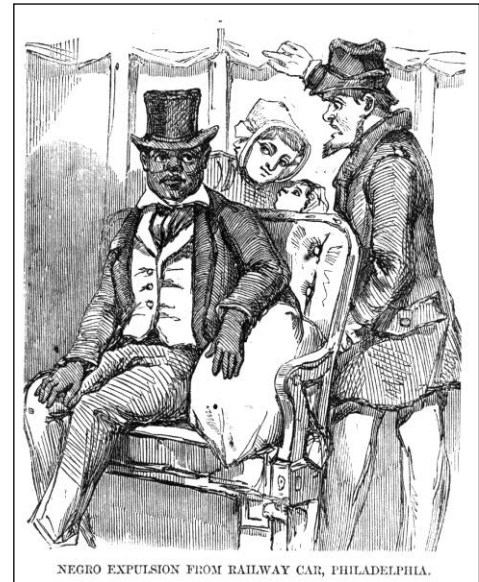
5 Be it further enacted – That it shall be lawful for all such persons so engages in the business aforesaid, by an adjustment of their charges rates and fares, or by any means not unlawful, in their discretion, to exclude or to reject, from their said places of business or amusement or from their ~~said~~ conveyances either by land or by water as aforesaid, any person or persons whose secretions from the sebaceous or sudorific glands evolve any subtle oderous atomic fluid, so painfully irritating the nerves of the schneiderian membrane, that by its reflex action in the



pneumogastric nerve the stomach becomes, or is likely to become excited to nausea, without regard to race color or previous condition of servitude.

6. Be it enacted: That the person or persons aforesaid engaged in the business and occupations aforesaid, may in their discretion, exclude, from their said places of business and amusement, and from their conveyances, any person or persons whose ancestors were cannibals [*sic*], or were guilty of the practice of voodooism, without regard to race color or previous condition of servitude.

7. Be it enacted – That it shall be lawful for all such persons so engaged in the business and occupations aforesaid, in their discretion to demand from all person or persons who shall offer to patronize or require their services in the business aforesaid, to produce, and show, a certificate from the Keeper of Weights and Measures attested ~~by the Clerk of the County Court~~, as to his official character, by the Clerk of the County Court, of the County, in which, each person or persons last resided, showing that by actual measurement, mathematical calculation or geometrical demonstration, as the case may require, that he she or they are not obnoxious to any of the objections provided against in the 1st 2nd 3rd & 4th sections of this Act: and any person or persons, who is deemed to be obnoxious to the 5th section of this act, may in the discretion of said innkeeper common carriers or proprietors of places of amusement, be required to bring or produce one quart bottle of “Labarque’s Solution of Chlorinated Soda” as a disinfectant, without regard to race color or previous condition of servitude.



8. Be it enacted, That if any person from whom such certificate or disinfectant has been demanded, shall by force, fraud, misrepresentation or by producing any false or forged certificate, or spurious disinfectant, less potent than the one required by the foregoing section, gain admission into any public inn hotel, restaurants, stage coach, omnibus, railroad car, steamboat, water craft of any description, theater or other place of amusement may be prosecuted for a misdemeanor, or sued in any Court of record in this state, having common law jurisdiction, in an action qui tam, and shall forfeit and pay not less than five hundred dollars, nor more than one thousand dollars, one half of which shall go to the informers, and the other half to the Commissioner of Emigration, for colonization purposes, and shall be imprisoned not less than thirty days not more than one year without regard to race color or previous condition of servitude.

9 – Be it enacted: That if any innkeepers hotel keepers or keeper of a restaurant or any railroad company or its employees, or any common carriers of any description whatever, or any proprietor of a theater or other place of amusement, or other employer, shall willfully or negligently fail to assert and insist upon his or their rights and privileges as provided for in this Act, shall be liable to presentment or indictment, in any Court of record in this state having common law jurisdiction, or may be said in an action qui tam in such court, and shall forfeit and pay, ~~the sum of five hund~~ not less than the sum of five hundred dollars, nor more than one thousand dollars, and be imprisoned for not less than thirty days, nor more than one year, and shall for the space of five years be ineligible [*sic*] to any office of honor profit, or trust, in this state, and incompetent as a witness or juror for the period of ten years, from the date of his conviction, without regard to race color or previous condition of servitude.

10 – Be it enacted: That all laws, or parts of laws, statutory or common laws, in conflict with the provisions of this act, be, and the same are hereby abrogated and repealed – and hereafter, no right of action shall exist against any innkeepers, common carriers or proprietor of places of amusement, or employees of either, for refusing to secure and accommodate any guest, to transport any passenger, or admit any visitors, whom he may desire excluded from his place of business conveyance or place of amusement – without regard to race color or previous condition of servitude—



[A notation in the margin next to Section 10 says "out."]

11 – Be it enacted. That this act shall take effect from and after its passage, the public welfare requiring it.

[A notation in the margin next to Section 11 says "in."]

R. P. Cole

DOCUMENT TWO [Suggested amendment, later adopted.]

[Note handwritten on the back of a sheet of House of Representatives stationery, which identified it as "Amendt to H. B. 523 – Adopted."]

Sect 2: Be it further enacted. That a right of action is hereby given to any keeper of any Hotel, Inn, Theatre or other public house common carrier or restaurant – against any person guilty of turbulent or riotous conduct, within or about the same and any person found guilty of so doing may be indicted and fined not less than five hundred dollars and the offender shall be liable to a forfeiture of five hundred dollars – and the owner or person so offended against may sue in his own name, for the Sum—

DOCUMENT THREE [Message from Judiciary Committee]

The Judiciary Committee to whom was referred House bill No. 527 relative to rights, liabilities & privileges of Hotel Keepers, & Common carriers, & proprietors of places of public amusement – report that they have had the same under consideration – and fully approve of the principles embodied therein – but think object intended to be attained by the author can be reached by striking all after the enacting clause of said Bill to Section 10 thereof — & making section ten read as set forth in the section attached to this report.

DOCUMENT FOUR [Suggested amendment from Judiciary Committee, later adopted.]

Offered as Amendment, or rather indices of section ten—

Be it enacted

That the rule of the common law giving a right of Action to any person, who is without case excluded from any hotel or public means of transportation or place of amusement, is hereby abrogated, and hereafter 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 employment, 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 not shall any right exist in favor of any such person so without cause refused admission, but the right of such Keepers of Hotels & public Houses Carriers of passengers & Keepers of places of Amusement & other Employes to control the access and admittance or exclusion of persons to or from their public houses, means of transportation & places of amusement shall be as perfect and complete as that of any private person over his private house carriage or private theatricals or places of amusement for his family—

DOCUMENT FIVE [Actual bill as amended and passed.]

A Bill – To define the rights, duties, and liabilities of Inn Keepers, Common Carriers, and Proprietors of places of public amusement.

1st _____ Be it enacted by the General Assembly of the state of Tennessee – That the rule of the Common Law giving a right of action to any person excluded from any Hotel or public means of transportation or place of amusement, is hereby abrogated, and hereafter 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 nor shall any right exist in favor of any such person so refused admission but the right of such keepers of Hotels & public Houses carriers of passengers & keepers of places of amusement and their employees to control the access & admittance or exclusion of persons to or from their public Houses – means of Transportation & places of amusement shall be as perfect and complete as that of any private person over his private house carriage or private theatre or places of amusement for his family.



The Customs House in Nashville was built in 1875, as black Tennesseans were being banned from public buildings.

Sec 2nd _____ Be it further enacted That a right of action is hereby given to any keeper of any Hotel Inn Theatre or public House common carrier and restaurant against any person guilty of turbulent or riotous conduct within or about the same, and any person found guilty of so doing may be indicted & fined not less than one hundred dollars, and the offender shall be liable to a forfeiture of five hundred dollars and the owner or person so offended against may sue in his own name for the same.

Sec 3 _____ Be it further enacted that this act shall take effect from and after its passage the public welfare requiring it.

[On reverse]

Passage Recommended by Judiciary Committee. W. A. Quarles, Chm.

HB 527 Passed 1st Rdg. Mch 9th

Rfd. J. C.

Passed 2nd Rdg. Mch 10th

Amended & passed 3rd Rdg. Mch 11th

R.P. Cole

Passed 1st reading Mch 12

Passed 2nd Reading March 22 1875

Passed 3d Reading March 23 1875

