PENNSYLVANIA AND THE RIGHTS OF THE NEGRO, 1865-1887

BY IRA V. BROWN*

It is generally recognized that the efforts to establish racial equality in the South during Reconstruction ended in failure. Not so well known is the fact that there was a parallel effort in the North during the same period which had a more lasting success. Among the few constructive results of Reconstruction, indeed, was the impetus given to civil rights legislation by *northern* state governments. The Keystone State affords an interesting case study of this development.

Colonial Pennsylvania is justly famous for its political and religious liberalism, but the Holy Experiment consisted almost exclusively of white Protestants. When substantial numbers of Negroes appeared in the Commonwealth, William Penn's ideals were shunted aside. The pre-Civil War record of Pennsylvania on Negro rights was not very different from that of the South in more recent times.

There were elements of humanitarianism in the record, it is true. This state provided by law for the gradual emancipation of slaves (in 1780), and it was an important center of the antislavery movement in the generation before the Civil War. In general, however, the picture was one of increasing hostility, discrimination, and even violence directed toward Negroes and their friends. Travelers like de Tocqueville and Olmsted observed that race prejudice seemed to be greater in the North under freedom than in the South under slavery. Rioting sometimes broke out; in 1838 Pennsylvania Hall, newly constructed in the City of

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Brotherly Love, was destroyed by a mob on account of the assembling there of a women's anti-slavery convention.¹

The year 1838 also saw the adoption by the state of a new constitution which included a provision limiting the franchise to adult white men. Before this time the suffrage qualifications had not included any restriction as to race or color, and it appears that at least a few Negroes were voting in Pennsylvania until the constitution was changed in 1838—adding the restriction. "No other alteration," a recent scholarly study of the period has noted, "cut so completely across party lines or received such decisive support."² Thaddeus Stevens, a delegate to the convention, refused to sign the finished document because of this provision. Robert Purvis, a distinguished Philadelphia Negro who had been educated at Amherst College, wrote an Appeal of Forty Thousand Citizens (the Negroes of Pennsylvania) in a vain effort to prevent its ratification.³

Two other areas of overt discrimination were schooling and transportation. Negroes were either denied public educational facilities altogether or were forced to attend segregated schools. In 1854 the legislature required school directors to establish separate schools in districts where there were twenty or more colored pupils; where such separate schools were established, officials were not to be compelled to admit colored children to the white schools.⁴ And during the Civil War, even after Negro troops had been enlisted for service in the Union armies, colored persons were denied admission to the Philadelphia streetcars; they were either totally excluded from the cars or were required to stand on the front platforms, exposed to the weather.

It was the street railway situation which attracted the major

³ Robert Purvis (1810-1898) was a founder of the American Anti-Slavery Society and a leader in the organization of free Negroes for their own betterment. The son of a wealthy English merchant and a woman of Moorish extraction, he enjoyed an inherited income. Born in Charleston, S. C., he was taken to Philadelphia at an early age and later owned an elegant country home at Byberry. For data on the origins and accomplishments of outstanding American Negroes from colonial times to the present, see Richard Bardolph, The Negro Vanguard (New York, 1959).
⁴ Pennsylvania Laws (May 8, 1854), 623.
attention of equal rights advocates in the year 1865. Several
months before the war ended, the reformers called a public meet-
ing to take measures to secure for Philadelphia's twenty-two thou-
sand Negroes the right to use the horse-drawn streetcars which
had been in operation since 1858. Among the seventy public-
spirited citizens who called the gathering were the following:
Henry C. Carey, the economist; Jay Cooke, the banker; James
Mott and J. Miller McKim, seasoned anti-slavery crusaders; and
a young Episcopal minister named Phillips Brooks, later to be
famous as pastor of Trinity Church in Boston. "A week from to-
night," Brooks wrote his father, "we are going to have a great
meeting here to get rid of our special Philadelphia iniquity of
excluding the negroes from the cars. I think it will do the work."5
The assemblage met in Concert Hall on the unlucky evening of
Friday the 13th of January. Resolutions were adopted opposing
"the exclusion of respectable persons from our Passenger Railroad
Cars on the ground of complexion" and requesting the directors
of the street railway companies to withdraw the discriminatory
rule in the name of "justice and humanity."6 Mott, McKim, and
a number of others were appointed as a committee to present
these resolutions to the nineteen companies concerned. This they
did.

The railway executives decided to conduct a poll of white
passengers on the question. Two days of disorderly balloting, on
January 30 and 31, 1865, resulted in a verdict opposed to the ad-
mission of Negroes to the cars. One company tried the experiment
of carrying Negroes for one month and then abandoned it as
unworkable. On a few lines special cars were run at long intervals
for the accommodation of colored people, but this expedient did
not satisfy the Negroes or the white advocates of equal treat-
ment. The committee then appealed to the mayor, requesting him
to prevent the use of city police for ejecting colored persons from
the cars. The mayor refused to cooperate. The reformers assisted

(New York, 1900), I, 527.
6 Report of the Committee Appointed for the Purpose of Securing to
Colored People in Philadelphia the Right to the Use of the Street-Cars
(Philadelphia, 1867), inside back cover. See also the anonymous pamphlet
Why Colored People in Philadelphia Are Excluded from the Street-Cars
(Philadelphia, 1866). Both are available at the Historical Society of Penn-
sylvania.
several Negroes in the prosecution of court cases on the issue. In the end the problem required action by the General Assembly of the Commonwealth.7

Even before other methods had been exhausted, legislation was introduced in Harrisburg prohibiting street railway companies from excluding persons on account of color. Such a bill passed the state Senate by a close vote on February 8, 1865, but the House of Representatives refused to consider it. Two years later, on March 22, 1867, the measure finally went through; the vote was 18-13 in the Senate and 52-27 in the House.8 The act forbade railway corporations either to exclude or segregate colored passengers and provided both civil and criminal remedies.9 In the two years between 1865 and 1867 the national Republican party leadership, under the whip of Pennsylvania's Thaddeus Stevens, had put through the Civil Rights Act and the Fourteenth Amendment. The Negroes had been declared citizens and the states had been forbidden to deny them equal protection of the laws. The Pennsylvania legislature ratified the Fourteenth Amendment in February, 1867. Passage of the law for equal rights on railway cars was a natural sequel.

The sponsor and chief advocate of the measure was Morrow B. Lowry, senator from Erie and Crawford counties. Among his largely moral and sentimental arguments was this melodramatic charge:

> Philadelphia is the only city, where the Lord's Prayer is repeated, which compels a respectable woman of color to borrow a white baby before she can receive admission into the street cars. Philadelphia will not permit a colored woman to take her own honest-begotten child in her arms to a baptismal font, but a base-born white child will protect her from being kicked into the streets by a conductor.10

Lowry went on to report his personal observation of how a colored soldier who had lost a leg in the war was ousted from a streetcar

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7 Report of the Committee (cited above). A good account of this episode may also be found in Frederick W. Speirs, The Street Railway System of Philadelphia: Its History and Present Condition (Baltimore, 1897), 23-27.
8 Legislative Record (Feb. 8, 1865), 210; (Feb. 6, 1867), 232, and (March 18, 1867), 664. The voting was almost exclusively on party lines, with Republicans in favor and Democrats opposed.
10 Legislative Record (Feb. 5, 1867), Appendix, lxxxiv.
with "violent and abusive language." Someone else pointed out that the railway discrimination sometimes prevented the wives and mothers of colored soldiers from visiting them in military hospitals.

The senator from Philadelphia, W. H. McCandless, a Democratic opponent of the bill, said flatly, "I do not desire to ride with them," and went on to charge its Republican supporters with basely partisan motives. "And for what purpose, sir?" asked McCandless: "To eke out their lease of political power a little longer, they will grovel in the dust before this black god of their idolatry." Senator William A. Wallace of Clearfield, chairman of the state Democratic committee, raised this discerning question: "Are you willing to recognize this equality in the railroad car? If you are, then the next step is, of course, to recognize their equality with you at the ballot-box." It turned out that Senator Wallace was a good prophet.

Even friends of the measure recognized that party politics had contributed mightily to the success of this reform. The Concert Hall committee, reporting in 1867 on the conclusion of its work, made the following significant statement:

It is a noticeable fact, and one which betokens the near approach of negro suffrage in this State, that several of the Republican representatives in the Legislature from this city, who, two years ago, could not be induced to take a bill to prevent exclusion out of committee and bring it before the House, this year could not be persuaded to hold such a bill back.

It was "now a party question," they announced; "love to the Lord and the neighbor has had little to do with this change."

Not to be forgotten among the forces effecting the reform was the pressure exerted by Negro leaders. As early as 1859 William Still, a free-born Negro who was important in the Philadelphia branch of the Underground Railroad, had written a letter to the newspapers protesting the exclusion of colored people from the

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1 Ibid., ixxxviii.
2 Ibid.
3 Ibid., 5.
4 Report of the Committee (cited above, footnote 6), 3.
5 Ibid., 5.
Organizations like the Colored People’s Union League, the Social, Civil, and Statistical Association of Colored People, and the Equal Rights League advanced the cause by bringing test cases in the courts and sending petitions and lobbyists to the legislature, much like the N.A.A.C.P. in our own day.

Particularly important was the Pennsylvania State Equal Rights League, formed on October 13, 1864. Its first president was Jonathan C. Gibbs, a mulatto born in Philadelphia and educated at Dartmouth College and Princeton Theological Seminary. Gibbs was later a member of the Radical constitutional convention in Florida and eventually became superintendent of public instruction in that state. Another leader was Jonathan Jasper Wright, a native of Luzerne County and the first Negro admitted to the Pennsylvania bar. Wright also went south and became an associate justice of the supreme court of South Carolina in the days of carpetbag rule. After the departure of these men Octavius V. Catto, principal of the Philadelphia Institute for Colored Youth, became the central figure in the Equal Rights League. The League held its first convention in Harrisburg in February, 1865.

The suffrage question, more clearly than that of transportation, was dependent on action at the national level. Indeed, it was not until ratification of the Fifteenth Amendment that Pennsylvania Negroes regained their pre-1838 right to vote. The Equal Rights League petitioned the General Assembly for action on the franchise in March, 1865, but the legislators, Republican and Democratic alike, were as yet in no mood to take up this loaded issue.

Thaddeus Stevens explained to Charles Sumner in August, 1865, that the state Republican convention had passed over the question as “heavy and premature.” Pennsylvania was not alone among

16 The manuscript minutes of the executive board of the Pennsylvania State Equal Rights League (1864-1872) have been preserved and may be seen at the Historical Society of Pennsylvania.
19 *Legislative Record* (March 7, 1865), 409.
northern states in denying suffrage to Negroes. It was only in New England that Negroes were generally allowed to vote at this time, and Connecticut was an exception there. New York had a special property qualification for Negro voters.

The issue figured indirectly in the election of 1866 in Pennsylvania. The state Democratic convention of that year adopted the following unqualified resolution as part of its platform: "The white race alone is entitled to the control of the government of the Republic, and we are unwilling to grant to negroes the right to vote." The Republicans declared that the "natural rights" of Negroes should be protected but did not take a stand on suffrage as such. The Democratic press repeatedly charged that John White Geary, the Republican candidate for governor, favored Negro suffrage not only in the South but in Pennsylvania as well. Geary himself tried to avoid the issue.

The Republican party clearly carried Pennsylvania in 1866, but the next year, in elections for state offices, it suffered serious reverses. The Democratic candidate was elected Chief Justice of the state Supreme Court, and the Democrats gained several new seats in the General Assembly. In other northern states Democratic successes in 1867 were even more noteworthy.

I almost pity the Radicals [the conservative Edgar Cowan wrote of this election]; after giving ten states to the negroes, to keep the Democrats from getting them, they will have lost the rest. . . . Any party with an abolition head and a nigger tail will soon find itself with nothing left but the head and tail.

Ex-President Buchanan agreed: "Hostility to negro suffrage has been the most powerful cause of this great change."

Undaunted by the adverse political trend, a distinguished Republican member of the state House of Representatives, John Hickman of Chester County, who had served in Congress before and

23 Ibid., 182. Cowan represented Pennsylvania in the United States Senate from 1861 to 1867. In this capacity he led the opposition to the Civil Rights Bill of 1866, passed over Johnson's veto. He was eventually repudiated by the Republican Party.
24 Ibid., 184.
during the Civil War, introduced on January 20, 1868, a joint resolution to strike the word "white" from the constitutional requirements for voting and to add a literacy test. Thus Negroes would be able to vote if they met the existing qualifications as to age, sex, residence, and the payment of taxes—and if they could read the state constitution. The proposal was referred to the judiciary committee, which promptly returned it with a negative recommendation. Hickman managed, however, to bring it before the House for general debate on February 5, and there he made a powerful plea on its behalf. "Our constitution is wrong—unjust—inhuman," he asserted, "and we all know it. Republican and Democrat alike know it." When the final vote was taken, on March 3, a majority of the Republicans joined with the Democrats to reject Hickman's proposal by the overwhelming margin of 68 to 14.27

A year later, early in 1869, Congress submitted the Fifteenth Amendment for approval by the states, and Pennsylvania was one of the first to ratify it. Democrats in the state Senate, under the leadership of Wallace and McCandless, already mentioned as opponents of the streetcar reform, argued that the proposal should be submitted to a popular referendum. Republicans like Senator Lowry defended the amendment as a just enactment and argued that it was scandalous to impose Negro suffrage on the South while not permitting it in the North.28 The state Senate approved the measure by a strictly party vote (18-15) on March 11, and the lower house followed suit (62-38) on March 25.29 Negro suffrage in the North seems to have been largely a by-product of the determination of the Radicals in Congress to build a Republican bloc in the South.30

Yet another year passed before three-fourths of the states ratified the amendment and it was declared to be in effect.31 Philadelphia Negroes staged a celebration on April 26, 1870, to hail the advent of equal suffrage. It began with services in the

25 Legislative Record (Jan. 20, 1868), 119, and (Jan. 23, 1868), 146.
26 Ibid. (Feb. 5, 1868), 553.
27 Ibid. (March 3, 1868), 586.
28 Ibid. (March 10, 1869), 540.
29 Ibid. (March 11, 1869), 581 and (March 25, 1869), 817.
30 Fishel, loc. cit., 25.
31 At this time (April 6, 1870) legislation was passed permitting Pennsylvania Negroes to vote, and in 1873, when the new constitution was completed, the word "white" was omitted from the section on qualifications for voting.
colored churches early in the day. Next came a ceremony at the Union League Club, where the Negro leaders were presented with a specially designed banner commemorating the event. Charles Gibbons delivered a speech on behalf of the club.

In this year of our blessed Lord [he announced], we realize that divine idea of human equality which signalized His personal intercourse with men, and which, nearly two hundred years ago the founder of Pennsylvania incorporated in his frame of government, and which, nearly a century later, was proclaimed from Independence Hall by the representatives of the American colonies.32

Octavius V. Catto, speaking for the Equal Rights League, made this significant pledge: “the black man knows on which side of the line to vote.”33 Colored marching units paraded up Broad Street in the afternoon, and a mass meeting was held at Horticultural Hall in the evening. Lucretia Mott, nearing the age of eighty, was among those present. Speakers included Galusha Grow, Frederick Douglass, and Robert Purvis. There was one foreboding note; shots were fired at some of the marchers on their way home.34

Several thousand Negroes appeared at the Philadelphia polls in the fall of 1870, and on the whole the election went smoothly. Trouble threatened in one ward, however, where Democrats and Republicans agreed that all white men were to be allowed to vote before any colored men, and the Negroes were formed into a separate waiting line. A rumor spread that the latter were not to be allowed to vote at all. General E. M. Gregory, United States marshal for the eastern district of Pennsylvania, intervened under the terms of the “Force Act” of 1870 and sent in a company of marines to keep order and to see that the Negroes were permitted to vote.35 Mayor Daniel M. Fox, a Democrat, protested this action, and Governor Geary expressed his concern over the procedure in his next annual message to the General Assembly.36

In the fall elections of 1871 no federal troops were used in Philadelphia, and violence ensued. Race friction culminated in

32 (Philadelphia) Public Ledger, April 27, 1870.
33 Ibid.
34 Ibid.
36 Pennsylvania Archives, Fourth Series, VIII, 1161-1162.
the murder of three Negroes and the injury of many others. Among those killed was Octavius V. Catto, the young colored high school principal and equal rights advocate. On Friday, October 13, 1871, the white reformers held another mass meeting with Henry C. Carey in the chair, as they had done back in 1865 on the street-car question. Resolutions were adopted deploving the bloodshed which had occurred and censuring the city authorities for not having maintained order. Among the speakers were Col. Alexander K. McClure and Robert Purvis. “In the death of Mr. Catto,” said the latter, “liberty has been strengthened.” Dying a martyr, Catto received a hero’s funeral. The services were held at the city armory with an immense—and orderly—crowd in attendance. Since he had held a commission as a major in the infantry, he was buried with full military honors. But no one was ever brought to justice for his death.

About the time the suffrage battle was being won, the school segregation issue began to attract attention in Pennsylvania. Local agitation demanding the end of this discrimination began in Pittsburgh and Reading at least as early as 1871 or 1872. Charles Sumner introduced his famous civil rights bill in the United States Senate year in and year out, beginning in 1870, and by 1874 it finally seemed to have a chance of being passed. In its original form this bill would have outlawed discrimination in schools as well as in hotels, theaters, and on railroads. The General Assembly of Pennsylvania, following again, it would seem, in the tracks of the Republican leadership in Washington, now took up the school question. On May 5, 1874, the state Senate passed by a strictly party vote (20 Republicans over 11 Democrats) a bill which would have repealed the separate school legislation of 1854 and would have required the admission of children into public schools without regard to color. The measure did not come to a vote in the lower branch. Sumner’s bill in Congress also passed the Senate but not the House at that time. The Harrisburg Patriot, a Democratic Party organ which consistently opposed both state

\[\text{Public Ledger, Oct. 11, 1871, and Oct. 14, 1871.}\]
\[\text{Ibid., Oct. 17, 1871.}\]
\[\text{Newspaper clippings in minutes of the executive board of the Pennsylvania State Equal Rights League for 1872, at the Historical Society of Pennsylvania.}\]
\[\text{Legislative Record (May 5, 1874), 1628.}\]
and federal civil rights legislation, charged that "the subservient legislature at Harrisburg" had dropped the matter on orders from Republican leaders in Washington, the latter having concluded that it was "impolitic" to make civil rights an issue in the fall elections. With the school clause stricken out, after its author's death, Sumner's bill finally passed both houses of a lame-duck Congress early the next year. Signed by President Grant, it became known as the Civil Rights Act of 1875. There was no further action in the state legislature on Negro rights until the decade of the 1880's.

The school question was taken up again in 1881. The future course of events was foreshadowed in an interesting court case in Crawford County. Elias H. Allen, a colored man, applied to have his children admitted to a white grammar school in Meadville. The application being denied, he appealed to the county court for a writ of mandamus directing the school board to admit his children. On the basis of the equal protection clause of the Fourteenth Amendment, Judge Pearson Church decided in May, 1881, that the Pennsylvania segregation legislation of 1854 was in violation of the United States constitution and that Allen's children must be admitted to the school nearest their home.

Meanwhile the legislative mill in Harrisburg was grinding again, and both houses at last passed a law repealing the 1854 enactment. The most notable speech on its behalf was made by Senator James Sill of Erie.

As an American [he said], regarding this statute unworthy of our code, as a Pennsylvanian, deeming it adverse to the whole tenor of the spirit of our laws, and as a lawyer, deeming it in conflict with the amendments of the Constitution to which I have adverted, I ask its repeal, while eighty-five thousand Pennsylvanians demand that this insult to their race may be expunged from the statute books upon which it has too long been a blemish.

As finally passed and signed by Governor Henry M. Hoyt on 

\[^{42}(Harrisburg)\] Daily Patriot, Oct. 27, 1874.


\[^{44}\] (Meadville) Crawford Journal, May 13, 1881.

\[^{45}\] Legislative Record (May 26, 1881), part two, 1943.
June 8, 1881, the measure made it unlawful for school officials to make any distinction on account of race or color among pupils attending or seeking admission to the public schools of the Commonwealth. The statute, of course, did not result in the elimination of all colored schools, nor did it mean the end of educational discrimination, but at least a legal weapon was available for those Negroes wishing to enroll in predominantly white schools.

The vote on this enactment did not follow party lines. While there were quite a few members not present or not voting, those who supported the measure included a considerable number of Democrats. It would appear that after ten years the right of suffrage was beginning to pay dividends; the Negro's political power was enabling him to win additional concessions. While Negroes constituted only two per cent of the state population as a whole (four per cent in Philadelphia and Pittsburgh), it is probable that in certain districts they held the balance of power in elections.

In the famous civil rights cases of 1883 the Supreme Court nullified most of that portion of Charles Sumner's civil rights program which had finally passed Congress in 1875—that is, the federal prohibitions against race discrimination by hotels, theaters, and public conveyances. Four years later, in 1887, the General Assembly of Pennsylvania passed a law providing fines for refusing accommodations to Negroes in such places of public resort. There was little debate and the law was passed with no negative votes in the Senate and only three in the House. This was the last piece of civil rights legislation in Pennsylvania in the nineteenth century. In recent years steps have been taken to combat discrimination in regard to employment and housing, two areas where much remains to be done.

By 1887 a good legal foundation had been laid for the protection of the Negro minority in this Commonwealth. The pre-Civil War pattern of repressive legislation had been reversed, and the

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46 Pennsylvania Laws (June 8, 1881), 76. The vote was 36-0 in the Senate, and 95-42 in the House.
48 Pennsylvania Laws (May 19, 1887), 130-131.
49 House Journal (May 3, 1887), 1125; Senate Journal (May 17, 1887), 1177.
support of the state government had been secured for the cause of equality. Enforcement, however, left much to be desired. The reform trend had been fostered by an alliance of white idealists, able Negro spokesmen, and Republican Party politicians, whose motives were not purely altruistic.

While Pennsylvania was moving in the right direction, it was not in the vanguard of reform. This fact is well illustrated by the chronological order of the northern states in forbidding school segregation. Massachusetts led the way in 1855, before the Civil War. The other New England states and most of the Middle Western states also preceded Pennsylvania in this area of civil rights legislation. New Jersey acted in the same year as Pennsylvania, 1881. Ohio followed in 1887 and New York in 1900. The southern states, of course, were moving in the opposite direction entirely, toward increasingly rigid separation of the races by custom, law, and constitution.

It should also be noted that Pennsylvania's action on civil rights questions generally followed in the wake of action by the federal government. Even in the matter of streetcars, Washington had set a precedent; Congress passed a law in 1863 giving Negroes equal privileges on the streetcars of the District of Columbia. Congressional enactments preceded Pennsylvania's on suffrage and on public accommodations. No federal law was ever passed against school segregation, but Charles Sumner's battle against it may have encouraged state legislation of this kind. The Keystone State was in line with, but not ahead of, the main trend of national development in recognizing the rights of the Negro.

The development of anti-discrimination laws in the North has not been thoroughly studied. The general outlines of school legislation, however, may be followed in Carter G. Woodson, The Education of the Negro prior to 1861 (Washington, 1919), 307-335, which includes data on the post-Civil War period. Among special state studies are the following: Frank U. Quillin, The Color Line in Ohio (Ann Arbor, 1913); Emma Lou Thornbrough, The Negro in Indiana before 1900 (Indianapolis, 1957); and Marion Thompson Wright, "New Jersey Laws and the Negro," Journal of Negro History, XXVIII (April, 1943), 156-199.


Henry Wilson, History of the Anti-slavery Measures of the Thirty-seventh and Thirty-eighth United States Congresses, 1861-64 (Boston, 1864), 371-376.